

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Order Reserved on: 22.12.2020

Date of Decision : 24.03.2021

Appeal No. 524 of 2019

Badri Lal Birla
Ganga Jamuna,
Session Court Road,
Bhopalganj, Bhilwara,
Rajasthan – 311 001.

...Appellant

Versus

Securities and Exchange Board of India.
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.

...Respondent

Dr. S.K. Jain Practicing Company Secretary i/b Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra, Advocates i/b K. Ashar & Co. for the Respondent.

WITH
Appeal No. 605 of 2019

Badri Lal Birla
Ganga Jamuna,
Session Court Road,
Bhopalganj, Bhilwara,
Rajasthan – 311 001.

...Appellant

Versus

Securities and Exchange Board of India.
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051.

...Respondent

Dr. S.K. Jain, Practicing Company Secretary i/b Mr. Vikas Bengani, Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra, Advocates i/b K. Ashar & Co. for the Respondent.

**WITH
Appeal No. 601 of 2019**

Chandrakanta Laddha
E-501, Shiv Manthan Soni Complex,
Malad (West),
Mumbai – 400 064. ...Appellant

Versus

Securities and Exchange Board of India.
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051. ...Respondent

Mr. Saurabh Bachhawat, Advocate i/b Ms. Yashvi Panchal,
Advocate for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Mihir Mody and Mr. Arnav Misra, Advocates i/b K. Ashar & Co. for the Respondent.

**AND
Appeal No. 334 of 2020**

Arihant Capital Markets Limited
1011, Solitaire Corporate Park,
Building No. 10, 1st Floor,
Andheri Ghatkopar Link Road,
Chakala, Andheri (East), ...Appellant
Mumbai – 400 093.

Versus

Securities and Exchange Board of India.
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051. ...Respondent

Mr. Prakash Shah, Advocate with Mr. Kushal Shah, Chartered Accountant i/b Prakash Shah & Associates and Mr. Devang Gopani, Authorised Representative of the Company for the Appellant.

Mr. Kumar Desai, Advocate with Mr. Mihir Mody, Mr. Arnav Misra, Advocates i/b K. Ashar & Co. for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Dr. C.K.G. Nair, Member
Justice M.T. Joshi, Judicial Member

Per : Dr. C.K.G. Nair, Member

1. This order disposes of four appeals filed by three appellants, namely, Badri Lal Birla (Appeal Nos. 524 of 2019 and 605 of 2019), Chandrakanta Laddha (Appeal No. 601 of 2019) and Arihant Capital Markets Limited (Appeal No. 334 of 2020). Appeal No. 605 of 2019 has been filed challenging the order of the Whole Time Member ('WTM' for short) of Securities and Exchange Board of India ('SEBI') dated March 19, 2019 whereby Badri Lal Birla and Chandrakanta Laddha, among others, had been restrained from dealing in the securities market for a period of five years. However, only Badri Lal Birla has filed appeal against this order. Three other appeals are filed against the orders of Adjudicating Officer ('AO' for short) of SEBI dated September

24, 2019 (Appeal No. 601 of 2019); August 30, 2019 (Appeal No. 524 of 2019 and May 29, 2020 (Appeal No. 334 of 2020). By these adjudication orders penalty of respectively Rs. 6 lakh, Rs. 10 lakh and Rs. 5 lakh has been imposed on appellants Chandrakanta Laddha, Badri Lal Birla and Arihant Capital Markets Limited ('Arihant' for short). Though, the dates of the AO orders are different all 3 AO orders and the WTM order are passed in respect of trading in the scrip of Moryo Industries Ltd. ('Moryo' for short) during the year 2013-14 held to be violative of provisions of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 ('PFUTP Regulations' for short). Accordingly, by consent of the parties all appeals have been heard together and are disposed of by this common decision.

2. Facts relating to two appeals are similar; SEBI investigation found that appellants Birla and Laddha and some other noticees were instrumental in raising the price of the scrip of Moryo and in contributing to positive Last Traded Price (LTP). These appellants had placed miniscule buy and sell orders which resulted in artificially raising the price of the scrip of Moryo. The allegation against Arihant is violation of Code of Conduct of Stock Brokers since it did not exercise due care and diligence while executing

the trades of Birla who was its client. Accordingly a show cause notice was issued on December 5, 2017 and WTM passed the order on March 19, 2019. Thereafter, after issuing SCNs on different dates AO passed other three separate orders imposing monetary penalty as given in paragraph 1 of this Order.

3. Dr. S.K. Jain, Authorised Representative appearing for the appellant in Appeal No. 605 of 2019 made an attempt to demonstrate that the appellant was not in receipt of the show cause notice. However, we note from the reply filed by respondent SEBI that the show cause notice issued by SEBI through speed post returned “unclaimed” and thereafter it was served by affixture. Moreover, the appeal has been filed with a delay of 254 days; even subsequent to filing the appeal against the AO order which was issued five months after the WTM order. Therefore, we are of the view that the appellant has filed this appeal belatedly. Further, while the WTM order was issued against five entities only Badri Lal Birla has appealed against the same; even Chandrakanta Laddha who is appealing against the AO order has not appealed against the WTM order.

4. In Appeal No. 524 of 2019 (Badri Lal Birla), Dr. S.K. Jain, Authorized Representative contended that the appellant is a 78

years old senior citizen; did not violate any securities laws; SEBI cherry-picked 18 buy orders for 23 shares and 14 sell orders for 23 shares in an arbitrary manner and concluded that the appellant contributed to positive LTP, ignoring other trades which had negative or no LTP; even during the pre-investigation period price of the scrip was rising but was not investigated; there were fluctuations in prices during the investigation period and therefore the conclusion relating to LTP is not correct; appellant is a small investor and resorted to the same trading pattern in 30 scrips; total investment is that of 2-3 lakh, however, the penalty is Rs. 10 lakh which is highly disproportionate; no connection between buyer and seller or to the company was established and no synchronized, reversal or circular trades have been alleged. The Authorized Representative has placed reliance on a number of orders as follows (i) Order of this Tribunal in the matter of ***Vikas Ganeshmal Bengani vs Securities and Exchange Board of India (Appeal No. 225 of 2009 decided on February 25, 2010)***, (ii) Order of this Tribunal in the matter of ***M/s. Nishith M. Shah (HUF) vs Securities and Exchange Board of India (Appeal No. 97 of 2019 decided on January 16, 2020)***, (iii) Order of WTM, SEBI in the matter of ***Mr. Amit H. Tilala dated May 31, 2019***, (iv) Order of WTM, SEBI in the matter of ***Mr. Jayendra***

Chandulal Sheth dated February 27, 2019, (v) Order of WTM, SEBI in the matter of **Moryo Industries Limited dated September 21, 2017**, (vi) Order of AO, SEBI in the matter of **Ever Bright Trading Private Limited (earlier known as Mould Trading Private Limited) dated September 30, 2019**, (vii) Order of AO, SEBI in the matter of **Radford Global Ltd. dated March 6, 2020** and (viii) Order of AO, SEBI in the matter of **Winsome Yarns Limited dated February 24, 2020** in support of his contention and, particularly, emphasized the order in respect of **M/s. Nishith M. Shah HUF(supra)**.

5. We further note the following from the impugned Order in appeal No. 524 of 2019 Badri Lal Birla that total buy trades were 22, out of which 18 were positive LTP contributing trades; there were 12 trades wherein the buy order was placed for less than or equal to 6 shares while the disclosed quantity of sell order was more than or equal to 100 shares. These 12 trades were executed on 12 different days resulted in positive LTP contribution of Rs. 56.65 (19.97% of total market positive LTP) during Patch 1. Details of these 12 positive LTP contributing buy trades are given below:-

Sl. No	Batch Date	Buyer Name	Seller Name	Trade Time	Buy Order	Sell Order	Trade Price	LTP Diff	Buy Order	Sell Orde	Trade d	Sell Order	Buy Order
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.					Time	Time			Price	r Price	Quant ity	Disclo se Volum e	Origin al Quant ity
1	31.01. 2013	Badri Lal Birla	Rakesh Kumar Modi	09:54:43. 5050340	09:54:43. 4767400	09:44:49. 7451510	113.6 0	2020	113.6 0	113. 60	6	100	6
2	16.04. 2013	Badri Lal Birla	Vinod Banwari lal Sharma	14:15:33. 5017690	13:58:34. 4683990	13:5 7:34.4912 230	760.0 0	3.60	76.00	76.0 0	1	300	1
3	06.05. 2013	Badri Lal Birla	Rakesh Kumar Modi	15:15:26. 3704090	15:09:40. 7919310	15:03:58. 9738280	104.0 0	4.40	104.0 0	104. 00	1	500	1
4	07.05. 2013	Badri Lal Birla	Sunil Kr Bagaria Huf	15:15:21. 8107230	15:01:15. 8389440	15:01:52. 1442820	109.2 0	5.20	109.2 0	109. 20	1	1000	1
5	15.05. 2013	Badri Lal Birla	Insight Multitra ding Private Ltd	14:15:23. 8931650	14:02:44. 4628580	13:43:02. 6466090	132.0 0	5.00	132.0 0	132. 00	1	500	1
6	20.05. 2013	Badri Lal Birla	Prem Ratan Bhaiya	11:1529. 3936290	10:35:2 3.40131 20	11:09:29. 4392630	138.5 0	6.50	138.6 0	138. 50	1	100	1
7	22.05. 2013	Badri Lal Birla	Sunil Kr Bagaria Huf	15:15:24. 6336290	14:49:4 4.46993 00	14:50:46. 2692270	5.00	138. 00	137.0 0	1	400	1	
8	06.06. 2013	Badri Lal Birla	Vivekan and Bagadia Huf	15:15:21. 6561930	15:3:43. 808939 0	15:06:28. 3626280	108.0 0	7.45	111.0 5	108. 00	1	170	1
9	11.06. 2013	Badri Lal Birla	Narendr a G Navalak ha	15:15:23. 5523810	15:09:1 1.94841 30	14:55:04. 5389920	107.2 5	4.60	107.2 5	107. 25	1	250	1
10	12.06. 2013	Badri Lal Birla	Narendr a G Navalak ha	15:15:29. 9985050	15:08:2 5.74401 70	14:30:04. 8607650	114.4 0	4.15	111.4 0	111. 40	1	250	1
11	15.07. 2013	Badri Lal Birla	Coline Comput er Private Ltd.	15:15:30. 3478120	15:00:19. 3921620	14:37:34. 3355630	112.0 0	4.80	112.0 0	112. 00	1	100	1
12	18.07. 2013	Badri Lal Birla	Vinubh ai Khushal bhai Patel	15:15:29. 1054690	14:56:55. 3713750	14:32:21. 4881380	100.0 0	3.75	106.0 0	100. 00	1	122	1

6. In respect of trades at sl.no.4, 6 and 7 (i.e., where buy order was placed before the sell order), the buy order was placed for 1 share at prices significantly above LTP, which were subsequently matched by sell orders. In the remaining trades (i.e., where buy order was placed after the sell order), while the disclosed volume

of the sell orders was large, buy orders were placed for small quantities, for which quantity the above trades were executed. These trades for small quantity were executed on 12 days and contributed to significant positive LTP. Further, out of these 12 days, on 7 days the trade of the Noticee was the only trade of the day.

7. Thus, it was alleged that the Noticee was not acting as genuine buyer and had no bona fide intention to buy but to mark the price higher because despite availability of large disclosed quantity of sell orders, he was placing small quantity buy orders by either matching or placing orders at prices higher than sell order price which were already above LTP or by placing buy orders at prices above LTP which were subsequently matched by sell orders thereby contributing to significant positive LTP.

8. It was also observed that the Noticee was one of the entities who contributed more than 5% to market positive LTP during patch 1 as seller as well . Upon analysis of his LTP contribution, it was observed that the Noticee contributed Rs.68.65 of positive LTP (24.20% of market positive LTP) through 14 trades for 23 shares. The details of the trades of the Noticee as seller is as follows:

Sl. No.	Batch Date	Buyer Name	Seller Name	Trade Time	Buy Order Time	Sell Order Time	Trade Price	LTP Diff.	Buy Order Price	Sell Order Price	Trade Quantity	Seller Order Volume	Buy Order Volume	No. of shares held before these trades
1	10.04.2013	Chandrakant Laddha	Badri Lal Birla	15:15:12 8.01978 30	15:09:25 5.35118 50	15:11:57 1.87883 70	66.00	5.00	66.00	66.00	1	1	5	700
2	11.04.2013	Chandrakant Laddha	Badri Lal Birla	15:15:20 0.96096 80	14:30:39 9.55645 40	14:32:18 9.90570 80	69.00	3.00	69.00	69.00	1	1	10	699
3	17.04.2013	Shyam Kanhey Lal Vyas	Badri Lal Birla	11:15:36 6.57076 50	10:30:05 5.09604 30	10:32:27 7.20759 50	79.80	3.80	79.80	79.80	1	1	500	700
4	17.04.2013	Badri Lal Birla	Badri Lal Birla	15:15:32 2.78751 70	14:51:16 6.12987 50	14:34:09 9.01993 40	79.80	7.30	79.80	79.80	1	1	1	699
5	18.04.2013	Badri Lal Birla	Badri Lal Birla	15:15:21 1.55698 10	14:35:58 2.06683 60	15:04:12 4.62302 20	83.75	3.95	83.75	83.75	1	1	1	699
6	13.05.2013	Chandrakant Laddha	Badri Lal Birla	15:15:29 9.09312 30	14:31:43 3.93797 30	14:32:49 7.96920 90	121.20	5.20	121.20	121.20	3	3	5	703
7	17.05.2013	Chandrakant Laddha	Badri Lal Birla	15:15:37 1.55132 70	14:30:38 4.67341 80	14:31:14 5.34542 40	132.00	5.50	132.00	132.00	2	2	10	702
8	21.05.2013	Chandrakant Laddha	Badri Lal Birla	15:15:30 0.78556 00	15:06:01 1.15232 90	15:04:14 4.9676 00	132.00	6.00	132.00	132.00	1	1	2	701
9	24.06.2013	Amritlal Kanji Haria	Badri Lal Birla	10:15:27 7.01513 50	09:59:55 5.63608 40	10:04:23 8.81002 30	100.35	4.75	100.35	100.35	1	1	1	704
10	27.06.2013	Chandrakant Laddha	Badri Lal Birla	15:15:26 6.55241 20	14:33:10 0.32731 00	15:13:35 5.99567 50	108.00	2.65	109.35	107.95	1	1	2	703
11	01.07.2013	Chandrakant Laddha	Badri Lal Birla	15:15:30 0.35493 10	14:53:06 6.63273 80	14:59:57 5.91482 70	106.80	4.15	106.80	106.75	2	2	5	704
12	02.07.2013	Chandrakant Laddha	Badri Lal Birla	15:15:37 5.18184 70	14:39:36 6.14664 30	14:48:17 6.24153 70	109.90	3.10	109.90	109.85	1	1	3	702
13	04.07.2013	Chandrakant Laddha	Badri Lal Birla	10:15:46 6.28640 50	10:03:36 6.64946 30	10:04:33 5.08060 30	114.80	4.90	114.85	114.80	5	5	5	701
14	19.07.2013	Chandrakant Laddha	Badri Lal Birla	15:15:36 6.14181 60	14:48:21 1.95496 90	15:04:47 7.15317 70	104.45	9.35	105.00	104.45	2	2	2	705

9. In Appeal No. 601 of 2019 filed by Chandrakanta Laddha, the learned counsel for the appellant, Shri Saurabh Bachhawat contended that the appellant is a senior citizen and has been trading in the securities market for 40 years as

a small investor in similar fashion; traded in the normal manner and made a profit of about one lakh rupees during the relevant time; did not challenge the WTM order due to financial constraint and therefore the penalty of Rs. 6 lakh imposed is disproportionate and harsh. It was also contended that the appellant conducted 10 trades and the quantity traded was 23 shares with positive LTP impact. Details of these 10 trades along with their LTP contribution is given below:-

Sl. No .	Batch Date	Buyer Name	Seller Name	Trade Time	Buy Order Time	Sell Order Time	Trade Price	LTP Diff	Buy Order Price	Sell Order Price	Trade d Quantity	Sell Order Disclose Volume	Buy Order Original Quantity
1	10.04. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 28.01 97830	15:09: 25.351 1850	15:11:5 1.87883 70	66.00	5.00	66.00	66.00	1	1	5
2	11.04. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 20.96 09680	14:30: 39.556 4540	14:32:1 9.90570 80	69.00	3.00	69.00	69.00	1	1	10
3	13.05. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 29.09 31230	14:31: 43.937 9730	14:32:4 7.96920 90	121.20	5.20	121.20	121. 20	3	3	5
4	17.05. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 31.55 13270	4:30:3 4.6734 1 80	14:31:1 5.34542 40	132.00	5.50	132.00	132. 00	2	2	10
5	27.06. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 26.55 24120	14:33:1 0.3273 1 00	15:13:3 5.99567 50	108.00	2.65	109.35	107. 95	1	1	2
6	01.07. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 30.35 49310	14:53:0 6.6327 380	14:59:5 5.91482 70	106.80	4.15	106.80	106. 75	2	2	5
7	02.07. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 35.18 18470	14:39:3 6.1466 4 30	14:48:1 6.24153 70	109.90	3.10	109.90	109. 85	1	1	3
8	04.07. 2013	Chandr-akanta Laddha	Badri Lal Birla	10:15: 46.28 64050	10:03:3 6.6494 6 30	10:04:3 5.08060 30	114.80	4.90	114.85	114. 80	5	5	5
9	08.07. 2013	Chandr-akanta Laddha	Badri Lal Birla	15:15: 32.67 66650	14:43:0 7.8061 160	15:13:0 6.92536 30	118.70	3.70	120.65	118. 65	5	5	10
10	19.07.	Chandr-	Badri	15:15:	14:48:2	15:04:4	104.45	9.35	105.00	104.	2	2	2

	2013	akanta Laddha	Lal Birla	36.14 18160	1.9549 690	7.15317 70				45			
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10. It is observed from these trades of the Noticee that the Noticee placed buy orders before the sell orders at prices significantly above LTP, which were subsequently matched by sell orders. Further, 5 trades took place between June 27, 2013 to July 08, 2013 i.e. during 7 trading days. Moreover, out of the above 10 trading days, on 3 days the trades of Noticee were the only trades of the day. Appellant Laddha also had executed sell trades also in similar fashion.

11. Thus, it was alleged that the Noticee was not acting as genuine buyer and had no bona fide intention to buy but to mark the price higher because she was placing small quantity buy orders at prices significantly above LTP which were subsequently matched by sell orders thereby contributing to significant positive LTP. The Noticee, by trading in the aforesaid manner, manipulated the scrip price and created a misleading appearance of trading in the scrip by such trades and thereby allegedly violated Regulations 3(a), (b), (c), (d), 4(1), 4(2)(a), and (e) of PFUTP Regulations.

12. The appeal filed by Arihant Capital Markets Limited (Appeal No. 334 of 2020) who is a stock broker and the broker of appellant Badri Lal Birla. The charge against the appellant broker is that it failed to exercise due skill, care and diligence and thereby violated Clause A(2) of the Code of Conduct for stock brokers as specified under Schedule II read with Regulation 7 of the Stock Broker Regulations. It is the contention of the learned counsel appearing for the appellant that the concerned transactions were carried out in the year 2013 and the show cause notice was issued on April 24, 2018 with the delay of 5 years and the said transactions were executed through Bhilwara office and it is not possible at this stage to recollect or recall the documents, particularly, when the appellant has more than 1.65 lakh customers including 75 active institutional clients with operations spread in 200 cities. Further, it was contended that the impugned order itself states that the appellant has not derived any benefit from the same. Moreover, the appellant had no connection with Badri Lal Birla except a client-broker relationship for share trading activities during 2005-18 and in these 13 years there was no other adverse finding against the appellant vis-à-vis Badri Lal Birla. It was further submitted that during his 25 years of functioning as a broker, the appellant never faced any punitive or

other action in any manner relating to price manipulation, exercise of inadequate care and negligence.

13. The learned counsel Shri Kumar Desai representing respondent SEBI, on the other hand, submitted that the two appellants Badri Lal Birla and Chandrakanta Laddha had manipulated the market as held in the impugned order since they had indulged in trading in miniscule quantity on the buy and sell side when larger quantity of counter party orders were available in the system. Such trade orders were at prices substantially different from the LTP. Thus it is clearly non-genuine trading and violative of the stated provisions of PFUTP Regulations. Appellant Arihant Capital Markets Limited did not exercise due skill, care and diligence when its client was trading in a manipulative manner. Therefore, the finding in the impugned order that, both the investors and the broker of one of them are liable for the violations and hence the monetary penalty which are not harsh and hence need no interference. In support of his contentions the learned counsel for the respondent SEBI relied on a number of judgments as follows- (i) ***Securities and Exchange Board of India vs. Rakhi Trading Private Limited, (2018) 13 SCC 753***, (ii) ***Securities and Exchange Board of India vs.***

Kishore R. Ajmera, (2016) 6 SCC 368, (iii) Securities and Exchange Board of India vs. Kanaiyalal Baldevbhai Patel and other connected cases, (2017) 15 SCC 1, (iv) N. Narayanan vs. Adjudicating Officer, Securities and Exchange Board of India, (2013) 12 SCC 152, (v) Systematix Shares & Stocks (India) Limited vs. Securities and Exchange Board of India, 2012 SCC OnLine SAT 69: [2012] SAT 69, (vi) Shailesh Jain vs Securities and Exchange Board of India, 2012 SCC OnLine SAT 76 : [2012] SAT 76, (vii) Order of this Tribunal in the matter of Shri Lakhi Prasad Kheradi vs. Securities and Exchange Board of India (Appeal No. 232 of 2017 decided on June 21 2018), (viii) Saumil Bhavnagari vs. Securities and Exchange Board of India, 2014 SCC OnLine SAT 54, (ix) Kalpana Dharmesh Chheda & Anr. vs. Securities and Exchange Board of India, 2020 SCC OnLine SAT 52, (x) Jayprakash Bohra vs. Securities and Exchange Board of India, 2019 SCC OnLine SAT 368 and (xi) Giriraj Kumar Gupta HUF vs. Securities and Exchange Board of India, 2020 SCC OnLine SAT 111.

14. Having heard the learned counsel for the parties and having perused the documents, we are of the considered view that the period of restraint and amount of penalties imposed on the appellants are harsh and disproportionate. The impugned order elaborates the trades done by the appellants in terms of various parameters which reveals the fact that a few miniscule orders have been placed by the appellants Badri Lal Birla and Chandrakanta Laddha which looks manipulative in nature. It is also true that they are counter parties to the some of the trades. It is also the fact that through some of their trading the LTP has been impacted. Thus there is merit in the findings in the impugned orders that the pattern of appellants' trading had been of a market manipulating nature. Hence the reliance placed by the appellants in various orders is misplaced as they are distinguishable on facts.

15. However, at the same time, we also note that the number of trades which are found to be manipulative and hence falling foul of the charging provisions as in the impugned order is not too large; 18, 14 and 10 etc and the volumes and are also too small, 36, 23, 24 shares etc. and cannot impact the market in any significant manner and only

a limited impact on the price has happened. It is also a fact that some of their trades also resulted in no impact on LTP or impacted LTP negatively. Further on some of these days prices were fluctuating thereby raising difficulty in calculating the LTP in a market impacting manner. No connection between the buyers and sellers, except some of their trades matching, nor between Moryo and the appellants has been established. Given these reasons and juxtaposing the same with limited magnitude of the violation we consider that the penalty imposed on the appellants is too harsh. As far as appeal by the broker Arihant Capital Markets Limited is concerned we are of the considered view that there is merit in its contention that while a large number of miniscule orders must warrant the attention of the broker, a few trades, that too occasionally, may skip the attention particularly when the broker has large number of clients running into several thousands. Moreover, the broker of only one of the appellants (Birla) has been found to be violative of the Code of Conduct, not the broker of Chandrakanta Laddha, though the nature of violation by both Birla and Laddha is the same. Further, the impugned order itself states that the broker was not a beneficiary in the said trades in any

way other than the broker fee and no link has been established with Badri Lal Birla in any other manner.

16. In the light of the aforesaid facts: limited number and volume of trades, limited impact on LTP, no connection between the parties or with the company and other given reasons we are of the considered view that 5 year restraint imposed on appellant Badri Lal Birla is too harsh. We, therefore condone the delay in filing appeal No 605/2019 and consider the appeal. For the same reasons we are also of the considered view that penalty of Rs. 10 lakh and Rs. 6 lac imposed on appellants Birla and Laddha respectively is also harsh and deserve mitigation. In the case of Arihant Capital Markets Limited the alleged lack of due care, skill, and diligence in a few trades done by one appellant we are of the considered view that the alleged lack of care and due diligence in this matter is not sufficiently established and therefore cannot be sustained.

17. Given the aforestated reasons, Appeal No. 334 of 2020 filed by Arihant Capital Markets Limited, is allowed and the impugned order is quashed. Appeal No 605/2019 filed by Badri Lal Birla is partly allowed by reducing the period of 5

years restraint imposed on the appellant to that of the period already undergone by the appellant. Appeal Nos. 524 of 2019 and 601 of 2019 filed by Badri Lal Birla and Chandrakanta Laddha respectively are partly allowed. Penalty imposed is reduced from Rs.10 lac and Rs.6 lac to Rs. 1 lakh each. Appellants are directed to pay the penalty to SEBI within 30 days from the date of this Order.

18. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a certified copy of this order could be issued by the registry. In these circumstances, this order will be digitally signed by the Private Secretary on behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally signed copy sent by fax and/or email.

Justice Tarun Agarwala
Presiding Officer

Dr. C.K.G. Nair
Member

Justice M T Joshi
Judicial Member

24.03.2021
msb