National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/59857	Date: December 20, 2023
Circular Ref. No: 260/2023	

To All NSE Members,

Sub: **SEBI Confirmatory Order in the matter of Front Running Activity by Dealer -Ashish S Parekh and Connected Entities.**

This has reference to NSE circular no. NSE/INVG/ 54998 dated December 26, 2022 in respect of SEBI interim order no. WTM/ANG/ISD/22405/2022-23 dated December 26, 2022 wherein SEBI has has restrained the following entities from buying, selling, or dealing in securities either directly or indirectly, in any manner whatsoever until further orders.

Sr. no.	Name	PAN
1	Ashish S Parekh	AGSPP1248F
2	Nagendra S Dubey	AIQPD8367B
3	Chirag Atul Pithadia	CAXPP0546B
4	Dipa Ashish Parekh	AGMPP8210F
5	Nikhil Hirachand Jain	AJYPJ0048C
6	Nikhil Hirachand Jain HUF	AAHHN4833K
7	Alpesh Hirachand Jain HUF	AAOHA6695P
8	Nagendra S Dubey HUF	AAJHN3457M
9	Sushma Nagendra Dubey	AVUPD3218N
10	Jagruti Atul Pithadia	AXTPP8243L
11	Sahil Atul Pithadia	CDAPP7544P

SEBI now vide its order no. WTM/AN/ISD/ISD-SEC-5/29882/2023-24 dated December 20, 2023 has confirm the directions of SEBI interim order dated December 26, 2022

This Order shall come into force with immediate effect.

National Stock Exchange of India

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page at the below mentioned link:

https://www.nseindia.com/regulations/member-sebi-debarred-entities

Members are advised to take note of the above and ensure compliance.

In case of any further queries, members are requested to email us at dl-invsg-all@nse.co.in

For and on behalf of

National Stock Exchange of India Limited

Sandesh Sawant
Senior Manager

ANNEXURE: SEBI Confirmatory Order in the matter of Front Running Activity by Dealer – Ashish S Parekh and Connected Entities.

SECURITIES AND EXCHANGE BOARD OF INDIA

CONFIRMATORY ORDER

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

In respect of:

Noticee No.	Name of the Entity	PAN
1	Ashish S Parekh	AGSPP1248F
2	Nagendra S Dubey	AIQPD8367B
3	Chirag Atul Pithadia	CAXPP0546B
4	Dipa Ashish Parekh	AGMPP8210F
5	Nikhil Hirachand Jain	AJYPJ0048C
6	Nikhil Hirachand Jain HUF	AAHHN4833K
7	Alpesh Hirachand Jain HUF	AAOHA6695P
8	Nagendra S Dubey HUF	AAJHN3457M
9	Sushma Nagendra Dubey	AVUPD3218N
10	Jagruti Atul Pithadia	AXTPP8243L
11	Sahil Atul Pithadia	CDAPP7544P

(The aforementioned entities are collectively referred to in this Order as “Noticees”)

In the matter of Front Running Activity by Dealer - Ashish S Parekh and Connected Entities

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted a preliminary examination of the trading activity of Mr. Ashish S Parekh

and his connected Entities for the period from April 1, 2021 to December 31, 2021 (hereinafter referred to as "**Examination Period**"). Mr. Ashish S Parekh and his connected Entities were suspected to be front running the trades of Mr. Paresh N Bhagat (hereinafter referred to as "**Big Client**") in the equity derivative segment during the Examination Period. The examination which was based on a preliminary analysis report dated May 5, 2022 received from the National Stock Exchange of India, Mumbai (hereinafter referred to as "**NSE**") was conducted to look into the possible violations of provisions of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") and various regulations framed thereunder including SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

INTERIM ORDER

2. Pursuant to SEBI's preliminary examination, an *ad-Interim ex-parte* Order dated December 26, 2022 (hereinafter referred to as "**Interim Order**") was passed by SEBI against 11 Noticees wherein *inter alia* the following was noticed:

2.1. Mr. Paresh N Bhagat, the Big Client was the Director of Mangal Keshav Financial Services LLP (hereinafter referred to as "**MKFS**"), a registered stock broker. During the Examination Period, Mr. Paresh N Bhagat had placed several large trades through MKFS. It was *prima facie* noted that several of Big Client's trades were being front run by 8 entities namely Noticee Nos. 4 to 11 in the derivative segment of the market. A pattern of Buy-Buy-Sell (hereinafter referred to as "**BBS**") and Sell-Sell-Buy (hereinafter referred to as "**SSB**"), which is typical of front running activity, has been observed in the orders placed by Noticee Nos. 4 to 11**.**

2.2. One of the Dealers at MKFS was Mr. Ashish Parekh (Noticee No. 1), who had handled Big Client's trades during the Examination Period. Mr. Ashish S Parekh being the Dealer of the Big Client was *prima facie* privy to the information pertaining to the Big Client's impending orders.

2.3. It was *prima facie* noted that the original carrier of this non-public information was Noticee No.1, who was in regular communication with Mr. Nagendra S Dubey (Noticee No. 2) during the Examination Period and Mr. Nagendra S Dubey was in regular communication with Mr. Chirag Atul Pithadia (Noticee No. 3) during the Examination Period. Therefore, it was *prima facie* held that Noticee No. 1 had passed on the non-public information of the Big Client to Noticee No. 2 who in turn had passed it on to Noticee No. 3. The aforesaid 3 Noticees are referred to as Information Carriers (hereinafter referred to as "**IC**")

2.4. The ICs and the Front Runners i.e. Noticee Nos. 4 to 11, (hereinafter referred to as "**FRs**"), were *prima facie* found to be connected with each other *inter alia* on the basis of family relationships, KYC details, common address, email IDs, call data records etc.

2.5. It was further *prima facie* held that Noticee No. 1 who is **IC 1** had access to his wife's trading account, Ms. Dipa Ashish Parekh (Noticee No. 4 and FR 1) and orders in his wife's trading account were being placed on his instructions. With respect to Noticee No. 2 who is **IC 2**, it was noted that he had passed on the non-public information to Noticee No. 5 (Mr. Nikhil Hirachand Jain and FR 2) which had influenced the trades of FR 2, Noticee No. 6 (Nikhil Hirachand Jain HUF and FR 3) and Noticee No. 7 (Alpesh Hirachand Jain HUF and FR 4). In relation to the trades of Noticee No. 8 (Nagendra S Dubey HUF and FR 5) and Noticee No. 9 (Ms. Sushma Nagendra Dubey and FR 6), it was noted that the non-public information could have been passed on from Noticee No. 2 to FR 5 and FR 6 which had influenced their trades. Regarding Noticee No. 3 who is **IC 3**, it was noted that he had access to the trading account of Noticee No. 10 (Ms. Jagruti Atul Pithadia and FR 7) and Noticee No. 11 (Mr. Sahil Atul Pithadia and FR 8) and orders in the trading account of FRs 7 and 8, were being placed on his instructions.

2.6. It was further *prima facie* held based on the close connection among the ICs and FRs, trading pattern of the FRs around the orders of the Big Client, common trading pattern of the FRs during the Examination Period, the trading activity and profit figures of the FRs during pre and post Examination Period including during the Examination Period that the orders placed by / trades executed from the trading accounts of FRs, would not have been entered into, had the ICs, not been in possession of or privy to the non-public information of the impending orders of the Big Client.

2.7. Based on the factual matrix, it was *prima facie* noted that there was overwhelming preponderance of probability that the ICs and FRs were acting in concert with the objective of front running the trades of the Big Client. The actions of the Noticees had resulted in the *prima facie* violation of Sections 12A (a), (b), (c) and (e) of SEBI Act, regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations.

2.8. The front running activity of the Noticees resulted in the generation of the following *prima facie* wrongful gains, as mentioned in the table below:

Table No. 1

Front Runner	Name of the FR	No. of FR trades	Total Buy Value (in INR)	Total Sell value (in INR)	Square of earned (in lakh INR)
FR 1	Dipa A Parekh	118	3,77,24,845.95	4,11,76,886.75	34.52
FR 2	Nikhil Hirachand Jain	54	1,04,34,517.15	1,12,44,100.65	8.10
FR 3	Nikhil Hirachand Jain HUF	66	1,56,45,185.25	1,67,12,952.25	10.68
FR 4	Alpesh Hirachand Jain HUF	59	1,36,19,710.00	1,48,47,126.25	12.27

Front Runner	Name of the FR	No. of FR trades	Total Buy Value (in INR)	Total Sell value (in INR)	Square of earned (in lakh INR)
FR 5	Nagendra S Dubey HUF	106	2,73,47,256.60	2,95,26,923.85	21.80
FR 6	Sushma Nagendra Dubey	142	2,47,77,612.95	2,65,18,252.80	17.41
FR 7	Jagruti Atul Pithadia	77	1,53,18,554	1,61,17,222.90	7.99
FR 8	Sahil Atul Pithadia	141	1,92,34,708.25	2,04,83,982.30	12.49
Total		**763**	**16,41,02,390.40**	**17,66,27,447.75**	**125.25**

2.9. It was *prima facie* held that that the responsibility for the alleged illegal gain must be borne by not just the persons who have made the wrongful gain, but also the respective information carriers who made such wrongful gain possible. Therefore, it was *prima facie* concluded that the following respective entities involved in the scheme to 'front run' the trades of the Big Client were *prima facie* jointly and severally liable for the proceeds generated from the front running trades to the extent of amounts mentioned in the table below:

Table No. 2

Trading Account	Name of the entities jointly and severally liable	Wrongful Gains (in lakh INR)
FR 1	Dipa A Parekh, Ashish S Parekh and Nagendra S Dubey	34.52
FR 2	Nikhil Hirachand Jain, Ashish S Parekh and Nagendra S Dubey	8.10
FR 3	Nikhil Hirachand Jain HUF, Nikhil Hirachand Jain, Ashish S Parekh and Nagendra S Dubey	10.68
FR 4	Alpesh Hirachand Jain HUF, Nikhil Hirachand Jain, Ashish S Parekh and Nagendra S Dubey	12.27
FR 5	Nagendra S Dubey HUF, Ashish S Parekh, Nagendra S Dubey and Chirag Atul Pithadia	21.80
FR 6	Sushma Nagendra Dubey, Ashish S Parekh, Nagendra S Dubey and Chirag Atul Pithadia	17.41
FR 7	Jagruti Atul Pithadia, Ashish S Parekh, Nagendra S Dubey and Chirag Atul Pithadia	7.99

Trading Account	Name of the entities jointly and severally liable	Wrongful Gains (in lakh INR)
FR 8	Sahil Atul Pithadia, Ashish S Parekh, Nagendra S Dubey and Chirag Atul Pithadia	12.49
Total		**125.25**

2.10. Based on the information collected during the preliminary examination and conclusions as recorded in the Interim Order, pending further investigation in the matter, certain directions were issued against the Noticees vide the Interim Order which *inter alia* were as follows:

2.10.1. The Noticees were restrained from buying, selling or dealing in securities either directly or indirectly, in any manner whatsoever until further orders.

2.10.2. The Noticees were directed to cease and desist from directly or indirectly, engaging in any fraudulent, manipulative or unfair trade practice including front running thereby committing or causing violation of any provision of PFUTP Regulations.

2.10.3. The proceeds in the bank accounts of the Noticees, to the extent of wrongful gains were impounded. Further, the Noticees were directed to open an escrow account with a nationalized bank and deposit the impounded amount within 15 days from the date of service of the Interim Order. The escrow account/s was to be an interest bearing escrow account and a lien was to be created in favour of SEBI. Further, the monies kept therein would not be released without permission from SEBI;

2.10.4. Noticees were directed not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, jointly or severally, including money lying in the bank accounts except with the prior permission of SEBI until the impounded amount was deposited in the escrow account.

2.10.5. Noticees were directed to provide a full inventory of all assets held in their name, jointly or severally, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 15 days from the date of receipt of the Interim Order.

3. Vide the aforesaid Interim Order, the Noticees were advised to submit their replies, if any, within 21 days from the service of the Interim Order and they were also advised to indicate whether they desire to avail an opportunity of hearing on a date and time to be fixed on a specific request to be made in that regard.

SERVICE OF INTERIM ORDER, REPLY AND HEARING

4. The Interim Order was served on the Noticees vide email dated December 26, 2022. Pursuant to the Interim Order, the Noticees have opened escrow accounts and deposited the entire *prima facie* wrongful gains generated from the front running trades as directed in the Interim Order. Further, as directed, the Noticees have also submitted inventory of all their assets.

5. In response to the Interim Order, Noticee Nos. 1, 4 to 7 requested for inspection of documents in the matter. Whereas, Noticee Nos. 3, 10 and 11 vide their letter dated January 13, 2023 informed that they are in the process of availing the settlement scheme. Noticee Nos. 2, 8 and 9 had sought certain documents in the matter, which were provided to them. The inspection granted to the concerned Notices were carried out on the following dates:

Table No. 3

Sl. No.	Noticees	Date of Inspection
1	Noticee Nos. 1 and 4	February 6, 2023
2	Noticee Nos. 5 to 7	March 15, 2023

6. Noticees Nos. 3, 10 and 11 vide their letter dated February 15, 2023 while denying the *prima facie* findings of the Interim Order *inter alia* submitted as follows:

    6.1. There was no bar on trading in the said scrips and therefore the trades were executed in the normal course of business.

    6.2. The entire trading process is like blind mechanism as far as buying and / or selling of stocks by a client through a broker is concerned. It is impossible for the Noticees to know who is / are the counter parties to their trades.

    6.3. There was no alert from the broker or the Exchange, which would prompt the Noticees to take any caution or raise an alarm for the Noticees to stop trading in the impugned scrips.

    6.4. The Interim Order has failed to establish any connection between Noticees No. 3 and 2, apart from the presumption that there have been communications between them.

7. Noticees Nos. 2, 8 and 9 vide letter dated July 20, 2023 while denying the *prima facie* findings of the Interim Order *inter alia* submitted as follows:

    7.1. The Interim Order is erroneous and unjust as it was passed without issuing a SCN and was passed in the absence of the Noticees.

    7.2. There has to be a specific finding on the issue of connection with the counter party in order to substantiate the charge of manipulation against the Noticee for violation of regulations 3 and 4 of the PFUTP Regulations.

7.3. No reasons have been mentioned in the Interim Order for initiating the proceedings belatedly i.e. after a gap of more than 1 year from the date of the impugned trades.

7.4. In the present matter, there is no material on record to prove manipulative intent on the part of the Noticee.

8. Noticees Nos. 1 and 4 vide letter dated July 31, 2023 while denying the *prima facie* findings of the Interim Order *inter alia* submitted as follows:

8.1. The decision to trade in a particular scrip by Noticee No. 4 is solely based on price fluctuations in the particular scrip as is visible on the screen. It is pertinent to mention that the scrips in which Noticee No. 4 trades are generally price volatile scrips and whenever the price of the scrip turns out to be profitable to her, she settles the trade. This is a regular trading pattern that any investor / trader would have followed and there is nothing unusual in it. It is pertinent to mention that Noticee No. 4 receives research reports from various stock brokers / analysts and trades on the basis of such reports and based on her perceptions, she tries to place orders for shares at price closer to LTP, and follow normal market mantra of "buy low sell high". Her trading methodology involves short listing of scrips on basis of TV channels, articles given in newspapers, research reports of experts, opinion / advise / technical calls from her brokers and other publicly available material / information. Merely because certain trades of Noticee's during the Examination Period matched with the trades of the Big Client does not in any manner lead to the conclusion arrived at by SEBI.

8.2. The Interim Order has been passed in an *ex- parte* fashion in the absence of any urgency, merely based on an apprehension that the Noticees may continue to misuse non-public information pertaining to the orders of the Big Client.

8.3. SEBI continues to not only freeze the bank accounts of the Noticees and impound the alleged illegal gains from them but also restrains them from accessing the securities market, that too without affording an opportunity of hearing.

8.4. The impounding of the alleged profits made by the Noticees is essentially in the nature of attachment before judgements, none of the pre-requisites of which has been fulfilled in the present case.

8.5. It is pertinent to note that there is a separate research analyst team that gives recommendations to the Big Client. Noticee No. 1 was never a part of the research analyst team, let alone during the examination period. In any event, the final decision with respect to (a) which stocks to trade and (b) when to trade was always taken by the Big Client and the said information remained confidential. Further, apart from Noticee No. 1, MKFSP had many other Dealers as can be seen from the documents on record. The Big Client would inform about his decision to invest in a particular security to any of the Dealers at the end moment, wherein they had to execute the trade within a span of couple of seconds. In such tight timelines, there can arise no situation for Noticee No. 1 to place trades on behalf of his wife and at the same time communicate the non-public information to other Noticees.

8.6. It is also pertinent to note that during the beginning of the Examination Period i.e. in April 2021, Noticee No. 1 had contracted Covid and had to remain in complete isolation. Since the first week of April, Noticee No. 1 was unwell and his condition further deteriorated due to which he had to be hospitalized. He was released from the hospital only on April 21, 2021 and continued to be under bed rest until the end of the month. In such a situation, the question of Noticee No. 1 having any access to non-public information does not and cannot arise. It is noteworthy that even during this time, trades placed by Noticee No. 4 matched with the

Big Client. This clearly shows that the trades placed by Noticee No. 4 were not based on the non-public information allegedly available with Noticee No. 1.

8.7. If the Noticees had been aware of the non-public information of the trades of the Big Client in advance, they would not have restricted themselves from front running only the trades in equity derivative segment but would have also front run the trades in the equity segment. Further, had the Noticees been a part of the alleged scheme of front running, they would not have limited their profits to merely INR 34.5 lakh.

8.8. Without prejudice, it is submitted that no evidence has been brought on record by SEBI to show-

8.8.1. The time / recordings pertaining to placing of trade instruction by the Big Client;

8.8.2. The proof of the non-public information being received by Noticee No. 1;

8.8.3. The information being passed on to Noticee No. 2 immediately thereafter by Noticee No. 1;

8.8.4. Noticee No. 2 in turn providing the alleged front runners with such information prior to orders being placed for the Big Client;

8.8.5. The Noticees have given trade instructions to Noticee No. 2 on the basis of the said non- public information of the Big Client or have entered orders immediately thereafter to take advantage of such non-public information.

In order to establish the guilt of the Noticees, the aforementioned ingredients are quintessential, absent which the entire proceedings fails.

8.9. 119 trades of Noticee No. 4 have been alleged to be the trades that have front run the trades of the Big Client. Out of these 119 trades, 5 trades have been incorrectly classified to be in SSB pattern and the remainder 114 trades to be in BBS pattern. In this regard, it may be noted that out of the 114 trades which are alleged to be in the BBS pattern, there are 30 trades where the buy order was placed by the Big Client first and thereafter by Noticee No. 4. Given the buy order of the Big Client precedes the buy order of Noticee No. 4, it cannot be said that Noticee No. 4's trades have front run the trades of the Big Clients. Further, there are 55 instances where the sell trades of Noticee No. 4 were placed prior to the Big Client placing his buy trade. This clearly shows that the pattern was BSB and not BBS as alleged by SEBI.

8.10. SEBI has relied upon the calls exchanged between Noticee Nos. 1 and 2, to allege that the non-public information with respect to the trades of Big Client was communicated and accordingly trades were placed from the account of Noticee No. 4 and further communicated to other Noticees. However, SEBI has failed to analyze the call data record. Out of the 189 calls relied upon by SEBI, only 12 calls on 7 days were made during trading hours on days when Noticee No. 4 has traded. On these 7 days, total 13 trades were executed, out of which 1 trade was in the pattern of BBS and 4 trades were in the patter of SSB.

8.11. Additionally, many trades placed by Noticee No. 4 do not match with the trades placed on behalf of other Noticees. For instance, on July 28, 2021, Noticee No. 5 traded in the equity derivate of DLF, however no trades were placed on July 28, 2021 by Noticee No. 4. Had Noticee No. 4 placed trades basis the non-public information with respect to trades of the Big Client, she would have also traded in the scrip of DLF on July 28, 2021. These facts clearly indicate that there was no communication with respect to trades of the Big Client between Noticee Nos. 1 and 2.

8.12. It is submitted that in the instant case, the preponderance of probability standard required to bring home a charge of fraud has not been met.

9. Noticees Nos. 5 to 7, vide email dated August 25, 2023 submitted a reply that is on similar lines as that of Noticee Nos. 1 and 4.

10. The Noticees were granted an opportunity of hearing in the matter on the following dates:

Table No. 4

Sl. No.	Noticees	Hearing Date
1	Noticee Nos. 3, 10 and 11	June 22, 2023
2	Noticee Nos. 2, 8 and 9	July 25, 2023
3	Noticee Nos. 1 and 4	August 30, 2023
4	Noticee Nos. 5 to 7	October 16, 2023

11. On the day of scheduled hearing, the authorised representative (herein after referred to as "**AR**") of the Noticee Nos. 3, 10 and 11 *inter alia* made the following submissions:

11.1. Noticee Nos. 3 and 11 are sons of Noticee No. 10.

11.2. Noticee No. 10 is an old lady, who neither aware of the nitty-gritties of share market nor aware of the concept of front running activity. Her account was operated by Noticee No. 3. Therefore, a lenient view may be taken *qua* Noticee No. 10.

11.3. Noticee No. 11 is a student and blindly placing reliance on his brother, Noticee No. 3 for carrying out trading activities in share market. Noticee No. 11 was placing orders on instruction of Noticee No. 3. Therefore, a lenient view may be taken *qua* Noticee No. 11.

11.4. Noticee No. 3 is an Authorized Person of stock broker, Sharekhan Limited.

11.5. Noticee No. 3 knows neither the Big Client nor Noticee No. 1. He is not aware about the information regarding order of the Big Client.

11.6. Noticee No. 3 knows Noticee No. 2 since beginning of the year 2020 and is placing order for Noticee No. 2 since 2020.

11.7. Noticee No. 3 was placing orders for Noticee Nos. 8 to 10.

11.8. In the instant matter, Noticee No. 3 was placing order as per the instruction of Noticee No. 2.

11.9. In respect of trades of Noticee Nos. 10 and 11, Noticee No. 3 was mirroring the trades of Noticee No. 2 and was following the trading pattern of Noticee No. 2. 90% of the time, Noticee No. 3 had placed the orders after Noticee No. 2 had placed his orders.

11.10. Noticee No. 3 has not informed Noticee No. 2 that he was following / mirroring the orders of Noticee No. 2.

11.11. The AR requested 2 weeks' time to file additional written submission in the matter.

12. On the day of scheduled hearing, the AR of the Noticee Nos. 2, 8 and 9 *inter alia* made the following submissions:

12.1. Noticee No. 2 was in control of the trading account of his wife, Noticee No. 9 and was aware of the trading activities taking place in the said account.

12.2. Noticee No. 2 was in control of the trading account of Noticee No. 8.

13. On the day of scheduled hearing, the AR of the Noticee Nos. 1 and 4 reiterated the submissions made in the reply dated July 31, 2023.

14. On the day of scheduled hearing, the AR of the Noticee Nos. 5 to 7 *inter alia* made the following submissions:

14.1. The AR submitted that in the span of four months, there were only 15 calls between Noticee No. 5 and Noticee No. 2 on 14 days and there were multiple days when no phone calls were exchanged and yet the trades matched, which clearly shows trades were mere coincidence.

14.2. To a query as to "what was the nature of trading arrangement of Noticees and Noticee No. 2", the AR stated that the Noticee No. 5 used to give trading instructions through phone calls. However, there was no specific instruction for placing orders, rather there were general instructions. It was also clarified by the AR that Noticee Nos. 5 to 7 had not given any Power of Attorney to Noticee No. 2.

CONSIDERATION

15. I have considered the allegations levelled against the Noticees in the Interim Order, their written submissions, oral submissions and other material available on record. I note that in the instant case, the directions issued against the Noticees are interim in nature and have been issued based on *prima facie* findings. The present proceedings before me are in the nature of confirmatory or revocation proceedings which allow me the very limited remit of assessing whether the directions issued against the Noticees based on the *prima facie* findings arrived at in the Interim Order need to be confirmed, revoked or modified in any manner in light of the submissions made by the Noticees. I understand that a detailed investigation into this matter is being conducted by SEBI against the Noticees. The outcome of the investigation will decide the further course of action and initiation of further proceedings in the matter as per law. I now proceed to consider the aforesaid issue in light of the specific contentions raised by the Noticees.

16. Before I proceed to deal with the Noticees written and oral submissions, it will be appropriate to reproduce the text of *prima facie* applicable provisions in the matter which are Sections 12A (a), (b), (c) and (e) of SEBI Act, regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations. The same reads as follows:

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

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;

(d) …

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

PFUTP Regulations

3. Prohibition of certain dealings in securities

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 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.

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

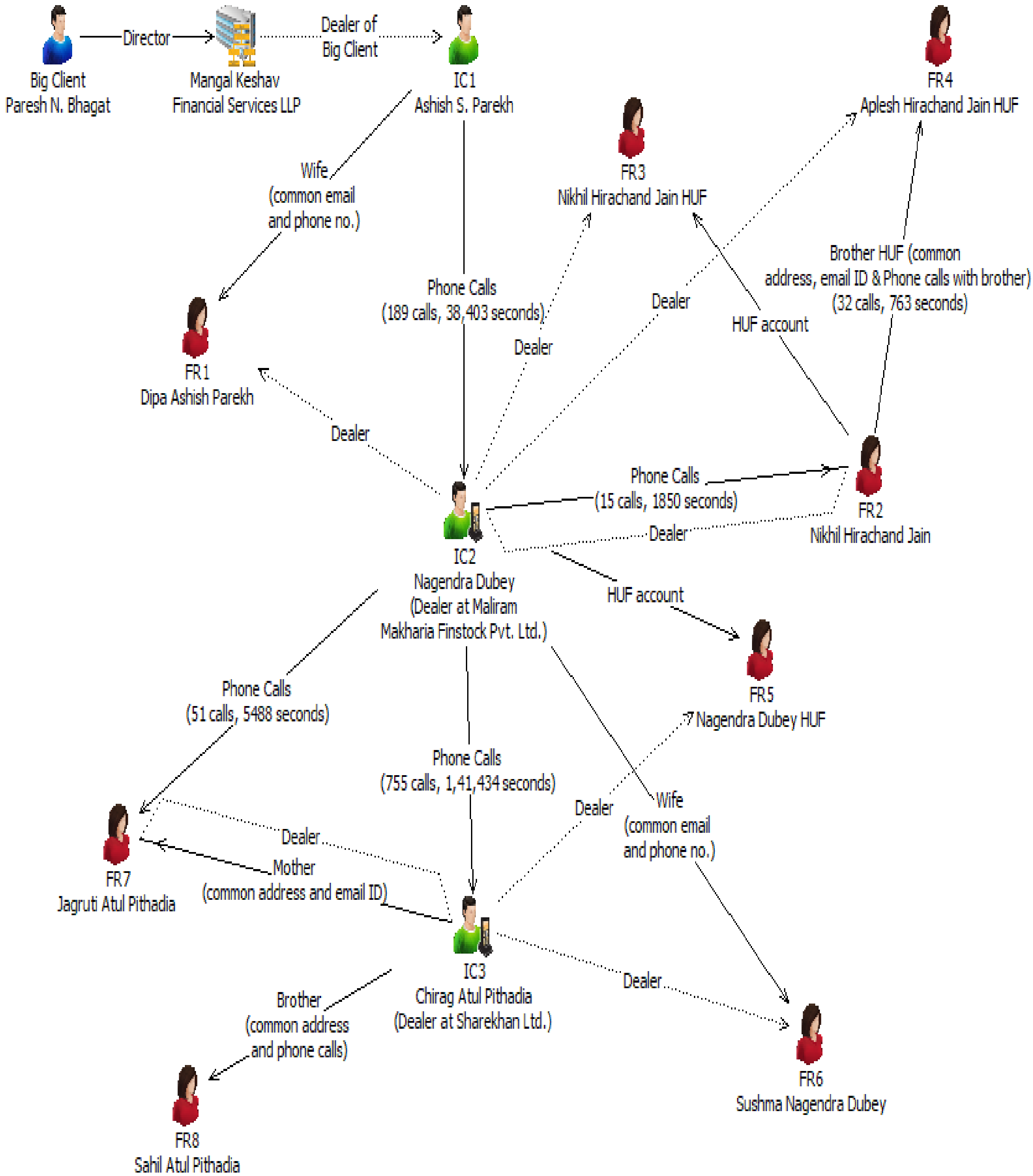
4 (2) Dealing in securities shall be deemed to be manipulative, fraudulent or an unfair trade practice if it involves any of the following: —

…

(q) any order in securities placed by a person, while directly or indirectly in possession of information that is not publically available, regarding a substantial impending transaction in that securities, its underlying securities or its derivative;

17. As noted in the Interim Order, on the basis of KYC details, Unique Client Code, CDRs, bank statements and information received from trading members, the Noticees were *prima facie* found to be connected with each other. The pictorial depiction of the aforesaid is as follows:

Figure No. 1



18. Before moving further, I find it appropriate to note certain *prima facie* findings of the case as stated in the Interim Order which have also not been disputed by any of the Noticees so far. These undisputed facts are highlighted hereunder:

18.1. Noticees are connected with each other based either on family relation or were broker / clients of each other.

18.2. Noticee No. 3 / IC 3 has operated the trading account of Noticee No. 10 / FR 7.

IC 1 and FR 1

19. During the Examination Period, *prima facie* front running trades were executed from the trading account of FR 1. As noted, IC 1 and FR 1 are husband and wife. The specific contentions raised by IC 1 and FR 1 have been considered and dealt with as follows:

19.1. FR 1 has submitted that she trades on the basis of price fluctuations and is based on the research report from various brokers / analysts including her perceptions. She tries to follow normal market mantra of "buy low sell high" and short lists scrips on basis of TV channels, articles given in newspapers and other publicly available material. Further, the conclusion arrived at by SEBI cannot be arrived at merely because certain trades of Noticee's during the Examination Period matched with the trades of the Big Client.

It is noted from the Interim Order that during the Examination Period the trades executed from the trading account of FR 1 were on a regular basis placed on the same day as that of the Big Client in the derivative segment of the market. Out of 134 instances of intra day trades executed from the trading account of FR 1, 131 instances were common with the Big Client. The same translates to 97.76% of common intra day trading activity. Further, it is also noted from the Interim Order that there was significant increase in the trading activity of FR 1 from pre-Examination Period (January 1, 2021 to March 31, 2021) to Examination Period, both in terms of intra day contract days and gross traded value in the derivative segment of the market including substantial jump in profit. Moreover, post the

Examination period there was a sharp decline in the trading activity of FR 1. The details are as follows:

Table No. 5

FR No	Pre - Examination Period (from 01-Jan-21 to 31-Mar-21)		
	Gross Trade Value (in lakh)	Intraday contract days	Intraday profit (in lakh)
FR 1	4.17	1	0.24
	Examination Period (from 01-Apr-21 to 31-Dec-21)		
	979.02	134	35.41
	Post - Examination Period (from 01-Jan-22 to 31-Mar-22)		
	2.28	1	0.18

Thus, from the above statistics it is evident that whenever FR 1's trading activities crosses path with the trading activities of the Big Client, there is a spike in her trading activities, be it in terms of gross traded value or profits earned. The same has happened not on one or two occasions but has happened regularly during the Examination Period and sometimes even on multiple occasions on the same day itself during the Examination Period.

The aforesaid discussion when seen in light of the fact that the Noticees have failed to support their submission by way of any documentary evidence in the form of research reports received by them or by demonstrating how the trades executed from the trading account of FR 1 were in the normal course, it *prima facie* leads to a conclusion that the trades executed from the trading account of FR 1, would not have been entered into, had IC 1, not been in possession of or privy to the non-public information of the impending orders of the Big Client. No reasonable explanation has been furnished by FR 1, as to how on a regular basis trades were executed from her trading account on numerous occasions, sometimes multiple times in the same day, just prior to the placement of the impending orders of the Big Client or before the last tranche of the order of the Big Client, except for stating that she used to place orders based on market information. The aforesaid response of her is not only vague but is also not supported by any satisfactory information so as to demonstrate her domain knowledge or any expertise that is necessary for a trader for the purpose of working / dealing in the sophisticated derivative segment of the securities market. The *prima facie* conclusion of execution of front running trades from the trading account of FR 1, is further strengthened from the fact that the Noticees have failed to specifically address the aforesaid four parameters (significant increase in the trading activity of FR 1 during the Examination Period vis-à-vis prior and post the Examination Period, large percentage of common intra day trading days with Big Client, substantial jump in profits on the days common with the Big Client and the high frequency of placement of orders from the trading account of FR 1 prior to the placement of the impending orders of the Big Client) which were used to corroborate the *prima facie* finding in the Interim Order that front running trades were executed from the trading account of FR 1, in their current submission.

Similar kind of contentions were raised by appellants before Hon'ble Securities Appellate Tribunal (hereinafter referred to as "**SAT**") in the matter of *Vibha Sharma et. al.* vs. *SEBI* decided on September 4, 2013. Hon'ble SAT while rejecting the contentions of the appellants, held as follows:

"*In view of above, the Tribunal is of the opinion that:*

…

(3) This is not a case of mere coincidence as submitted by learned senior counsel for appellants, in sense that Appellant no. 1 was working on basis of her studies, research reports, types by broker, reports of commercial channels of TVs etc. or on basis of mantra of trading, namely, "buy cheap sell costly", since matching of trade at significantly higher price than LTP,

timing, quantity of sale/purchase matched to extent of 100% on all 14 days, out 40 days of investigation period."

Drawing reference to the aforesaid Order of Hon'ble SAT and in light of the discussion in the preceding paragraphs, I find that the submission of the Noticees, is untenable.

19.2. The Noticees have contended that there was no urgency in passing the Interim Order. It is pertinent to note that Sections 11 and 11B of the SEBI Act empower SEBI to pass ex-parte Interim Orders in order to prevent further possible mischief of tampering with the securities market. In the present matter, there is enough evidence to show *prima facie* misuse of non-public information of the Big Client by the Noticees by way of executing front running trades from the trading accounts of FRs 1 to 8 through the involvement of ICs 1 to 3. The said *prima facie* front running trades would have continued unabated but for the enquiries made by NSE. Thus, there was an immediate need to restrain the trading activities of the Noticees coupled with the fact that the ICs involved in the present matter are Dealers of prominent stock brokers, thus having access to non-public information of several clients of their respective stock brokers. Considering the brazen way in which the Noticees had carried out their *prima facie* fraudulent activity for 9 months, there was a high probability that the ICs would have or could have misused non-public information of several clients (which also warrants a detailed investigation). As held by Hon'ble SAT in the matter of *Ms. Pooja Menghani* vs. *SEBI* decided on April 23, 2014 that "*Front-running is undoubtedly very injurious to the market and which is resorted to by some unscrupulous persons at the cost of innocent and genuine investors who incidentally or unfortunately do not possess that information which such front runners have come to know due to any means or by their position.*" The activities of the Noticees had not only caused a serious dent to the confidence of the investors but also had an impact on the integrity of the securities market making it obligatory for SEBI to pass an Interim Order in order to safeguard the interests of the investors and to maintain the integrity of the market. Moreover, the way the Noticees had abruptly reduced their trading activity post Examination Period, probably alerted by the enquiries made by NSE, made the prospect of them diverting the profits made by their *prima facie* front running activities, highly likely. Therefore, Interim Order was required to be passed to ensure that post initiation of quasi-judicial proceedings, if direction of disgorgement is issued against the Noticees, the implementation of the said direction does not get defeated. Hence, I find the submission of the Noticees with respect to urgency in passing of the Interim Order, without merit.

19.3. Noticees have submitted that not only SEBI has frozen their bank accounts and impounded the alleged wrongful gains but has also restrained them from accessing the securities market without affording them an opportunity of hearing. In this regard, I note that pursuant to the deposit of the *prima facie* wrongful gains made by the Noticee, the bank account(s) of the Noticees have been unfrozen. The Interim Order at length has elaborated the rationale for both impounding of the *prima facie* wrongful gains and need to prevent the Noticees from accessing and dealing in the securities market. With respect to not being given an opportunity of hearing, I note that a similar kind of contention was raised by entities in the matter of *Eros International Media Ltd.* vs. *SEBI and Other Connected Appeals* decided on August 22, 2023, wherein Hon'ble SAT while dismissing the said contention, held as follows:

"Normally, while passing an interim order, the principles of natural justice has to be adhered to, namely, that an opportunity of hearing is required to be given. Procedural fairness embodying natural justice is to be applied

whenever action is taken affecting the rights of the parties. However, at times, an opportunity of hearing may not be pre-decisional and may necessarily have to be post-decisional especially where the act to be prevented is imminent or where action to be taken brooks no delay. Thus, pre-decisional hearing is not always necessary when ex-parte ad-interim orders are made pending investigation or enquiry unless provided by the statute. In such cases, rules of natural justice would be satisfied, if the affected party is given a post-decisional hearing."

In the present matter also, there was an urgent need to pass an Interim Order as not only the *prima facie* fraudulent activities of the Noticees were carried on for a considerable period of time thereby causing irreparable injury to the investors and securities market but ICs 1 to 3 were Dealers of prominent stock brokers, thus having access to non-public information of several clients. The same gives the Noticees the opportunity to not only misuse the non-public information of the clients but in the process it results in breaching of fiduciary duty of the stock broker towards its clients. It has a bearing not only on the confidence of the clients to deal in the securities market but also has an adverse impact on the integrity of the securities market. Thus, the facts and circumstances of the present matter required dispensing with the opportunity of pre-decisional hearing and in any case, post decisional opportunity of hearing has been granted and availed by the Noticees. Thus, I find that requirement of principles of natural justice have been met with in the present matter.

19.4. Noticees have argued that impounding of the alleged profits made by the Noticees is essentially in the nature of attachment before judgements and none of the pre-requisites of which has been fulfilled in the present case. The Interim Order has unequivocally shown that the *prima facie* wrongful gains made by the Noticees were intrinsically linked with the fraudulent activity of Noticees. Thus, there was the need to impound the same. Here, it will be relevant to note the Order of the Hon'ble SAT, passed in the matter of *Amalendu Mukherjee* vs*. SEBI* (Appeal (L) no. 169 of 2020) decided on May 27, 2020*,* wherein the Hon'ble Tribunal has underscored the necessity of passing impounding orders and *inter alia* held as follows:

"*We are of the opinion that the WTM is empowered under the SEBI Act and the Regulations to pass an ex-parte order in order to protect the interests of securities market and the investors. If such impounding order is not passed, it may result in defeating the ultimate direction of disgorgement if any, as there would be chances of such monies being dissipated by the appellant…"*

Thus, from the above, it can be noted that SEBI has the power to pass impounding orders. Further, I note that the present proceedings have been initiated under Sections 11(1), 11(4) and 11B (1) of SEBI Act and hence are quasi-judicial in nature as held by the Hon'ble Supreme Court in the matter of *NSDL* vs. *SEBI and Other Connected Appeal*, Civil Appeal No. 5173 of 2006 decided on March 7, 2017. Here, it would be appropriate to refer to the order of the Hon'ble Supreme Court in the matter of *Tata Consultancy Services Limited* vs. *Cyrus Investments Pvt. Ltd.* dated March 26, 2021 wherein it was held as follows: "*It is true that the rigors of CPC and the Evidence Act are not applicable to Tribunals/Quasi-Judicial Authorities…*" Quasi-judicial proceedings are guided by principles of natural justice. They are not strictly subject to rules of evidence. Hence, I find the aforesaid submission of the Noticees, untenable.

19.5. With respect to the submission of the Noticees that IC 1 was not part of the research analyst team and the decision to pick the stock and when to execute the trade, was exercised by the Big Client, I find that IC 1 being the

Dealer of the Big Client was in possession of the impending orders of the Big Client. Without prejudice to the above, at this stage, sans any documentary evidence submitted by the Noticees evidencing the flow of decision making process of the Big Clients and / or modalities of execution of orders of the Big Client, their submission cannot be accepted. More so, when detailed investigation is pending in the present matter. Further, the Interim Order based on the access to the non-public information of the Big Client, trading pattern of the FRs around the impending orders of the Big Client and on a cumulative effect of commonality of instances of trades across the FRs, trading activity of the Noticees in pre and post Examination Period and quantum of profits made by the FRs, on a preponderance of probability, held that the trades from the trading accounts of FRs could not have been placed but for the access of the Noticees to the non-public information of the Big Client. Noticees have not been able to refute the aforesaid evidence with cogent submission. Additionally, the instances of *prima facie* front running trading activity of the FRs were observed not on few instances but were a considerable period of time and sometimes on multiple occasions on the same day. Such instances of overlap cannot be a coincidence but has to be by design. Thus, at this stage, pending detailed investigation, which apart from other things will unearth the granular details of the method and manner of placing of orders of the Big Client, I am unable to agree with the submission of the Noticees.

19.6. With respect to the submission of the Noticees that IC 1 was one of the many Dealers at MKFSP, I note that to a query raised by SEBI to NSE regarding the Dealer(s) of the Big Client, NSE had specifically stated the name of IC 1 as the Dealer of the Big Client. Thus, there may be several Dealers with MKFSP, but the available material on record show that the orders of the Big Client was placed through IC 1.

19.7. IC 1 has submitted that since the first week of April 2021, he was unwell and due to his deteriorating health condition, he was admitted to the hospital from where he was discharged on April 21, 2021. During the said period, trades were placed from the trading account of FR 1 which shows that her trades were not based on the non-public information of the Big Client. It is noted from the order log trade log of FR 1 that only 4 *prima facie* front running trades were executed in the trading account of FR 1 in the month of April 2021 (6, 7, 27 and 28 of April). During the same period on 3 days (6, 7 and 27 of April 2021), buy orders were placed from the trading accounts of FRs 7 and 8 in the same securities / contracts as that of FR 1 that too within a period of 2 minutes (approximately) of each other. In a universe of numerous securities / contracts, it is observed that FRs 1, 7 and 8 were placing buy orders in the same securities / contracts as that of the Big Client including during similar time of the day and in the same BBS pattern, does not come across as a happenstance or coincidence. Further, none of the *prima facie* front running trades have been executed from the trading account of FR 1 or any other FR, when IC 1 was admitted in the hospital i.e., during the period April 16-21, 2021. Moreover, the frequency of the execution of the *prima facie* front running trades increased substantially across all the FRs post April 2021. Thus, in the given facts and circumstances of the matter and the evidence as available on record, I find that IC 1's submission is untenable.

19.8. The submission of the Noticees that if they had been aware of the non-public information of the impending orders of the Big Client in advance, they would have also traded in the equity segment and would have made much more profits is completely devoid of any merit. The said submission of the Noticee does not offer any explanation or provide any rationale to refute the *prima facie* findings of the Interim Order in relation to the front running trades executed from the trading account of FR 1. Just because trades could have been executed in the equity segment of the securities market or more profits could have been made, does not negate the fact that the impugned front running trades were executed from the trading account of FR 1.

19.9. The Noticees have contended that no evidence has been brought on record to show the following as a result of which the entire proceedings fail:

19.9.1. that the time / recordings pertaining to placing of trade instruction by the Big Client;

It is noted that the Interim Order in the matter was passed based on a preliminary examination and a detailed investigation is pending in the matter that would bring out granular details in the matter. At the current stage, in order to *prima facie* establish the charge of front running one has to show on a preponderance of probability basis that the FR had access to the impending orders of the Big Client and based on such non-public information of the Big Client, the FR had placed orders prior to the last tranche of the order of the Big Client. The aforesaid can be further buttressed by showing the trading activity of the FR, pre and post Examination Period, frequency of placement of orders of FR prior to the last tranche of the orders of FR, profits made by the FR during Examination Period vis-à-vis other periods and commonality in trading pattern with the other FRs, if any. The specific pattern of BBS and / or SSB pattern of front running executed from the trading account of FR 1 has been clearly brought out in the Interim Order and the access to the non-public information of the Big Client has been *prima facie* established based on the cumulative effect of the aforesaid circumstances apart from the fact that IC 1 was the Dealer of the Big Client. Thus, the absence of recordings of placement of trade instructions by the Big Client, in the given facts and circumstances of the case does not dilute the *prima facie* charge of front running against the Noticees.

19.9.2. that the proof of the non-public information being received by Noticee No. 1;

As noted in preceding paragraphs, based on the information received from NSE, it is noted that Noticee No. 1 / IC 1 was the Dealer of the Big Client which leads to an inference that he was in possession of the non-public information of the Big Client. Further, it has been noted in the Interim Order based on the circumstantial evidence that *prima facie* front running trades would not have been executed from the trading account of FR 1 but for the access to the impending orders of the Big Client by Noticee No. 1 / IC 1. Therefore, there are adequate evidence available on record to infer that Noticee No. 1 / IC 1 had received non-public information.

19.9.3. that the information being passed on to Noticee No. 2 immediately thereafter by Noticee No. 1;

Noticee No. 2 was the Dealer for the trades executed from the trading account of FR 1. If it has been *prima facie* concluded that front running trades have been executed from the trading account of FR 1, it is immaterial to show whether or not the Dealer of the front runner had the non-public information. In any case, in the instant matter, it has been *prima facie* established based on a preponderance of probability basis that Noticee No. 2 also had access to the impending orders of the Big Client.

19.9.4. that Noticee No. 2 in turn provided the alleged front runners with such information prior to orders being placed for the Big Client;

The aforesaid submission of the Noticees is based on the premise that Noticee No. 2 had passed on the non-public information of the Big Client to FR 1. However, in the Interim Order it has been *prima facie* held that IC 1 had access to the trading account of FR 1 and he was not only aware of the orders being placed in his wife's (FR 1) account but that such orders were being placed on his instructions. The said finding of the Interim Order has not been refuted by the Noticees by demonstrating that FR 1 was independently placing the orders for the impugned trades, as has been noted in preceding paragraphs. Thus, if IC 1 was placing order in the trading account of FR 1, the communication of non-public information by Noticee No. 2 to FR 1, would not be in question.

19.9.5. that the Noticees (IC 1 and FR 1) had given trade instructions to Noticee No. 2 on the basis of the said non-public information of the Big Client or have entered orders immediately thereafter.

The aforesaid contention has already been dealt with at paragraph 19.9.4 above.

19.10. It has been contended by the Noticee 119 trades have been alleged to have been front run from the trading account of FR 1. Out of the said trades, 114 trades are alleged in BBS pattern. From the 114 trades, 30 trades which are alleged to be in the BBS pattern, it is contended that the buy order was placed by the Big Client first and thereafter by FR 1 and hence they do not qualify as front running trades.

It is observed from the reply of the Noticees that they have not provided specific instances referred to in their reply. However, I have examined the order log trade log of the trades executed from the trading account of FR 1. I note that there are 118 *prima facie* front running trades which have been executed from her trading account. Out of the said *prima facie* 118 front run trades, 113 trades are in BBS pattern and 5 trades are in SSB pattern. With respect to 113 trades which are in BBS pattern, it is noted that on 77 instances the buy order in the trading account of FR 1 was placed prior to the buy order of the Big Client and in the remaining 36 instances, the buy order in the trading account of FR 1 was placed prior to last tranche of the buy order of the Big Client. Therefore, the contention of the Noticees with respect to 30 trades in BBS pattern is factually incorrect. Noticees' contention that since the buy order of the Big Client precedes the buy order placed from the trading account of FR 1, the consequent trades executed cannot be termed as front running trades, is not a holistic understanding of front running trades. By market practice, orders above the minimum lot size (particularly for large orders) are often placed in smaller tranches so as to have minimum impact on the price. The alleged Front Runner can also place his orders in tranches and can gain from placing his order(s) at any time before the last tranche of the Big Client's order. In other words, all the tranches of the order of the first leg placed by the alleged Front Runner that have been placed on or before the time of last tranche of the order placed by the Big Client, would qualify as front running transactions. As noted above, in the present matter in none of the instances, which have been categorized as BBS pattern of front running, the buy orders from the trading account of FR 1 have been placed after the last tranche of the order of the Big Client. Therefore, the contention of the Noticees is not tenable.

19.11. Further, there are 55 instances where the sell trades executed from the trading account of FR 1 were placed prior to the Big Client placing his buy trade and therefore the same does not fall under BBS pattern but under BSB pattern.

It is observed from the reply of the Noticees that they have not provided specific instances referred to in their reply. It is also noted that Noticees are referring to “placing” of “sell trades” prior to the Big Client “placing” his “buy trades”. Since the Noticees have not provided details of the said instances, it is understood that when Noticees are referring to “trades”, they mean “orders”, since in front running matters, placement of orders (buy / sell) is material as opposed to execution of “trades”.

With the aforesaid clarification, I note that the submission of the Noticees with respect to the 55 instances, is also without any merit. BBS pattern and SSB pattern are the most common patterns of placing orders for executing front running trades. The said patterns are made of two legs. It is the first leg of the pattern which is relevant for the purpose of determining whether or not a particular entity has executed front running trades, which is what has been relied upon in the present matter.

19.12. With respect to the submission of the Noticees regarding failure of SEBI to analyse the CDRs, it is observed that in the given matter, CDRs have been relied upon to establish connection amongst the Noticees. It has not been relied upon to show that the information pertaining to non-public information was passed on through those telephonic calls. In this day and age of technology, where there are various applications available in the market for making calls and sending messages which provide service of end-to-end encryption, where no one outside the call or chat, can listen or read them, it would be simplistic to assume that ICs and FRs would have communicated with each other through telephonic calls only.

19.13. Noticees have argued that many trades placed from the trading account of FR 1 do not match with the trades placed on behalf of other Noticees. The same indicates that there was no communication with respect to trades of the Big Client between ICs 1 and 2. The aforesaid submission of the Noticees under no circumstances, negates the *prima facie* finding of execution of front running trades from the trading account of FR 1. It has been noted in the Interim Order that the Dealer of the Big Client was the husband of FR 1, which *prima facie* shows his access / possession of non-public information of the Big Client. Further, based on the cumulative effect of trading pattern, trading history, common trading pattern amongst the Noticees and profits made, on a preponderance of probability, it was *prima facie* concluded that front running trades were executed from the trading account of FR 1. Therefore, the aforesaid submission of the Noticees, is untenable.

20. I, therefore, find that the submissions / explanations submitted by IC 1 / Noticee No. 1 and Noticee No. 4 cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the finding arrived at in the Interim Order that IC 1 / Noticee No. 1 and Noticee No. 4 have *prima facie* indulged in the act of front running the trades of the Big Client which is in contravention of the provisions of Sections 12A (a), (b), (c) and (e) of SEBI Act, and regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4 (2) (q) of PFUTP Regulations stand confirmed.

<u>FRs 2, 3 and 4</u>

21. It is noted from the Interim Order that based on the close connection between IC 1 and IC 2 as well as records of regular communication between them during the Examination Period, it was *prima facie* concluded that IC 2 was also aware of the non-public information relating to the impending orders of the Big Client. IC 2 was the Dealer for FRs 2 to 4. Based on the aforesaid and on a holistic consideration of the evidence available on record (similar to ones mentioned for IC 1 and FR 1) including the trading pattern of FRs 2 to 4 around the impending orders of the Big Client, it was *prima facie* concluded that the non-public information had been passed on from IC 2 to FR 2 which in turn had influenced the trades of FRs 2 to 4.

22. FRs 2 to 4 have, neither in their written reply nor in their oral submissions, explained the rationale for the impugned trades and have also not demonstrated

how the impugned trades were executed in their normal course of trading activity. The Noticees have focused mainly on CDRs to state that trades have been executed on days when there were no phone calls between FR 2 and IC 2. I have already dealt with the relevance of CDRs in preceding paragraphs. Hence, I am not reiterating the same.

23. The other submissions of FRs 2 to 4 / Noticee Nos. 5 to 7, are on similar lines as that of IC 1 / Noticee No. 1 and Noticee No. 4. Therefore, they are not considered separately, for the sake of brevity. Thus, the finding arrived at in the Interim Order that FRs 2 to 4 / Noticee Nos. 5 to 7 have *prima facie* indulged in the act of front running the trades of the Big Client which is in contravention of the provisions of Sections 12A (a), (b), (c) and (e) of SEBI Act, and regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4 (2) (q) of PFUTP Regulations stand confirmed.

<u>IC 2, FRs 5 and 6</u>

24. During the examination period, *prima facie* front running trades were executed from the trading accounts of FRs 5 and 6. IC 2, FRs 5 and 6 are family members. The specific contentions raised by IC 2, FRs 5 and 6 have been considered and dealt as follows while the common submissions with other Noticees for the sake of brevity have not been repeated:

24.1. Noticees have argued that the Interim Order is erroneous and unjust as it was passed without issuing a SCN and was passed in the absence of the Noticees. I note that Noticees have made the said submission without understanding the circumstances and reasons for which an Interim Order is passed by SEBI. Interim Orders are passed in matters which required urgent intervention by SEBI in order to prevent further harm to the investors and to the securities market. The Interim Order and this Order in preceding paragraphs, have elaborated on the urgency, which was required to be addressed in the present matter. Therefore, in order to take immediate steps, the requirement of issuing of show cause notice and pre-decisional hearing was done away with. Moreover, post passing of the Interim Order, the Noticees have been given an opportunity to refute the *prima facie* findings as noted in the Interim Order against them.

24.2. Noticees have submitted that there is no specific finding on the issue of connection with the counter party to substantiate the charge of manipulation against them. It is noted that in order to establish the charge of front running the material pre-requisites is to show that the alleged front runner has access to or is in possession of the impending orders of the Big Client and secondly, that the orders were placed by the alleged front runner prior to the last tranche of the order of the Big Client. The aforesaid material pre-requisites have been *prima facie* established in the Interim Order in the present matter. The requirement of showing connection with the counter party is not relevant to the matter at hand. Hence, the aforesaid submission of the Noticee is without any merit.

24.3. Noticees have contended that no reasons have been given for initiating the proceedings after a gap of more than 1 year from the date of the impugned trades. In this regard, it is noted that SEBI had received a preliminary analysis report dated May 5, 2022 from NSE in this matter and had passed the Interim Order within 8 months, i.e., on December 26, 2022. It is noted that matters like front running requires gathering of information from multiple intermediaries / external agencies viz., stock brokers, Exchanges, Banks, telecom service providers etc. Post gathering of the information, the data has to be collated and examined including analyzing the trade data for numerous scrips for a significant number of trading days. In the instant matter, trade data pertaining to a period of at least 9 months was analysed. In the entire process, one has to also take into account that multiple facets and perspectives were also considered and were ruled out, viz., whether other entities connected to the main suspects apart from the one identified in the alert were involved, what should be the duration of Examination Period, how many layers of bank transactions have to be scrutinized, which segment of the securities market should be focused, etc. In the instant matter, considering the voluminous data and information that was required to be processed including weeding out of facts that were not germane for passing of Interim Order, I find that the Interim Order in the matter was passed without any delay. Moreover, the Noticees have not shown any prejudice, if any that has been caused to them for the apparent delay claimed caused in the matter. Here, it will be appropriate to quote the Order of Hon'ble SAT in the matter of *Madhu Chanda et.al* vs. *SEBI* decided on October 30, 2023, wherein while dealing with the issue of delay in front running matters, it was held as follows:

"In so far as delay in issuing the show cause notice is concerned, we find that the trades were executed in 2010 and show cause notice was issued in 2017. Collating data of 4001 scrips for 833 trading days through several front running entities was an uphill task which took time. Considering the findings of synchronised trades executed by the front runners, we are satisfied that in the given circumstances, there is no unusual delay in the issuance of the show cause notice. Further, we find that no prejudice has been caused. No such plea has been raised."

In light of the aforesaid discussion, I find that the submission of the Noticee regarding delay in the matter, cannot be accepted.

24.4. It has been submitted by the Noticees that there is no material on record to prove manipulative intent on the part of the Noticees. The submission of the Noticees is without any merit. Both the Interim Order a well as in the current Order (in preceding paragraph 24.2), I have discussed the material pre-requisites that have to be established to prove the charge of front running and manipulative intent is not one of them. Further, the Hon'ble Supreme Court of India in the matter of *SEBI* vs. *Shri Kanaiyalal Baldevbhai Patel and Other Connected Appeals* decided on September 20, 2017 while dealing with the provisions of regulations 3 and 4 of PFUTP Regulations, has held as follows:

"To attract the rigor of Regulations 3 and 4 of the 2003 Regulations, mens rea is not an indispensable requirement and the correct test is one of preponderance of probabilities."

25. I, therefore, find that the submissions / explanations submitted by IC 2, FRs 5 and 6 cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the finding arrived at in the Interim Order that IC 2, FRs 5 and 6 have *prima facie* indulged in the act of front running the trades of the Big Client which is in contravention of the provisions of Sections 12A (a), (b), (c) and (e) of SEBI Act, and regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4 (2) (q) of PFUTP Regulations stand confirmed.

IC 3, FRs 7 and 8

26. During the examination period, *prima facie* front running trades were executed from the trading accounts of FRs 7 and 8. IC 3, FRs 7 and 8 are family members. The specific contentions raised by IC 3, FRs 7 and 8 have been considered and dealt with as follows while the common submissions with other Noticees for the sake of brevity have not been repeated:

26.1. Noticees have contended that there was no bar on trading in the said scrips and therefore the trades were executed in the normal course of business. I note apart from merely submitting that the trades were executed in the normal course of business, Noticees have not demonstrated or justified, how the impugned trades were similar to the other trades executed by them during the Examination Period. Rather, it is noted from the Interim Order that there has been substantial jump in the trading activity from the trading accounts of FRs 7 and 8 in terms of both gross traded value and intra day trading activities including profits earned during the Examination Period when compared with pre and post Examination Period.

Table No. 6

FR No	Pre - Examination Period (from 01-Jan-21 to 31-Mar-21)		
	Gross Trade Value (in lakh)	Intraday contract days	Intraday profit (in lakh)
FR 7	164.52	54	4.34
	Examination Period (from 01-Apr-21 to 31-Dec-21)		
	533.76	214	8.22
	Post - Examination Period (from 01-Jan-22 to 31-Mar-22)		
	44.52	40	0.18

Table No. 7

FR No	Pre - Examination Period (from 01-Jan-21 to 31-Mar-21)		
	Gross Trade Value (in lakh)	Intraday contract days	Intraday profit (in lakh)
FR 8	44.67	25	1.99
	Examination Period (from 01-Apr-21 to 31-Dec-21)		
	520.62	194	10.28
	Post - Examination Period (from 01-Jan-22 to 31-Mar-22)		
	1.43	1	0

The above data reveals that whenever FR 7's and 8's trading activities crosses path with the trading activities of the Big Client, there is a spike in their trading activities, be it in terms of gross traded value or profits earned. The same has happened not on one or two occasions but has happened regularly during the Examination Period and sometimes even on multiple occasions on the same day itself during the Examination Period. In light of the aforesaid discussion, I do not find that the trading activities of the Noticees were in the ordinary course of their trading.

26.2. Noticees submission that the impugned trades were screen based and it is not possible to know who is the counter party in the ongoing trades, is without any merit since knowing the counterparty or matching of trades with the counterparty is not a relevant criterion to classify a trade as a front running trade, as the allegation in this matter are not with respect to any circular or synchronised trades. What is relevant is that the orders of the front runner have to be placed prior to the last tranche of the order of the Big Client. The above submission of the Noticees further does not stand scrutiny, when the frequency of matching of the trades executed from the trading accounts of FRs 7 and 8 with the trades of Big Client are analysed. It is observed that the Noticees have failed in explaining the remarkable coincidence of matching of their trades with the trades of the Big Client. Under the circumstances, the matching of trades can't be seen as a mere coincidence of trades on the Exchange platform but certainly point towards the extraneous factor that the Noticees were in possession of non-public information relating to the trades of the Big Client. Further, in the extant matter, evidence in the form of increase in trading activity during the Examination Period vis-à-vis pre and post Examination Period, increase in profit figures during Examination Period, substantial overlap with the trading activity with the Big Client in terms of scrips and intra-day trading activity with the Big Client as well as the frequency of placement of orders in BBS / SSB pattern around the orders of the Big Client when seen along with the fact that IC 3 was connected with IC 2 who in turn was connected with IC 1, on a preponderance of probability, leads to a *prima facie* inference that the trades from the trading accounts of FRs 7 and 8 could not have been placed but for the access of IC 3 to the non-public information of the Big Client.

26.3. The submission of the Noticees that no real time alerts were issued either from the Exchange or even stock broker, at the time of the trading, is untenable. The legality of a trading pattern is not dependent on whether surveillance alerts have been generated. They are means to initiate examination / investigation, which in this case was conducted, resulting in an Interim Order. Any direction or measure, if warranted, based on the outcome of such examination / investigation, is taken to safeguard the interest of investors in securities market and to protect the integrity of the securities market from further being damaged, as has been done in the instant case by way of passing Interim Order. Further, the Noticees are expected to comply with the law in force, in this case the PFUTP Regulations. Its applicability is not dependent on whether alerts were received by the Noticees. Therefore, the Noticees cannot deflect his / her responsibility under the securities law on the basis of non-receipt of surveillance alerts. Hence, there is no substance in the contention of the Noticees that no real time alerts were issued at the time of Noticees trading.

26.4. The submission of the Noticees that the Interim Order has failed to establish any connection between ICs 2 and 3, apart from the presumption that there have been communications between them, is factually incorrect. The CDRs during the Examination Period reveal that ICs 2 and 3 were indeed in regular communication with each other. Further, based on the evidence as noted in the preceding paragraph 26.2, it has been held on a preponderance of probability in the Interim Order that the orders in the trading account of FRs 7 and 8 would not have been placed but for IC 3's access to the impending orders of the Big Client.

26.5. IC 3 has submitted that he does not know the Big Client and IC 1 and he was not aware about the impeding orders of the Big Client. It is noted from the Interim Order that there is no *prima facie* finding, which shows that IC 3 is directly connected to the Big Client and IC 1. The finding is that IC 3 knows / is connected directly to IC 2. With respect to the submission of IC

3 that he was not aware of the impending orders of the Big Client, it is observed that he has not been able to explain as to how in a universe of thousands of securities / contracts being traded on the Stock Exchange platform every day, his immediate relatives have not only on a regular basis traded on the same day as the Big Client but also has placed orders in the same securities / contracts by following either BBS pattern or SSB pattern on a consistent basis making it apparent that the first legs of such trades have often been executed before the placement of the last tranche of the order of the Big Client. Further, IC 3 has also not furnished a reasonable explanation to justify the increased risk appetite shown by his immediate relatives during the Examination Period in the derivative segment of the securities market, which saw a substantial jump in their trading activity during which the Big Client was also trading. There is no explanation by him as to on how many occasions in the past, his immediate relatives have taken significant exposure in the securities and wherein also, they on most of the occasions had ended up in squaring off their positions and making similar huge profits. IC 3 has not been able to satisfactorily justify the abnormalities in the frequency, size of exposure and nature of trades executed by his immediate relatives. Therefore, the submission of IC 3 is unacceptable.

26.6. IC 3 has contended that he was mirroring the trades of IC 2 and that IC 2 was not aware of such mirroring. The contention that IC 3 was mirroring the trades of IC 2, does not further IC 2's case. It is the responsibility of the person under whose instructions the orders are placed or the registered owner of the trading account that the trades that are executed confirm to the securities laws and are not fraudulent or manipulative in nature. Thus, IC 3 cannot deflect his liability by putting the onus on IC 2's trades. Further, since it is *prima facie* held that trades executed by IC 2's connected Noticees were based on the non-public information of the Big Client received by IC 2 from IC 1, corollary to it would be that any trades which were mirrored on the said trades were also based on such non-public information regarding the Big Client's trades. It will be apt here to quote the Order of Hon'ble SAT in the matter of *Rajiv R. Sanghvi* vs. *SEBI and Other Connected Appeals* decided on December 21, 2017 wherein it was held as follows:

"The additional arguments advanced by the Counsel for appellants in Appeal No. 337 of 2014 and 338 of 2014 that they did not receive any tips from the HDFC AMC employee has no merit since their own admission is that they traded "looking at the trading by Rajiv Sanghvi" (appellant in Appeal No. 327 of 2014). Since it is an admitted fact that Sanghvi traded based on tips trading looking at such trades is also based on such tips only."

Without prejudice to the aforesaid, it is observed that IC 3 at the relevant was a Dealer and Authorised Person of Sharekhan, thereby indicating that he had the experience of working in the securities market which could have alerted him to the following red flags:

- Pattern of buying / selling shares before a certain time of the day over a period of nine months.
- Considering the market dynamics, generation of regular profits over a period of nine months.

The fact that he overlooked the aforesaid red flags, as well as the following circumstantial evidence *prima facie* leads to a conclusion that IC 3 was aware of / had knowledge of the non-public nature of the information:

- Relationship between IC 2 and IC 3 – As per IC 3's admission at the time of hearing, both knew each other since 2020 and considering IC 3 was the Dealer for IC 2's wife and his HUF, it is reasonable to infer that they used to discuss matters related to dealing in securities market.

- Constant communication between IC 2 and IC 3 – During the Examination Period both the ICs were in constant communication with each other.

- Attempt to Conceal the Identity – IC 2 as well as IC 3 did not use their own trading account(s) to trade in the securities of impugned trades but *prima facie* used the accounts of their connected entities to execute the impugned trades during the Examination Period.

With respect to the submission of IC 3 that IC 2 was not aware of mirroring of trades, I note that knowledge of IC 2 of the impugned trades executed from the trading account of FRs 7 and 8 is inconsequential to the *prima facie* finding arrived at against IC 3, FRs 7 and 8 of indulging in front running activities. The said *prima facie* finding has to be refuted by demonstrating or justifying why the impugned trades cannot be classified as front running trades without pegging it to the knowledge of the IC 2.

27. I, therefore, find that the submissions / explanations submitted by IC 3, FRs 7 and 8 cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the finding arrived at in the Interim Order that IC 3, FRs 7 and 8 have *prima facie* indulged in the act of front running the trades of the Big Client which is in contravention of the provisions of Sections 12A (a), (b), (c) and (e) of SEBI Act, and regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4 (2) (q) of PFUTP Regulations stand confirmed.

CONCLUSION

28. The Interim Order was passed based on the *prima facie* conclusions to prevent further perpetration of fraudulent trading activity and to prevent defalcation of the wrongful gains. In view of the reasons as discussed in preceding paragraphs, I find that the submissions of the Noticees are insufficient to refute the *prima facie*

conclusions drawn in the Interim Order. Instead, post hearing and based on materials brought before me, the *prime facie* conclusions have been further reinforced. I further note that a detailed investigation is ongoing in the present matter. Consequently, I see no reason or grounds to differ from the *prima facie* findings in the Interim Order and they stand confirmed.

ORDER

29. Considering the material on record, replies of the Noticees and findings thereupon mentioned in the preceding paragraphs, pending investigation, I in exercise of the power 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 and in the facts and circumstances of the case, hereby confirm the directions of the Interim Order dated December 26, 2022.

30. It is clarified that the restraint imposed vide the Interim Order dated December 26, 2022 on the Noticees from buying, selling or dealing in securities either directly or indirectly, in any manner whatsoever, shall continue until further orders.

31. It is also clarified that the funds deposited by the Noticees in interest bearing escrow accounts as directed in the Interim Order will remain in the said accounts with lien in favour of SEBI until further orders.

32. The observations made in the present Order are tentative in nature. The investigation shall be carried out without being influenced by any of the directions passed or any observation made either in the Interim Order or in the present Order. Based on the outcome of the investigation, appropriate proceedings may be initiated in accordance with law.

33. This Order is without prejudice to the right of SEBI to take any other action against the Noticees in accordance with law.

34. This Order shall come into force with immediate effect.

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

-Sd-

December 20, 2023 **ANANTH NARAYAN G.**

Place: Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA