

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S K MOHANTY, WHOLE TIME MEMBER

ORDER

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

In respect of:

Name of the Entity	PAN
Narendra Prabodh Ganatra	AEMPG4315C

In the matter of trading and trading related activities in the scrip of Crazy Infotech Limited

(The aforesaid entity is hereinafter referred to by his name/Noticee, unless the context specifies otherwise)

BACKGROUND

1. An investigation was conducted by Securities and Exchange Board of India (for convenience "**SEBI**") into the trading activities in the scrip of Crazy Infotech Limited (for convenience "**CIL/Company**") for the period of April 2005 to December 2007, after observing a spurt in the price of the scrip of the *Company*.
2. Subsequent to the aforesaid investigation, SEBI passed an ex-parte order dated February 10, 2015 (for convenience "**2015 Order**") against certain entities including one Mr. Rajesh Pravin Bhanushali (hereinafter referred to as "**RPB**"), for violation of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (for convenience "**SEBI PFUTP Regulations, 2003**") for manipulation of price and volume in the scrip of *CIL* by executing reversal, synchronized trades amongst themselves and self-trades. Vide 2015 order, among others SEBI prohibited *RPB* from accessing the securities market and from buying, selling or dealing in securities market, directly or indirectly, for a period of two years.

3. Aggrieved by the 2015 Order, RPB filed an appeal before the Hon'ble Securities Appellate Tribunal (for convenience "**SAT**") on the ground that he was not served with the notice of hearing at the correct address. The Hon'ble SAT, vide Order dated June 16, 2016 (for convenience "**SAT Order**") quashed the aforesaid order passed by SEBI *qua* RPB and restored the matter back to SEBI for fresh decision in accordance with law.

4. Subsequently, in line with the directions of Hon'ble SAT, SEBI granted opportunity to RPB for personal hearing and offer submissions before SEBI, in response to which RPB submitted that the trading accounts maintained with stock brokers namely, Adroit Financial Services (hereinafter referred to as "**Adroit**"), Ami Stock and Share Broker (hereinafter referred to as "**Ami**") and AKG Stock Broker Pvt. Ltd. (hereinafter referred to as "**AKG**"), in which the alleged manipulative trades were executed, did not belong to him as the same were not opened and operated by him. He further submitted that the alleged trades were not executed by him and it appeared that a fraud by way of unauthorized trades have been committed in his name through those *disputed trading accounts*. Based on the materials available on record including the submissions of the RPB, SEBI vide order dated March 27, 2019 (for convenience "**2019 Order**"), *inter alia*, ordered a re-investigation into the matter.

5. Subsequently, SEBI conducted a re-investigation (for convenience "**Investigation**") into the trading in the scrip of CIL for the period of April 01, 2005 to December 31, 2007 (for convenience "**Investigation Period**") for ascertaining authenticity of the client registration form in respect of the *disputed trading accounts* of RPB opened with Adroit, Ami and AKG, through which the alleged manipulative transactions were carried out in the scrip of CIL during the Investigation Period.

6. During the course of investigation, the following was, *inter alia*, revealed:

- a) From the information submitted by RPB regarding all the trading accounts, demat accounts and bank accounts held in his name, it was noted that:

- i. There were two trading accounts maintained with M/s Bakshu Securities & Brokers Pvt Ltd. (for convenience "**Bakshu**") and M/s Bonanza Portfolio Ltd (for convenience "**Bonanza**").
 - ii. He is holding only one demat account with M/s Stock Holding Corporation of India Ltd., for the last 12 years.
 - iii. He is having only two bank accounts, one with HDFC Bank Ltd. opened in the year 2000 (a/c no. 0118100013596) and another with Saraswat Co-op Bank opened in the year 1988 (a/c no. 5886).
 - iv. He has disputed the ownership of trading accounts with *Adroit, Ami* and *AKG* (collectively known as "**disputed trading accounts**") and HDFC Bank account – 04061000008666 (herein after referred to as "**disputed HDFC Bank A/c 8666**") and the other demat accounts opened in his name.
- b) It was further noticed that there were certain transactions in the *disputed HDFC Bank A/c 8666* wherein, funds were transferred to HDFC Bank account of one Mr. Narendra Prabodh Ganatra (hereafter for convenience referred to as "**Noticee**") and the HDFC Bank account of Ms. Anjali Narendra Ganatra (who is the wife of the *Noticee*). It was also unearthed that *RPB* and the *Noticee* were college mates and were well known to each other. Based on the analysis of the Know Your Client (KYC) document of the trading account of *RPB* with *Adroit* (hereinafter for convenience referred to as "**disputed Adroit trading account**"), *disputed HDFC Bank A/c 8666* linked with *disputed Adroit trading account*, HDFC Bank account of the *Noticee* (04061600000084) and of his wife (04061000007432) and from the mapping of data with the Unique Client Code (UCC) of the *Noticee* at BSE, the following facts have emerged:

Type of Account	Account holder	Address	Phone number	Email id

<i>Disputed Adroit trading account</i>	Rajesh Pravin Bhanushali	S-13 Hazari Baug, Vikroli Station Road, Vikhroli West Mumbai 400079	9323098989	C3127mumbai@rediffmail.com
<i>Disputed HDFC Bank A/c 8666</i>	Rajesh Pravin Bhanushali	S-13 Hazari Baug, Vikroli Station Road, Vikhroli West Mumbai 400079	(022)-25780989/ 55988589	Gujukaka@yahoo.com
UCC details from BSE	Narendra Prabodh Ganatra (Noticee)	S-13 Hazari Baug, Vikroli Station Road, Vikhroli West Mumbai 400079 36, Kumar Apartment, Behind Church, Vikroli (W), Mumbai 400079	(022)-25780989/ 55988589 / 9323098989	Gujukaka@yahoo.com
HDFC Bank 04061600000084	Narendra Prabodh Ganatra (Noticee)	S-13 Hazari Baug, Vikroli Station Road, Vikhroli West Mumbai 400079	(022)- 55988589	Gujukaka@yahoo.com
HDFC Bank 04061000007432	Anjali Narendra Ganatra (Wife of Noticee)	S-13 Hazari Baug, Vikroli Station Road, Vikhroli West Mumbai 400079	(022) - 25780989/ 55988589	

c) The *Noticee*, in his deposition before SEBI on December 11, 2019, has submitted in his statement the following information:

- i. The email address "Gujukaka2002@yahoo.com", and the phone number "022-55988589" shown to have been linked with the *disputed HDFC Bank A/c 8666*, belonged to him.
- ii. The phone number "022-25780989" and address - "S-13 Hazari Baug, Vikroli Station Road, Vikhroli West Mumbai 400079" (for convenience "*disputed address*"), belonged to the office of Ford Brothers Capital Services Pvt Ltd. The *Noticee* was a client of Ford Brothers Capital Services Ltd., and also used to work as a sub-broker from the aforementioned office.

- d) The *Noticee* was an introducer for *RPB* while opening the trading account with the stock broker *Bonanza*. Further, off-market share transfers were also observed between *RPB* and the *Noticee* during the Investigation Period.
- e) Several fund transactions were observed between the bank account of *Adroit* (A/c No 0030340017904 with HDFC) and the *disputed HDFC Bank A/c 8666* and it was unearthed from the analysis of the *disputed HDFC Bank A/c 8666* that there were several transactions with the bank accounts of the *Noticee* and his related entities. Some of those transactions are tabulated below:

Sr · N o	Date	Account	Particulars	Debit (INR)	Credit (INR)	Counterparty
1	18/08/09	Disputed HDFC Bank A/c 8666	FT-04062320000490- GEMSTONE INVESTMENTS L	500,000	-	Gemstone Investment Ltd
2	18/08/09		FT-04062320000490- GEMSTONE INVESTMENTS L	500,000	-	Gemstone Investment Ltd
3	20/08/09		FUNDS TRAN - VIKHROLI BRA- 04062320000490	-	900,000	Gemstone Investment Ltd
4	20/08/09		FT-04061000007837- SANTOSH MARUTI PATIL	13,50,000	-	Santosh Maruti Patil (S. Patil)
5	20/08/09		FT-04061000007432- ANJANA NARENDRA GANATR	400,000	-	Anjana Narendra Ganatra
6	07/09/09		FT-04061600000084- NARENDRA PRABODHKUMAR	200,000	-	Narendra Prabodhkuma r Ganatra
7	23/09/09		FT-04061600000084- NARENDRA PRABODHKUMAR	700,000	-	Narendra Prabodhkuma r Ganatra
8	01/10/09		FT-04061600000084- NARENDRA PRABODHKUMAR	300,000	-	Narendra Prabodhkuma r Ganatra
9	21/11/09		FT-04061600000084- NARENDRA PRABODHKUMAR	500,000	-	Narendra Prabodhkuma r Ganatra
10	21/11/09		FT-04061600000084- NARENDRA PRABODHKUMAR	500,000	-	

- f) Investigation unearthed that the above noted entities to whom funds were transferred from the *disputed HDFC Bank A/c 8666* as indicated in the aforementioned table were related to the *Noticee*. For instance, as per the records obtained from MCA database, it was observed that the *Noticee* was the Managing Director of Gemstone Investment Ltd (hereinafter referred to as "*Gemstone*") and as per KYC documents of Bank A/c of *Gemstone*, *Noticee* was one of the authorized signatories. Similarly, as already mentioned earlier, Ms. Anjana Narendra Ganatra is the wife of the *Noticee*.
- g) Investigation further noticed that the *disputed HDFC Bank A/c 8666* was closed in June 2010 and before its closure, significant sums of money were transferred out which ultimately reached to the bank accounts owned/controlled by the *Noticee* and his wife, as highlighted in the preceding table.
- h) On the basis of the analysis of the KYC details, the fund transactions highlighted in the preceding table and the statement recorded from the *Noticee* during the Investigation, it has been alleged that:
- i. The *disputed address*, which was mentioned in the *disputed Adroit trading account* and *disputed HDFC Bank A/c 8666* of *RPB*, actually pertained to the *Noticee*.
 - ii. Personal documents of *RPB* was used to open and operate the *disputed Adroit trading account* and *disputed HDFC Bank A/c 8666* and for execution of executed manipulative trades in the scrip of *CIL*.

7. In view of aforementioned findings coupled with the trades executed (as mentioned in the *2015 Order*) by the *Noticee* from the accounts opened in the name of *RPB*, the *Noticee* has been alleged to have acted in breach of provisions of Section 12A(a), (b) and (c) of the Securities and Exchange Board of India Act, 1992 (for convenience "*SEBI Act 1992*") and regulation 3(a), (b), (c), (d) of *SEBI PFUTP Regulations, 2003*.

SHOW CAUSE NOTICE, HEARING AND REPLIES

8. The above findings from the investigation caused the issuance of a Show Cause Notice dated April 20, 2020 (for convenience “SCN”) to *Noticee*, asking him to show cause as to why suitable direction(s) under Section 11(1), 11(4) & 11 B (1) of the *SEBI Act, 1992* should not be issued against him for their alleged violations of provisions of *SEBI ACT 1992* and *PFUTP Regulations, 2003*.

9. I note from the available records that the aforesaid SCN was duly served on the *Noticee*, in response to which the *Noticee* has submitted his replies vide letters dated July 29, 2020 and August 25, 2020. Meanwhile, in compliance with the principle of natural justice, an opportunity of personal hearing was accorded to the *Noticee*, scheduling the date of hearing on July 28, 2020. The hearing notice was duly served on the *Noticee*, however, an adjournment was sought by *Noticee*. I further note that vide email dated July 10, 2020 *Noticee* had sought copies of Investigation Report (for convenience “IR”) and vide email dated July 13, 2020 the Authorized Representative (hereinafter referred to as “AR”) of the *Noticee* had sought inspection of documents which was provided to the *Noticee* by SEBI on July 21, 2020. The request of adjournment was acceded to and another opportunity of personal hearing was provided to the *Noticee* on October 21, 2020 which was attended by the AR of the *Noticee* through video conferencing.

10. After perusing the written replies submitted by the *Noticee* and after hearing the AR of the *Noticee* during the personal hearing of the *Noticee* as mentioned above, the submissions made the *Noticee* in his defense are summarized as under:

Inordinate Delay in Issuance of SCN

- a) Inordinate delay of 13 years in issuance of SCN is not explained in the SCN and on the basis of the observation of the Hon’ble Securities Appellate Tribunal (for convenience “SAT”) in the following matters, the SCN deserves to be quashed and no orders whatsoever can be passed against the *Noticee*:

- In the matter of *Ashok Shivopal Rupani & Ors. vs. SEBI* (DoD: 22.08.2019, Appeal no. 417 and 440 of 2018);
- In the matter of *Subhkam Securities Private Limited vs. SEBI* (DoD: 25.07.2012, Appeal No. 73 of 2012);
- In the matter of *Ashlesh Gunvantbhai & Ors. vs. SEBI* (DoD: 31.01.2020, Appeal no. 169, 171, 172, 231, 264, 266 and 277-281 of 2019).

Non supply of copy of IR is violation of principles of Natural Justice

b) *Noticee* had requested for a copy of the *IR* which has been relied upon by SEBI while issuing the SCN as not furnishing of the same has caused prejudice to the *Noticee*. *Noticee* has relied upon the following judgements Hon'ble SAT in support of his contention:

- In matter of *Vikas Gourihar Narnavar vs. SEBI* (Date of Decision: 15/06/2010 in Appeal no. 281 of 2009).
- In matter of *Dhirajbhai V. Sanghvi & Ors vs. SEBI* (Date of Decision: 19/02/2000 in Appeal no. 414 of 2018).

No mention of the alleged trades and acts committed by the *Noticee* in the SCN

- c) A bare perusal of the subject matter of the SCN reveals that it has been issued for trading and trading related activities by *RPB* in the scrip of *CIL*. SCN fails to disclose any trading and trading related activities by *RPB*, *Adroit*, *Ami* and *AKG* in the scrip of *CIL*. No trades whatsoever have been disclosed in the SCN for which the *Noticee* has been issued the SCN.
- d) SCN fails to bring on record, the acts committed by the *Noticee* for opening and operating the bank account and the *disputed Adroit trading account* and lacks explanation as to how the *Noticee* is responsible for the purported opening, operation and execution of manipulated trades in the scrip of *CIL*.

Stock Brokers and Banks are not made parties to the SCN

- e) Assuming without admitting that the allegations made in the SCN are correct, then at no point of time, would the *Noticee* in his individual capacity have been in a position to open the bank accounts and trading accounts in the name of *RPB*. Therefore, if the allegations in the SCN are assumed to be correct, then the present SCN suffers from lack of parties, as SEBI has not made the bank and the stock broker a party to the present proceedings. It is submitted that the bank and the stock broker are required to be an important part to the SCN and their absence from the SCN, is a ground to drop the charges made in the SCN.

Submissions on Merit

- f) With regard to the allegation that the *disputed address* belongs to the *Noticee*, it is submitted by the *Noticee* that:
- i. It is an established fact that the said address was of a Broker and mere reliance of having a common address does not establish fraud on the part of *Noticee*.
 - ii. The aforementioned address never belonged to the *Noticee* and was shared by many people including the *Noticee* and his wife. It is submitted that the KYC documents of the *Noticee* and his wife were verified by the Bank and then only the account was opened.
 - iii. It is further submitted that the Adjudicating Officer (hereinafter referred to as “AO”) vide Adjudication Order No. *SRP/JP/AO:170/2011 dated 24.01.2011* had also relied on the ground of the *Noticee* having common address with other people who were alleged to have fraudulently dealt in the scrip of Gemstone Investments Limited and had held the *Noticee* guilty for violation of Regulations 4(1), 4(2) (a), (b), (e) and (g) of the PFUTP Regulations and accordingly had imposed a penalty of INR 5,00,000/- upon the *Noticee*. Hon’ble SAT vide its order dated 29.07.2011 has set aside the said AO order and has held that:

“....The fact that the appellant shares common address with his brother Nimesh Ganatra or has introduced Bhavesh Pabari to broker is not sufficient evidence to prove the charge of connivance in executing circular trades....”

g) With regard to the allegation that the *Noticee* had opened and was the real operator behind the *disputed HDFC Bank A/c 8666* from which he had moved the funds to other bank accounts he had access to, the *Noticee* has submitted the following:

- i. *Disputed HDFC Bank A/c 8666* belongs to *RPB* and not to the *Noticee*.
- ii. A bare perusal of the KYC documents and account opening form of the *disputed HDFC Bank A/c 8666* reveals that *RPB* had given his personal documents for opening the said account. Further, the Bank had opened the said account after verifying the details/documents of *RPB*.
- iii. It is submitted that a bank opens accounts of their clients only after personal verification. Further, there have been multiple transactions in the said bank account of *RPB* since its opening, however, the transactions taken place between the *Noticee* and *RPB* were only in the year 2009 i.e. after termination of the Investigation Period. Therefore, the allegation that the *Noticee* operating the *disputed HDFC Bank A/c 8666* is completely baseless
- iv. Further, with respect to the *disputed HDFC Bank A/c 8666* of *RPB* having a common email id to that of the *Noticee*, it was submitted that the *Noticee* is completely unaware that his personal particulars were given to HDFC Bank which was brought before the *Noticee* for the first time during the course of the present proceedings. It is further submitted that despite the fact that *RPB* was sharing an address in common with that of the *Noticee*, it was for the Bank to verify the details of *RPB*.

- h) Regarding the allegation that the *disputed Adroit trading account*, was also opened and operated by the *Noticee* and the close relationship between the *Noticee* and *RPB* allowed the *Noticee* to access to the personal documents of *RPB*, which have been used to open the *disputed HDFC Bank A/c 8666* and the *disputed Adroit trading account*, following arguments have been advanced by the *Noticee*:
- i. *RPB* was known to the *Noticee*, however, the *Noticee* was never in possession of the personal documents of *RPB*, neither did he have any access to the same.
 - ii. The *Noticee* had allegedly introduced *RPB* to *Bonanza* and his details have been recorded in the Introducer's Column in the said Form. However, it is pertinent to note that the Introducer's details as appearing in the Account Opening Form of *disputed Adroit trading account* are not that of the *Noticee*. The Account Opening Form of *disputed Adroit trading account* relied upon in the SCN was filled in and verified by the stock broking firm and the *Noticee* has no hand whatsoever in opening the said *disputed Adroit trading account*. The documents relied upon in the SCN fail to establish that the *Noticee* had opened the said trading and bank accounts of *RPB*.
 - iii. A bare perusal of the *disputed Adroit trading account* opening form reveals that *RPB* had given his email address as "C3127mumbai@rediffmail.com" and the name of the *Noticee* is not mentioned as Introducer in the said Form.
- i) With respect to the allegation of various fund transactions with *disputed HDFC Bank A/c 8666*, following has been submitted by the *Noticee*:
- i. With regard to the transactions observed in *the disputed HDFC Bank A/c 8666* with *Gemstone*, it is pertinent to note that despite the *Noticee* being the Managing Director of *Gemstone*, no funds were transferred to the personal account of the *Noticee*. Further, even though *the disputed HDFC*

Bank A/c 8666 had transferred INR 10,00,000/- to *Gemstone*, INR 9,00,000/- was credited in the Bank Account of *the disputed HDFC Bank A/c 8666*. Therefore, the allegation that significant funds were transferred from the *disputed HDFC Bank A/c 8666* to the bank account of *Noticee* is farfetched and without any merit.

- ii. In order to show transfer of a huge sum of money from the bank account of *the disputed HDFC Bank A/c 8666* SEBI has pointed out to a transfer of a sum of INR 22 lakhs to the *Noticee* and at the same time SEBI has deliberately not subtracted the sum of Rs. 7 lakhs transferred by the *Noticee* to *the disputed HDFC Bank A/c 8666* on 12-09-2009.
- iii. *Noticee* has had business relations with *RPB* and all payments received by the *Noticee* from *the disputed HDFC Bank A/c 8666* herein were received in the course of business dealings. It is further submitted that having business transactions with an individual does not constitute a violation and in the absence of evidence, it would not be justifiable to allege that the same leads to any manipulation, as alleged in the SCN, more particularly, when the transactions pertained to a period much subsequent to the Investigation Period. It is submitted that the jurisdiction of SEBI is related to the securities market, however, in the SCN there is no allegation against the *Noticee* of having manipulated the securities market and therefore, the allegations in the SCN has travelled beyond its scope.
- iv. All the bank transactions from the *disputed HDFC Bank A/c 8666* with the *Noticee* as relied upon in the SCN pertain to the Financial Year 2009-10 i.e. post Investigation Period and if any fraudulent transactions were to be entered by the *Noticee*, the same should pertain to the relevant period and not after it.

CONSIDERATION OF ISSUES AND FINDINGS:

11. It has already been mentioned in one of the initial paragraphs of this Order that the alleged synchronized, reversal and self-trades got executed from the *disputed trading accounts* in the scrip of CIL had already been dealt with at length in the 2015 Order. I find that the details pertaining to the alleged trades have been furnished to the Noticee. I further note from the perusal of the replies filed by the Noticee that he has at no point in his explanations tried to rebut those allegedly manipulative trades executed from the said *disputed trading accounts*. In the absence of any rebuttal, I see no reason to defer from the findings recorded in the 2015 Order holding the alleged trades as manipulative in nature and were in fact executed from those *disputed trading accounts*. It is also evident that a re-investigation was initiated in compliance with the following directions of the 2019 Order:

".....it is necessary to confirm the authenticity of Client Registration form of the Noticee allegedly opened with the Brokers viz., Adroit Financial Services, Ami Stock and Share Broker and AKG Stock Broker Pvt. Ltd. In this context, whether any other demat accounts/Bank accounts are in the name of the Noticee, whether there is any fund trail to the Brokers from the Noticee or from anyone else, whether there is any securities trail to the Noticee in any other demat account or to any one else and other related facts needs to be ascertained."

12. Therefore, considering the fact that the issue of those alleged trades being manipulative nature as per the 2015 Order, remains uncontroverted as not rebutted by the Noticee, this proceeding have in fact been initiated based on the re-investigation conducted into the role of the entity who was instrumental in operating the disputed trading accounts as well as bank accounts in terms of the directions to conduct a re-investigation issued vide the aforesaid 2019 order.

13. Before proceeding further on the issues involved in the present proceeding on the basis of the facts of the matter, it would be proper to refer to the relevant provisions of the SEBI Act, 1992 and SEBI PFUTP Regulations, 2003 which have been allegedly breached by the Noticee and the same are re-produced as under: -

SEBI Act, 1992

12A. No person shall directly or indirectly –

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;

PFUTP Regulations, 2003

3. Prohibition of certain dealings in securities

No person shall directly or indirectly –

a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

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

14. Having gone to the allegations levelled in the SCN against the *Noticee*, his replies and submissions; both oral and written, and the materials available on record, I note that the *Noticee* has responded to the charges in two segments, viz.: first by raising certain preliminary objections and then by offering his arguments on merit of his case. Before dealing with the contentions of *Noticee* on merit I would first deal with the preliminary / technical objections raised by the *Noticee*.

15. I note that the *Noticee* has vehemently emphasized on the delay by SEBI in initiating the present proceedings. This according to him, has vitiated the validity of the SCN and his ability to defend himself. In this regard, the *Noticee* has relied upon and cited various decisions of the Hon'ble SAT. I have perused the contention of the *Noticee* in this regard. First and foremost, it is important to understand that *SEBI Act, 1992* does not prescribe for any limitation period for initiation of proceedings, issuance of show cause notice or for completion of the quasi-judicial proceedings. In this respect, reference may be made to the order passed by Hon'ble SAT in the matter of *Metex Marketing Pvt. Ltd. vs. SEBI* (DoD: June 04, 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."

16. Further, 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 should be the relevant point and not the date of violation made. Also the fact as to whether there is a delay in initiating a particular case and such delay, if any is justified or not depends

on the specific facts and circumstances of that particular case. In the instant matter, as stated above in this Order, the Investigation was initiated after the re-investigation was ordered by SEBI vide its 2019 Order dated March 27, 2019. In compliance with the direction to re-investigate the matter, Investigation was initiated by SEBI and in the course of such Investigation, SEBI had exchanged a series of communications with a number of entities. Evidently, only after the completion of investigation and on an evaluation of various facts/materials gathered during the investigation the present proceedings in respect of *Noticee* has been initiated by SEBI. I further note that the 2019 Order directing for re-investigation is in public domain. It is also not in dispute that the present proceedings have been initiated pursuant to the evaluation of materials available on record pursuant to which the SCN has been issued on April 20, 2020. Therefore, considering that the re-investigation was initiated after 2019 Order (i.e. after March 27, 2019) and was completed almost in a year and accordingly SCN was issued on April 20, 2020, the argument of the *Noticee* that SEBI has delayed in initiating the proceedings is factually incorrect.

17. I have also perused the judicial decisions relied upon by the *Noticee* in support of his contention against the so called delay committed by SEBI in initiating the proceedings. First of all, it goes without saying that the facts and attending circumstances of each of the cited cases have to be taken into consideration while deciding as to whether any delay has actually been made in initiating a particular proceeding. For instance, in the matter of *Ashok Shivpal Rupani (supra)*, it was, *inter alia*, observed by the Hon'ble Tribunal that "*It is alleged that disclosure under PIT Regulations was not made but similar disclosure was made by the appellant under SAST Regulations. Therefore, information was available on the Stock Exchange and therefore it cannot be said that the respondents were unaware of the alleged violations. Further, the purpose of disclosure was to make the market aware of the change of shareholding of the shareholders. When a disclosure was made by the company under SAST Regulations the investors became aware of the change in the shareholding.*" Similarly, in the matter of *Ashlesh Gunvantbhai (supra)*, Hon'ble SAT had noted that "*alleged irregularities was*

noticed by SEBI in August 2011 and immediately thereafter investigation was launched for the period January 4, 2010 to January 10, 2011. Based on the investigation a show cause notice was issued on November 20, 2017. Thus, there is a delay of 7 years in the issuance of the show cause notice.” Regarding the observations of Hon’ble Tribunal in the matter of Subhkam Securities Private Limited (*supra*), it is pertinent to note that in the said referred matter, the trades were pertaining to year 2000 and SEBI initiated the investigation in 2001 after which the proceedings were completed in 2012 and accordingly, Hon’ble SAT, *inter alia*, held that “...The trades for which investigation was carried out pertain to the year 2000 and the impugned order has been passed only in March, 2012. Investigation started in or around June, 2001. It has taken the Board twelve years to complete the proceedings in a matter relating to market manipulation. This is not the way to conduct proceedings against entities who are charged with serious allegations like market manipulation or insider trading.” However, in the instant proceedings, as already mentioned in the preceding paragraphs, Investigation was completed and the SCN was issued in almost a period of 1 year from the date of issuance of directions by the competent authority to re-investigate the matter. Again, as observed earlier, whether a delay in a particular case is justified or not depends on the attending facts and circumstances of that specific case. In this regard, it is relevant to refer here to the observations of the Hon’ble Supreme Court in the matter of *Mahendra Lal Das vs. State of Bihar and Ors.* (2002) 1 SCC 149, wherein the Hon’ble Apex Court held that “While determining the alleged delay, the court has to decide each case on its facts having regard to all attending circumstances including nature of offence, number of accused, witnesses, workload of the court concerned, prevailing local conditions etc. Every delay may not be taken as causing prejudice to the accused but the alleged delay has to be considered in the totality of the circumstances and the general conspectus of the case.” In fact, in almost all the cases cited and relied upon by the Noticee, it has been invariably held that each case has to be decided on its own merit while taking into consideration the surrounding facts and circumstances. Therefore, in view of the above, I am of the opinion that the present proceedings do not suffer from any infirmity on the ground of delay. I, therefore,

hold that there is no protracted delay as contended by the *Noticee* and his contentions and claims deserve to be rejected.

18. The *Noticee* has also taken a plea that the principle of natural justice has not been complied with in the instant proceedings as the request of the *Noticee* for inspection of *IR* was rejected. In this regard, I note that subsequent to the issuance of SCN, the *Noticee* had requested for inspection of documents which was acceded to and the *AR* of the *Noticee* conducted inspection of documents on July 21, 2020. I further note that all the relevant information and extracts as well as findings from the *IR* which have been relied by SEBI while issuing the SCN, have already been provided in the SCN and its annexures hence, the *Noticee* need not insist upon getting a copy of the entire *IR* which may have contents that are not relevant to him and not relied upon in the SCN issued to him.

19. In this context, it is a settled position of law that only those documents which have been relied upon against the *Noticee* for levelling allegations in the SCN have to be provided to the *Noticee* so as to enable the *Noticee* to defend his/its case effectively. The same position has been upheld by the Hon'ble Supreme Court in the matter of *Natwar Singh vs. Directorate of Enforcement* [(2010) 2 SCC 497], *Chandrama Tewari vs. Union of India, Through General Manager, Eastern Railways*, (1988) 1 SCR 1102 and *M/s Haryana Financial Corporation vs. Kailashchand Ahuja* [2008 (9) SCC 31]. In the recent ruling of Hon'ble SAT in the case of *Shruti Vora vs. SEBI* (DoD: February 12, 2020, Appeal no. 28 of 2020), Hon'ble SAT held that "*A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon.*"

20. I note that the *Noticee* has, *inter alia*, relied upon the observations of Hon'ble SAT in the matter of *Vikas Gourihar Narnavar (supra)* and in the matter of *Dhirajbhai V. Sanghvi (supra)*. After perusing the observations of the Hon'ble Tribunal in the above noted decisions referred to by the *Noticee*, I find that the arguments put forth by the *Noticee* are not applicable in the instant case since, unlike the instant proceedings where the *Noticee* has already been granted opportunities to inspect as well as the copies of the documents relied upon in the SCN, in both the above noted matters, the trade logs and other relevant information from the Investigation Report which were relied upon while issuing the Show Cause Notice, were not provided to the appellants. I find that in the instant proceedings, the trade logs and order logs of not just the alleged specific trades but for all the trades executed during the entire Investigation Period in the scrip of CIL and other relevant information have already been provided to the *Noticee*. It is not the case of the *Noticee* that documents relied upon in the SCN while levelling charges against him have not been furnished to him, due to which, the *Noticee* is not in a position to defend the charges properly and effectively. In this context, the observations of the Hon'ble Tribunal in the matter of *Anant R. Sathe vs. SEBI (Appeal no. 150/2020 – Date of decision July 17, 2020)* are also relevant to contest this contention of the *Noticee*. In the above stated matter the Hon'ble Tribunal held that:

"7. Having heard the learned counsel for the parties, we are of the opinion that the controversy involved in the present appeal is squarely covered by the decision of this Tribunal in Shruti Vora's (supra) wherein the Tribunal held that:

"In the light of the aforesaid, we are of the opinion that concept of fairness and principles of natural justice are in-built in Rule 4 of the Rules of 1995 and that the AO is required to supply the documents relied upon while serving the show cause notice. This is essential for the person to file an efficacious reply in his defence."

8. The said principle elucidated in Shruti Vora's judgement is squarely applicable in the instant case. The authority is required to supply the documents that they rely upon

while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in his defence.

*9. In **Natwar Singh vs. Director of Enforcement and Another (2010) 13 SCC 255** the Supreme Court held that the fundamental principle remains that nothing should be used against the person which has not been brought to his notice. If relevant material is not disclosed to a party, there is prima-facie unfairness irrespective of whether the material in question arose before, during or after the hearing. The Supreme Court further held that the law is fairly well settled, namely that if prejudicial allegations are to be made against a person, he must be given particulars of that before hearing so that he could prepare his defence.*

10. In the light of the aforesaid, the request of the Appellant for supply of documents which are in possession of the authority is misconceived and cannot be accepted."

21. Considering the above noted observations and the fact that the *Noticee* has already been provided with all the relevant details pertaining to the trades in the scrip of CIL and various other relevant documents relied upon in the SCN to allege the violations, I find that the argument of *Noticee* regarding non-supply of IR, is frivolous, devoid of any merit and also has been advanced merely as an afterthought attempt to delay the instant proceedings without any justifiable reasons and hence, deserve to be rejected.

22. Regarding the contention of the *Noticee* that the SCN does not mention about the alleged trades, execution of which has resulted in the violation of provisions of SEBI ACT, 1999 and PFUTP Regulations, 2003, it is pertinent to note that the details of the reversal, synchronized and self-trades executed from the *disputed account* of RPB are already mentioned in the 2015 Order, which is available in public domain. Further, the Investigation (re-investigation) was initiated with purpose of ascertaining authenticity of the *disputed trading accounts* of RPB, opened with Adroit, Ami and AKG, through which the alleged manipulative transactions were carried out in the scrip of CIL during the investigation Period. Though the 2015 Order dealing with the alleged trades executed from the account of RPB is available in public domain, nevertheless,

a copy of the said 2015 Order alongwith details of complete trade orders and trade logs with respect to the scrip of CIL pertaining to the Investigation Period have also been provided to the *Noticee*. Therefore, the aforesaid contention of the *Noticee* is also not tenable.

23. I further note that the *Noticee* has argued that as the stock brokers and banks have not been made part to the SCN, therefore the SCN deserves to be disposed of by exonerating him 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 acts of the *Noticee* have resulted into violation of provisions of law as alleged in the SCN. Further, it is trite law to state that in a quasi-judicial proceeding, 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 stock brokers and banks, if SEBI has found it not necessary to proceed against them, the same logic cannot ipso facto, be extended to the *Noticee*. As regards the plea of discrimination contended by the *Noticee*, 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 matter, the Hon'ble SAT observed that "*We cannot subscribe to this view since the Board has set its own benchmark in selecting cases or action and, in any case, the appellant cannot plead himself innocent or his trades as lawful.*" Notwithstanding the above, the submissions of the *Noticee* has no merit for the reason that the *Noticee* is required to defend the charges made against him in the SCN before me as a decision to not to proceed against certain other entities would not take away the charges levelled against the *Noticee* in the SCN. I note that the SCN does not make any allegation of collusion or acting under a pre-meditated scheme, hence, the plea taken by the *Noticee* that the instant proceedings would not survive in the absence of the officials of bank and stock broker not been proceeded with, is itself an unsustainable demand.

Additionally, the demand made by the *Noticee* to implicate other entities also indicates towards possible collusive nexus and violation of securities law by the *Noticee* by acting in concert with other entities however, the *Noticee* has failed to bring any material to show that his acts were similar to the other entities including the officials / employees of stock broker and bank hence, they also should be charged with same violations. Under the circumstances, in the absence of any material information brought before me, the *Noticee* should note that mere non-issuance of SCN to other entities such as the stock broker or bank officials, would not take away the fraudulent trade practice allegedly indulged in by the *Noticee*. Considering the foregoing, I reject such an unfounded contention of the *Noticee* in totality and do not find it necessary to further deal with this contention.

24. Having dealt with the preliminary contentions of the *Noticee*, I now proceed to discuss as to whether or not, on the basis of the allegations levelled against the *Noticee* in the SCN and the explanations offered by the *Noticee* in response to the said allegations made in the SCN on merit, the charges made in the SCN would sustain. In order to determine as to whether the *Noticee* has actually contravened the provisions of the *SEBI PFUTP Regulations, 2003*, the issue in the instant case that needs to be deliberated upon is as under:

Whether the disputed address, which was mentioned in the disputed Adroit trading account and disputed HDFC Bank A/c 8666, has any relation with the Noticee and whether he has any role in the operation of the said disputed Adroit trading account and disputed HDFC Bank A/c 8666 from which those manipulative trades were executed in the scrip of CIL.

25. It is noted that while disposing of the proceedings in compliance with the order of the Hon'ble SAT, SEBI vide its 2019 Order, while directing for re-investigation into the matter, has *inter alia*, made the following observation:

"...I note that the Noticee has disputed the very existence of such trading accounts with these Brokers and also contended that he had never traded in the scrip of Crazy Infotech Ltd...it is necessary to confirm the authenticity of Client Registration form of the

Noticee allegedly opened with the Brokers viz. Adroit Financial Services, Ami Stock and Share Broker and AKG Stock Broker Pvt Ltd. In this context, whether any other demat accounts/Bank accounts are in the name of the Noticee, whether there is any fund trail to the Brokers from the Noticee or from anyone else, whether there is any securities trail to the Noticee in any other demat account or to any one else and other related facts needs to be ascertained."

26. Vide 2019 Order, it was further directed to re-investigate the entities behind the opening and operation of account for the execution of manipulative trades in the scrip of CIL pertaining to the Investigation Period. In view of the aforesaid directions, Investigation was initiated in order to examine the authenticity of *disputed trading accounts* of RPB with Adroit, AKG and Ami through which the alleged fraudulent and manipulative trades were executed in the scrip of CIL, *inter alia*, by way of verifying the KYC documents submitted, while opening the aforesaid *disputed trading accounts*.

27. I note that the allegations against the *Noticee* in the matter pertained to the alleged trades executed from the *disputed trading accounts* of RPB with stock brokers viz: Adroit, Ami and AKG. In this regard, it has been noted above that RPB has disputed the very existence of such *disputed trading accounts* with these stock brokers and further has submitted that he had never traded in the scrip of CIL. RPB has also submitted that he had only two trading accounts, one with Bakshu and other with Bonanza and one demat account with M/s Stock Holding Corporation of India Limited. He has further submitted that it appears to be a case of misusing/ forging of his PAN and driving license etc. to execute alleged manipulative trades in his name by opening the above noted disputed bank account in *disputed HDFC Bank A/c 8666* and the above stated *disputed trading accounts* with Adroit, Ami and AKG.

28. Based on the afore-said submissions of RPB, an analysis of the *disputed trading accounts* opened in name of RPB with Adroit, AKG and Ami and bank accounts linked to such *disputed trading accounts* was conducted and for this purpose the KYC details from the afore-said stock brokers (Adroit, Ami and AKG) were sought. During the course of examination into these accounts, it was discovered that AKG got merged

with *Adroit* in year 2005. Similarly, it was also observed that *Ami* had transferred its membership to Navkar Wealth Services Private Limited (for convenience "*Navkar*") in the year 2010. While seeking KYC details of trading account *RPB* with *Ami*, it was informed by *Navkar* that they were unable to trace the details of *RPB* in their records and no details were provided to SEBI. With regard to the KYC details of *disputed trading accounts* of *RPB* with *Adroit* and *AKG*, the details submitted by *Adroit* (copy of the same is provided to the *Noticee* as annexure 1 of the SCN) was examined. I note that based on the examination of the KYC details of disputed accounts of *RPB* and the KYC details of *Noticee* and his wife, various fund transactions in the disputed bank account of *RPB* (*disputed HDFC Bank A/c 8666*) as well as from the submission of the *Noticee* made during the Investigation, the SCN has proceeded to allege that the *Noticee* had fraudulently opened the *disputed Adroit trading account* and *disputed HDFC Bank A/c 8666* in the name of *RPB* and was himself responsible for the fraudulent and manipulative trades which were executed from the aforesaid *disputed Adroit trading account* in the scrip of *CIL* during the Investigation Period. The SCN proceeded to make such allegations, *inter alia* on the basis of following evidence viz- :

- a) The address which was mentioned in the *disputed Adroit trading account*, *disputed HDFC Bank A/c 8666* of *RPB*, *HDFC Bank* account of the *Noticee*, *HDFC Bank* account of Ms. Anjali Narendra Ganatra (wife of the *Noticee*) and also in the data mapped with the Unique Client Code (UCC) of the *Noticee* at BSE, belonged to the *Noticee*.
- b) The email address "Gujukaka2002@yahoo.com", which was mentioned in the *disputed HDFC Bank A/c 8666* opened in the name of *RPB* and the phone number "022-55988589" which was mentioned both in the *disputed Adroit trading account* and the *disputed HDFC Bank A/c 8666* of *RPB*, belonged to the *Noticee*.
- c) Before closure of the *disputed HDFC Bank A/c 8666* of *RPB*, there were transactions from the said *disputed HDFC Bank A/c 8666* with the *Noticee* and entities connected to *Noticee*.

d) As *Noticee* had introduced *RPB* while opening trading account with *Bonanza*, *Noticee* was related to *RPB*, hence *Noticee* had access to the personal documents of *RPB*, which he used to open the *disputed* *HDFC Bank A/c 8666* and the *disputed* *Adroit trading account*.

29. I note that the *SCN* has alleged that in the *KYC* documents of the bank account of the *Noticee* and his wife, registered address mentioned therein was the *disputed address* and therefore the said *disputed address* also belonged to him. In this regard, *Noticee* has strongly contended that the allegation that *disputed address* actually belonged to him is without any basis and not supported by any evidence. It was further submitted that the *disputed address* actually related to the office of *Ford Brothers Capital Services Pvt Ltd.* and the *Noticee* was a client of *Ford Brothers Capital Services Ltd.*, and used to work as a sub-broker from the above office. The address never belonged to him and the said *disputed address* was shared by many people including the *Noticee* and his wife. It has been submitted that merely for the reason that two accounts containing same address, it would not be a basis to conclude that the accounts containing same address but opened and owned by different entities belonged to one person, more so when the person so alleged to be the owner of the said common address is not the owner of the property whose address is mentioned in the account opening form. *The Noticee* in support of his submission has relied on the observations of Hon'ble SAT in the matter of *Narendra Ganatra (supra)*, wherein the Hon'ble SAT has set aside the order of the Adjudicating Officer *by observing that* ".... The fact that the appellant shares common address with his brother *Nimesh Ganatra* or has introduced *Bhavesh Pabari* to broker is not sufficient evidence to prove the charge of connivance in executing circular trades...."

30. With regard to the finding that a common email id (Gujukaka@yahoo.com) and a common phone number (022-55988589) were registered in the name of the *disputed trading and bank account of the RPB*, I note that though the *Noticee* has not disputed the existence of the said email id and the phone number as pertaining to him however, has submitted that based on the mere fact that some other trading account

and bank account contained his email id and phone number, it can't be concluded that the *disputed accounts* were opened, owned and operated by him.

31. Moving on to the allegation of fund transfers from the *disputed HDFC Bank A/c 8666* to *Noticee* and its related entities, I note that *Noticee* has mainly contended that the alleged transactions in the scrip of *CIL* pertains to the period of 2006-07, whereas, the *SCN* has considered the fund transactions pertaining to the year 2009-10 to allege that the said bank account belonged to him. He has further argued that he had business relations with *RPB* and therefore, he has received funds in his account from *RPB*. Further, the *Noticee* has claimed that although *RPB* had transferred INR 10,00,000 to *Gemstone*, INR 9,00,000 was credited in the Bank Account of *RPB*.

32. With regard to the allegation of having access to the KYC documents of *RPB*, the *Noticee* has submitted that the Investigation has failed to bring any evidence on record to substantiate its findings that the *Noticee* was having access to the KYC documents of *RPB* or has misused the same to open those *disputed trading and bank accounts* in the name of *RPB* and has executed those manipulative trades in the scrip of *CIL*.

33. In this respect, I note that though the address registered in the KYC details of the bank accounts of *Noticee* and his wife is same as the *disputed address*, it is not in dispute that the said *disputed address* pertained to office of Ford Brothers Capital Services Pvt., Ltd., wherein the *Noticee* was working and operating as a sub-broker. Though, on the face of the documents on record it may not be stated with conviction that the said *disputed address* pertained to the *Noticee* or the *disputed trading accounts* bearing the said *disputed address* were actually opened and operated by the *Noticee*, at the same time, I can't ignore the undisputed fact that the *Noticee* had also used the same *disputed address* in his own HDFC Bank A/c and the same was also mentioned in the UCC details of *Noticee* in the records of BSE. These facts coupled with the truth that the *Noticee* and *RPB* were college mates and the *Noticee* was the introducer of *RPB* in the account opening form with Bonanza, adequately dispel the arguments being put forth by the *Noticee* to distance himself away from the *disputed address* and

disputed accounts trading as well as *disputed HDFC Bank A/c 8666*. It does not appear to be a sheer co-incidence that the phone numbers as mentioned in the *disputed accounts* as well as in the accounts belonging to *the Noticee* and his wife are same. The arguments of the *Noticee*, may initially appear to be in order when he states that apart from having relationship with *RPB* from college time and being an introducer of *RPB* while opening his trading account in Bonanza, there is nothing on record which indicates that the *Noticee* was having access to personal KYC documents of *RPB* and has misused them while opening the *disputed trading and bank account* in name of *RPB*. However, it is to be noted here that carrying out In-Person Verification of a client while opening a new bank account was made compulsory only in the year 2011. Further I can't close my eyes to the unassailable fact of long association of *Noticee* with the operation of Securities Market, his long association with *RPB* and the strange co-incidence of having the phone number and email id admittedly pertaining to the *Noticee* as recorded in the KYC documents of the *disputed trading and bank accounts*.

34. The submissions made by the *Noticee* justifying the fund transactions with the *disputed bank account* on the premise of having business relationship with *RPB* are neither supported by any corroborative evidence nor sound convincing. The *Noticee* on one hand has feigned ignorance about the opening and operation of the *disputed trading and bank accounts*, whereas on the other hand has vehemently tried to justify the funds transactions with the *disputed HDFC Bank A/c 8666* claiming them as having been undertaken in the normal course of business. The aforesaid claim of having received funds from the said *disputed HDFC Bank A/c 8666* in course of regular business transactions undertaken by *the Noticee*, at least confirms a fact that *the Noticee* certainly knew the identity of the person behind the said *disputed HDFC Bank A/c 8666*, with whom he had undertaken those so called unsubstantiated business dealings due to which he and his connected entities had received funds from that *disputed HDFC Bank A/c 8666*. It is also seen that with respect to those funds transactions out of the said *disputed HDFC Bank A/c 8666*, the *Noticee* has at times dealt as a director and signatory of *Gemstone*, and sometime as an individual. The details

annexed to the SCN further show transaction with the *disputed HDFC Bank A/c 8666* and account of his wife and the same fact was also not disputed by him. There is no denial to the fact that above noted funds transactions from the *disputed HDFC Bank A/c* pertained to the post Investigation Period, however, it does not take away the fact that *the Noticee* was known to the person who was owning and operating the *disputed HDFC Bank A/c 8666* as he was the recipient of funds out of the said bank account on several occasions. Further, the fact that the said *disputed HDFC Bank A/c 8666* was linked to the *disputed Adroit trading account* is also not denied. Hence, it can be reasonably held that the *Noticee* was aware of the person behind the owning and operating the *disputed trading accounts*. Thus, the mere fact that the alleged manipulative transactions pertained to the period 2006-07 and the fund transactions took place in the year 2009-10, it would not be a sufficient argument to hold that *the Noticee* was not aware of or had no relation with these *disputed trading and bank accounts*.

35. To sum up the foregoing discussion, it can be held from the materials available on record that there are too many commonalities and coincidences of undisputed facts that strongly point out the *Noticee's* active involvement and association with the *disputed trading & bank accounts* and the *Noticee* with his explanations that are not supported with any evidence, has barely been able to assail or overcome and successfully controvert those coincidences. The appearances of the same disputed address in the three *disputed trading accounts and disputed HDFC Bank A/c 8666* as well as in the banks accounts genuinely owned by the *Noticee* and his wife, coupled with the facts that all the above noted four disputed accounts containing the same phone numbers and email id, which admittedly belonged to the *Noticee* as well as the fund transaction from the *disputed HDFC Bank A/c 8666* with the accounts owned by the *Noticee* & his related entities, are too many coincidences which have to be considered in conjunction and not in isolation. It has been noted that *RPB* has denied owning those accounts and consequently, the operations therein also denied. The *Noticee* on the other hand submits that he is known to *RPB* and had fund transactions with

disputed HDFC Bank A/c 8666 in the course of business. Under the circumstances, where an entity denies to have association with accounts in the any manner and the other entity claims to have business relation with such entity / account, it becomes incumbent upon the entity claiming to have business relation to produce material in support of the submissions. Failure to furnish documents in support of the claim would render the assertion as a mere bald one, having no material to substantiate. Resultantly, the needle of preponderance swindles against such entity, which in the facts of this matter is sufficient to establish the role of the *Noticee* with the operation of those *disputed trading accounts* and *disputed HDFC Bank A/c 8666* linked to the said *disputed trading accounts*, as the *Noticee* has acknowledged having several fund transactions with the above referred bank account and no justification has been furnished by the *Noticee*. On analyzing the above facts and common features between the disputed accounts and accounts of the *Noticee* holistically, one gets a strong preponderant reason to believe with conviction that the *Noticee* was definitely aware of the person behind the owning and operation of the *disputed trading account* as well as the bank account linked to the said trading account. Since the records before me sufficiently establish that the *disputed trading accounts* and *disputed HDFC Bank A/c 8666* as well as the accounts of the *Noticee* and his wife bear the same address, telephone address and email address in their respective KYC documents, no matter what the *Noticee* argues to escape from owning up those disputed accounts, I cannot persuade myself to believe that the *Noticee* is as innocent as he is trying to project by pleading ignorance about the said *disputed trading and bank accounts*. In fact, the overwhelming body of evidences before me do suggest that *Noticee* had a definite role behind all those *disputed trading accounts* and *disputed HDFC Bank A/c 8666*. I can't overlook the fact that contrary to the *Noticee's* claim that he had several financial transactions with *RPB*, *RPB* has denied to have any association with the disputed trading and bank accounts, thereby falsifying the *Noticee's* claim of having received money from the *disputed HDFC Bank A/c 8666* in connection with his business dealings and the *Noticee's* claim of having business relations with *RPB* remain unsubstantiated. Although the evidences available on record, may not be able to

conclusively prove that the *disputed trading accounts* and the *disputed HDFC Bank A/c 8666* linked to the said *disputed trading accounts* were actually opened and owned by the *Noticee*, the facts and circumstances pertaining to sharing of common address, common phone numbers, email id, frequent financial transaction etc., strongly suggest the involvement of the *Noticee* in the operation of those accounts from which those manipulative trades were executed in the shares of *CIL* as detailed out in the *2015 order* mentioned above (*supra*).

36. Thus, keeping in view the aforesaid factual examination and observations pertaining to the operation of the disputed trading and bank accounts on the basis of strong indicative factual support from the KYC details, in my view the charges pertaining to violation of Section 12A (a), (b) and (c) of *SEBI Act, 1992* read with regulations 3 (a), (b), (c) and (d), of *PFUTP Regulations, 2003*, stand substantially vindicated against the *Noticee*.

DIRECTIONS

Keeping in view the overall facts and circumstances of the case and to meet the ends of justice I, in exercise of the powers conferred upon me under Sections 11(1), 11(4) and 11B(1) read with Section 19 of the Securities and Exchange Board of India Act, 1992, hereby restrain the *Noticee* from accessing the securities market and further prohibit him from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, for a period of three (03) months from the date of this Order.

37. It is clarified that during the period of restraint, the existing holding of securities of the *Noticee* including units of mutual funds, shall remain frozen.

38. It is further clarified that obligation of the *Noticee* in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange (s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the *Noticee* in the F&O

segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

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

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

-Sd-

DATE: FEBRUARY 15, 2021

S. K. MOHANTY

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA