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National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/62264	**Date: May 30, 2024**
Circular Ref. No: 332/2024	

To All NSE Members,

Sub: **SEBI Order in the matter of Bhatia Communications and Retail India Ltd.**

SEBI vide its order no. QJA/GR/IVD-2/ID24/30378/2024-25 dated May 30, 2024, has hereby restrained below entities from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, for a period of three (3) years from the date of this order.

Sr. no.	Name of the Entity	PAN
1.	NNM Securities Pvt Ltd.	AAACN8070G
2.	Miker Financial Consultants Pvt. Ltd.	AAECM1798G
3.	Vibhuti Commodities Pvt Ltd.	AACCV0831D
4.	Festino Vincom Ltd.	AABCF3822F
5.	Mr. Nikunj Anilkumar Mittal	AACPM3927E

Further, all open positions, if any, of the entities debarred in the present Order, in the F&O segment of the stock exchanges, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

The above directions come into force with immediate effect.

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:

National Stock Exchange of India

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

Anand Jangir
Manager

ANNEXURE: SEBI Order in the matter of Bhatia Communications and Retail India Ltd.

BEFORE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11B(1), 11B(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE MATTER OF BHATIA COMMUNICATIONS AND RETAIL (INDIA) LTD.

IN RESPECT OF:

Noticee No.	Name	PAN
1	NNM Securities Pvt Ltd.	AAACN8070G
2	Miker Financial Consultants Pvt. Ltd.	AAECM1798G
3	Vibhuti Commodities Pvt Ltd.	AACCV0831D
4	Festino Vincom Ltd.	AABCF3822F
5	Mr. Nikunj Anilkumar Mittal	AACPM3927E

(The aforesaid entities are referred to by their corresponding names/numbers and collectively referred to as "Noticees")

Background

1. Securities and Exchange Board of India (SEBI) conducted an investigation in the matter of trading activities of certain entities in the scrip of Bhatia Communications & Retail (India) Limited (hereinafter referred to as **"Bhatia Communications" or "the Company"**) for the alleged price and volume manipulation during July 14, 2021 to July 14, 2022 (hereinafter referred to as **"Investigation Period/ IP"**). However, whenever deemed necessary, reference has been made to outside this period.

Facts of the case

2. NNM Securities (Noticee No.1) is a SEBI registered Market Maker and Stock Broker. Bhatia Communications was an SME scrip, which was migrated to main board platform on September 12, 2020. Noticee No. 2, 3, 4 and 5 were the designated/nominated investors of Noticee No.1 i.e. they allocated funds to Noticee No.1 to invest in various SME stocks and manage it during the period when respective stock is available to trade in SME platform. In this way, they were assisting Noticee No.1 in discharging market-making obligations.

3. SEBI received one complaint on July 04, 2022, alleging that certain channels on Youtube were uploading videos to manipulate and offload shares of Bhatia communications. In this regard, the scrip of Bhatia Communications was examined for price and volume manipulation during the IP and it was alleged that a group of 4 connected entities (Noticee No. 1-4) acted together to pump up the price of the scrip from around Rs.65 in July 2021 to Rs.293 in February 2022, and to a high of Rs.524 (adjusted for 1:10) split) by July 2022. After the stock split in February 2022, the entities dumped 69.24 lakhs shares on gullible investors, making a wrongful profit of Rs.7,49,56,333/-.

4. In view of the above, it was alleged that the Noticees have violated Sec. 12A (a), 12A (b), 12A (c) of SEBI Act, 1992 r/w Reg. 3 (a), 3 (b), 3 (c) and 3 (d) and 4(1), 4(2) (a), 4(2)(b), 4(2) (e), 4(2)(g) and 4(2)(n) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as **'SEBI PFUTP Regulations'**). Hence, Noticee No. 1 to 5 were called upon to show cause as to why suitable directions under Sections 11B (1) and 11(4) r/w 11(1) of SEBI Act, 1992, including debarment for an appropriate period and disgorgement of the unlawful gains of Rs.7,49,56,333/- along with interest, calculated at 12% per annum should not be issued against them and also why appropriate penalty should not be imposed against them under Sections 11B (2) and 11(4A) of the SEBI Act read with Section 15HA of

the SEBI Act, 1992 and SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 .

Shareholding Pattern

5. The scrip of Bhatia Communications is listed at BSE, post IPO it was listed at BSE SME on February 21, 2018. On September 12, 2020, the scrip was migrated to main board at BSE. The shareholding pattern of Bhatia Communications for the period covering IP are given below:

	Quarter ended June 2021			Quarter ended June 2022		
	No. of shareholders	No. of shares	% to total shareholding	No. of shareholders	No. of shares	% to total shareholding
Promoter & Promoter-group	6	92,15,200	73.63	6	9,21,76,400	73.65
Non-Promoter	621	33,00,000	26.37	7,163	3,29,75,600	26.35
Total	627	1,25,15,200	100.00	7,169	12,51,52,000	100.00

6. Pursuant to sub division/ split of one equity share of Rs.10/- each into ten equity shares of Re.1/- each on February 15, 2022, total equity shares of Bhatia Communications increased from 1,25,15,200 shares as on June 20, 2021 to 12,51,52,000 shares as on June 30, 2022.

Financial Results:

Financial results of Bhatia Communications for the period covering IP are given below:

(INR in Crores)

Description	**Year End**		**Quarter End**				
Particulars	**Mar 22**	**Mar 21**	**Mar 22**	**Dec 21**	**Sep 21**	**June 21**	**Mar 21**
Revenue	233.47	172.92	59.00	65.71	60.01	48.75	45.82
Other Income	18.29	16.80	5.56	3.92	4.21	4.59	4.96
Total Income	251.76	189.72	64.56	69.63	64.22	53.34	50.78
Net Profit	5.27	3.75	1.78	1.71	0.66	1.12	2.06

Patches for alleged Price Volume Manipulation of the scrip:

7. In view of the stock split announcement on February 15, 2022, the IP has been divided into 2 patches as follows:

Patch – 1	14/7/2021 to 14/2/2022
Stock split / sub division of shares from Rs.10 to Rs.1 w.e.f. 15/2/2022	
Patch – 2	15/2/2022 to 14/7/2022

8. The Price volume details of the pre investigation period, i.e., from April 14, 2021 to July 13, 2021**(Pre – IP)**, from July 14, 2021 to February 14, 2022 (Patch 1: Pre-split), from February 15, 2022 to July 14, 2022 (Patch 2: Post-split) and post investigation period, i.e., from July 15, 2022 to October 14, 2022 (**Post – IP**) for these patches are as follows:

Period	Duration		Opening Price (INR) / Vol on 1st day of period	High Price (INR) /Vol during the Period(date)	Low Price (INR) /Vol during the Period(date)	Closing Price (INR) / Vol on last day of period	Avg no of shares traded daily during the period
Pre-IP	12/04/2021 to 13/07/2021	Price	72.9	76.05 (11/06/2021)	63 (04/06/2021)	68.5	1132
		Vol.	170	15672 (02/07/2021)	1 (05/05/2021) (26/05/2021)	390	
IP	Patch 1 (Pre-split) (14/07/2021 to 14/02/2022)	Price	65.75	325.25 (10/02/2022)	65 (15/07/2021)	293.35	17493
		Vol.	2553	139095 (13/08/2021)	103 (28/10/2021)	456	
	Patch 2 (Post split) (15/02/2022 to 14/07/2022)	Price	30.8	52.4 (13/07/2022)	21 (20/04/2022)	45.75	205349
		Vol.	52611	1022776 (08/04/2022)	2742 (30/06/2022)	13405	
Post-IP	15/07/2022 to 14/10/2022	Price	43.5	59.5 (14/10/2022)	26.7 (08/08/2022)	58.95	169913
		Vol.	7333	789869 (14/10/22)	7333 (15/07/22)	789869	

Show Cause Notice, Reply and Personal Hearing:

9. Pursuant to the investigation, Show Cause Notice dated May 24, 2023 (hereinafter referred to as **"SCN"**) was issued to the Noticees for the alleged violations stated therein. The said SCN was served to the Noticees vide Speed Post (SPAD) as well as via digitally signed email dated May 26, 2023, which were delivered through both the mediums.

10. The Noticees made a preliminary submission and requested for inspection of documents that are referred to and relied upon in the instant matter by SEBI. Accordingly, the Noticees carried out the inspection of documents through their authorised representatives on July 04, 2023. Thereafter, upon request of the Noticees, a copy of Investigation Report was also provided to the Noticees. Subsequently, an opportunity of personal hearing was provided to the Noticees on August 24, 2023. However, pursuant to reallocation of the matter to the undersigned, the same was rescheduled to October 26, 2023. Upon request of the Noticees the same was adjourned to November 09, 2023. On the said date, the Authorised Representatives of the Noticees appeared before the undersigned and reiterated the written submissions submitted by them and requested additional time to make post-hearing submissions, which was duly accepted.

Summary of written submissions by the Noticees

a. Common submissions of the Noticees

- *Inadequate inspection resulting in violation of principles of natural justice. Due to the unavailability of all such documents / material based on which the allegations have been levelled against us, makes us handicapped in effectively answering the charges levelled against us in the SCN. Failure to provide such complete material to the Noticee is bad, being contrary to the settled principles of natural justice.*

- *Noticee No.4 is not connected to Noticee No. 1 other than as 'nominated investor'. Noticee No. 4 has allocated funds to Noticee No.1 to invest in various SME stocks and manage it during the period when stock(s) are available for trade at SME platform. Once the stock moved from SME to main board, professional board of Noticee No.4 managed investment.*
- *The investment in the securities were made based on their own research and the Noticees have done it thoroughly before making investment in the scrip of Bhatia Communications. Bhatia Communications have consistently performed well on account of its business as well as its net profit. BCRL declared dividends from time to time. It may be also appreciated that net profit of BCRL is consistently on growth path, hence the company is showing promising and strong fundamental growth consistently.*

b. Submissions of Noticee No.1,2,3 and 5

- *Shares of BCRL, were traded in the SME segment at BSE till September 17, 2020 and thereafter migrated to the main board. Noticee No.1 was the official market maker of the BCRL scrip and was authorized to take various obligations and liable to discharge its duty as a Market Maker.*
- *The Nolicee No.2 and 3 are group companies of Nolicee No.1 as well as 'nominated investor' of Noticee No.1, as per the provisions of ICDR Regulations. It is be noted that law governing securities market permit to make arrangement within group companies. Noticee No.4 as well as other numbers of investors are designated as "nominated investors" as per the provisions of ICDR Regulations.*
- *Nominated investors have allocated funds for investing in SME securities during the period of market making. Noticee No.5 was authorised to look after investment of nominated investors only during the period when stocks were traded at SME segment.*
- *The aforesaid arrangement comes at a halt once the scrip moves to main board from market maker category at SME. Then the market maker (Noticee No.1) is not authorised to deal in those securities on behalf of Noticee No.4*

without the instructions. Once the stock moved from SME to main board, a professional board of Noticee No.4 managed investment.

- *When the scrip migrated from SME to the main board, there was very low liquidity in the scrip. In case the nominated investor wants money from selling off its inventory in the scrip, it was only possible to buy the stocks in another nominated investor. When the market making assignment gets over and the scrip is migrated, nominated investors were holding good quantities of the shares of Bhatia Communications, which they had to hold it and could not sell till the time liquidity is available in the stock. This was the reason for trades executed in the scrip among nominated investor accounts.*
- *It was submitted that unless interfered with by validly made law, all matters of human enterprise are permitted. Adding to the same it was stated that, for any activity of human agency to be interfered with, validly made law would need to be introduced to bring in a prohibition and a prohibition can never be presumed. It was also submitted that although Noticee No.1 continued its tenure as market maker, they continue to provide two way quotes in order to safeguard their investment as there is no requirement to stop the market making.*

c. Submissions of Noticee No. 4

- *Noticee No. 4 is the designated investor and of M/s NNM Securities Ltd. as per Regulatory Provisions of Market Maker. One of the core business of the Noticee is to invest in SME stocks. A designated investor is required to allocate funds to its stock broker for market making of particular stock eligible for market making and stock broker is empowered to deal in securities under the market maker obligation on behalf of designated investor. In the same way Noticee No. 4 allocated funds to Noticee No.1.*
- *While placing the order the Noticee had no idea who the counterparty since all transactions were executed through the normal screen-based trading system of the stock exchange.*

- *The reason for increase in the number of public shareholders is wrongly depicted in the SCN. . It may be appreciated from the historical data of other SME stocks that participation of public investors is usually very low in the Scrip when it remains at the SME platform and when stock shifted to the main board, numbers of public investors gradually increased. c) Another reason for increase in the number of public shareholders is fundamental of BCRL. As aforesaid, the Company is performing well on account of its business and net profit.*

<u>Objection raised by Noticees regarding principles of natural justice</u>

11. The Noticees have submitted that the complete materials in support of the aforesaid allegations have not been made available to them. Hence, they have not been able to defend themselves properly and were handicapped in effectively answering the charges levelled against them in the SCN. Post the service of SCN and annexures, the Noticees requested inspection of documents, which was also duly provided on July 04, 2023. On the said date, the authorised representatives of Noticees visited SEBI office and carried out the inspection of all the material and relevant documents available in the instant case. Further, a copy of Investigation Report was forwarded to them. I further note that all the charges are clearly stated in the SCN, the allegations primarily relate to the trading done by the Noticees in the scrip of Bhatia Communications, the data of which has been provided along with the SCN. No other documents, apart from those provided during the inspection, which is relevant or relied upon in the instant matter is available with SEBI. All the allegations mentioned in the said SCN were derived from the data provided in the form of annexure of SCN to the Noticees. In view of the above, since all the documents which are relevant and relied upon in the instant proceedings have been provided to the Noticees, I am of the opinion that principles of natural justice have been duly complied with in the instant proceedings and no prejudice in filing reply has been caused to the Noticees.

12. In view of the above, I note that the SCN and Hearing Notice were duly served to the Noticees and sufficient time was also provided to submit their replies. Thereafter, an opportunity of personal hearing was given to the Noticees, which was availed by them. Hence, the principles of natural justice were complied with respect to the Noticees and I shall now proceed to deal with the key issues involved in the instant matter.

Issues for consideration:

13. On a perusal of the observations and allegations brought out in the SCN, the replies filed by the Noticees, oral / written submissions filed by them and other material available on record, the following issues arise for consideration in the present proceedings:

    (1) ***Whether the Noticees are connected to each other?***

    (2) ***If the answer to issues No. 1 in affirmative, whether the Noticees by trading in the scrip of Bhatia Communications during the IP, have violated the provisions of SEBI Act and PFUTP Regulations, as alleged in the SCN?***

    (3) ***If the violations alleged against the Noticees were established, what directions are required to be issued including the amount of monetary penalty is required to be imposed on the Noticees?***

14. I shall now proceed to address the above issues in light of the facts of the case and the submissions made by the Noticees.

<u>Findings on issues</u>

Issue No. 1 - Whether the Noticees are connected to each other?

15. From the SCN, I note that, pursuant to the analysis of the trade log and order log for the IP, a group of connected entities with key contribution to price and volume in the scrip of the Company had been identified as follows:

Sr. No.	**Name of the entity (PAN)**	**Basis of Connections**
1	NNM Securities Pvt Ltd (AAACN8070G) (Noticee No.1)	• The Directors of NNM Securities Pvt Ltd - Nikunj Anilkumar Mittal and Apurva Anilkumar Mittal. • NNM Securities Pvt Ltd shareholding - Anilkumar Nandkishore Mittal (73.47%), Nikunj Anilkumar Mittal (22.27%), Manisha Nikunj Mittal (1.04%) & Miker Financial Consultants (3.22%)
2	Miker Financial Consultants Pvt Ltd (AAECM1798G) (Noticee No. 2)	• Connected to NNM Securities through common contact number: 9768006000. • Directors of Miker Financial Consultants Pvt Ltd- Anilkumar Nandkishore Mittal till 30.3.2022, Nikunj Anilkumar Mittal since 30.3.2022, Apurva Anilkumar Mittal till 20.1.2021 and Manisha Nikunj Mittal since 14.1.2021. • Miker shareholding as on 31.3.2020- Anilkumar Nandkishore Mittal (50%) and Apurva Anilkumar Mittal (50%) • Miker shareholding as on 31.3.2022 - Nikunj Anilkumar Mittal (50%) and Manisha Nikunj Mittal (50%)
3	Vibhuti Commodities Pvt Ltd (AACCV0831D) (Noticee No. 3)	• Connected to NNM Securities through common contact number: 9768006000. • Connected to Miker Financial Consultants through common contact number 9768006000 and email ID admin@vibhutient.com • Vibhuti Commodities Pvt Ltd shareholders as on 31.3.2021 Anilkumar Nandkishore Mittal (30.76%) and Manisha Nikunj Mittal (23.07%). • Directors of Vibhuti Commodities Pvt Ltd- Anilkumar Nandkishore Mittal till 21.3.2022, Manisha Nikunj Mittal since 21.3.2022, Nikunj Anilkumar Mittal since 26.4.2021. • Common address of NNM Securities Pvt Ltd, Miker Financial Consultants Pvt Ltd and Vibhuti Commodities Pvt Ltd (address- B- 6&7, Siddhivinayak Plaza, Plot no. 31, Oshiwara, Off Link Road, Andheri (W), Mumbai- 400053)
4	Festino Vincom Limited (AABCF3822F) (Noticee No. 4)	• Festino Vincom Limited on 27.10.2020 transferred 2 shares each of scrip Rita Finance and Leasing Limited to Manisha Nikunj Mittal, Apurva Anilkumar Mittal and Nikunj Anilkumar Mittal. • 99.99% of shareholding in Festino Vincom Limited held by Hence Home Appliances Ltd. 50% shareholding of Hence Home Appliances Ltd held by Manisha Mittal. • 1,62,000 shares of Bhatia Communications and Retail India Limited alongwith Deep Polymers Ltd (12,48,000 shares), Angel Fibres Ltd (8,000 shares) and B&B Triplewall Containers Ltd (10,44,000 shares) transferred by Festino Vincom Limited to NNM Securities Pvt Ltd Proprietary Account through off market on 4.1.2019.
5	Nikunj Anil Kumar Mittal	• Director of NNM Securities Pvt Ltd, Miker Financial Consultants Pvt Ltd and Vibhuti Commodities Pvt Ltd.

Sr. No.	Name of the entity (PAN)	Basis of Connections
	(AACPM3927E) (Noticee No.5)	• Responsible for taking investment decisions for NNM Securities Pvt Ltd, Miker Financial Consultants Pvt Ltd and Vibhuti Commodities Pvt Ltd. • Authorised to look after the investments of Noticee No.1-4.

16. I note from SCN that the relationship as submitted on behalf of major shareholders and Directors of the above mentioned Noticees during investigation i.e. Anilkumar Nandkishore Mittal, Manisha Nikunj Mittal, Apurva Anilkumar Mittal and Nikunj Anilkumar Mittal vide email dated December 12, 2022 are as follows:

S.No.	PAN	Name	Relationship
1.	AABPM4779K	Anilkumar Nandkishore Mittal	Father
2.	AACPM3922B	Apurva Anilkumar Mittal	Son
3.	AACPM3927E	Nikunj Anilkumar Mittal	Son
4.	ABMPM5594L	Manisha Nikunj Mittal	Daughter-in-law

17. From the above, I note that NNM Securities Pvt Ltd (Noticee No. 1), Miker Financial Consultants Pvt Ltd (Noticee No. 2) and Vibhuti Commodities Pvt Ltd (Noticee No.3) are private limited companies and are connected by way of common shareholders and address. Wherein, the members of Mittal family are the major shareholders and Noticee No. 5 is the common director. Hereinafter, the aforesaid group (Noticee No. 1-4) has been referred to as "***NNM Group***".

18. I note from the reply of Noticee No.1, wherein it was submitted that, NNM Securities (Noticee No.1) is a SEBI registered Market Maker and Stock Broker and the scrip under investigation was an SME scrip, which migrated to main Board platform. Further, it was stated that Noticee No. 2, 3, 4 and 5 were the designated investors in various SME scrips and were assisting Noticee No.1 in discharging market-making obligations. Noticee No. 2 and 3 are also group companies of Noticee No.1. Noticee No. 5 was authorised to look after investment of nominated investors only during the period when stocks are traded at SME segment.

19. Noticee No.4 have submitted against the term "*NNM Group*" used in the SCN, on the ground that Ms. Manisha Mittal is neither Director nor plays any role in its business affairs. It was further submitted that day to day business affairs of the said Noticee is managed by board of directors and Ms Manisha Mittal is not holding office of director of the said Noticee at any point of time. However, from the submission, I note that, the Noticee has not denied the fact stated in the SCN regarding the transfer of shares and shareholding of Noticee No.4. Based on the said facts only it was decided to term Noticee No. 1-4 as "NNM group". Moreover, it is an admitted fact that Noticee No. 2-4 were the *nominated investors* of Noticee No. 1 i.e. they allocated funds to Noticee No.1 to invest in various SME stocks and manage it during the period when respective stock is available to trade in SME platform. Hence, I find no merit in the submission of the Noticee and accordingly the same cannot be accepted.

Issue No. 2 - If the answer to issues No. 1 in affirmative, whether the Noticees by trading in the scrip of Bhatia Communications during the IP, have violated the provisions of SEBI Act and PFUTP Regulations, as alleged in the SCN?

20. As seen above, since the Noticees are found to be connected to each other, to deal with the instant issue, the trading data of NNM Group in the scrip of Bhatia communications during the IP shall now be examined.

21. I note from the SCN that the price of the scrip opened at Rs.65.75 on July 14, 2021 reached a high of Rs.325.25 on February 10, 2022, reached a low of Rs.65 on July 15, 2021 and closed at Rs.293.35 on February 14, 2022. On February 15, 2022 stock split of shares from face value of Rs.10 per share to Rs.1 per share took place. In this regard, I note that, the financial results of the company during the IP does not support the above movement in price as the company was making miniscule profits in the same time period and also there is nothing on record to show any positive corporate announcement made by the company to make the scrip attractive to the investors.

22. The total buy/sell volume of the NNM group during IP viz. Patch 1 (pre-split) and Patch 2 (post-split) period was as follows:

Period/ Patch	NNM Group	Total Buy quantity	Among Group	Total Sell quantity
Patch 1 (pre-split)	NNM Securities Pvt Ltd	537469	132329	201849
	Miker Financial Consultants Pvt Ltd	197097	24598	365596
	Vibhuti Commodities Pvt Ltd	242346	92639	130980
	Festino Vincom Limited	0	0	30000
14/07/2021 to 14/02/2022	Total buy/sell for NNM Group (A)	976912	249566	728425
	Total market volume (B)	2571456	2571456	2571456
	% by group *vis-a-vis* market total volume (A/B)	38%	10%	28%
	Total market deliverable volume (C)	2154522	2154522	2154522
	% by NNM group *vis-a-vis* market deliverable total volume (A/C)	**45%**	**12%**	**34%**
Patch 2 (post-split)	NNM Securities Pvt Ltd	1595576	460886	3493583
	Miker Financial Consultants Pvt Ltd	171441	0	1936521
	Vibhuti Commodities Pvt Ltd	426611	399994	0
	Festino Vincom Limited	115000	115000	1494000
	Total buy/sell for NNM Group (D)	2308628	975880	6924104
15/02/2022 to 14/07/2022	Total market volume (E)	21150988	21150988	21150988
	% by group *vis-a-vis* market total volume (D/E)	11%	5%	33%
	Total market deliverable volume (F)	19141730	19141730	19141730
	% by group *vis-a-vis* market deliverable total volume (D/F)	**12%**	**5%**	**36%**

23. As seen from the table above, I note that, during the Patch 1 (pre-split) period, NNM group contributed substantial buy (45% of deliverable market total volume and 38% of total market volume) and substantial sell volume (34% of deliverable market total volume and 28% of total market volume). There were 12% of market deliverable volume and 10% of market total volume which was traded directly amongst the NNM group members. Rest of their sell quantity (34%-12% in case of deliverable market total volume and 28%-10% in case of market total volume) was also indirectly bought by NNM group. Thus, a total of 34% of the total delivered quantity in this period, and a total 28% of the total market volume in this period was contributed by the 4 NNM group entities.

Alleged Volume manipulation in Patch -1

24. I note from SCN that the NNM group made net purchase of 2,48,487 (Total buy quantity i.e. 976912 – Total sell quantity i.e. 728425) during the Patch-1 (pre-split) period. The average buy and sell price of NNM group during the Patch 1 (pre-split) period was almost the same, and thus during this period their trades mainly generated volumes but no profits. The average price of acquisition of net purchased shares during Patch 1 (pre-split) is as given below:

Particulars	Buy	Sell
Total traded quantity (A)	9,76,912	7,28,425
Total traded value (in INR) (B)	14,28,70,628	10,65,90,899
Average Buy/Sell price (in INR) (C=B/A)	146.24	146.33
Net Buy quantity	**248487 @ Rs.146.24 per share**	

25. With regard to the above, I note from the SCN that, since there was negligible difference in buy and sell price, it was alleged that the volume created by the NNM Group during the period was artificially inflated.

26. It was submitted by the Noticee No.1, 2 3 and 5 that , "…it may be appreciated that in order to do market making, we would have to buy 100% of the IPO shares in first 3 months or 25% of the IPO size after that and we would have to be stocked with the said quantity of stocks. It is such market making that is now being assailed as volume manipulation and price manipulation, which is unfair and inappropriate."

27. For the above submission, I note that the charges were alleged against the Noticees based on the trading done by the NNM Group post migration of the scrip of Bhatia Communications to the main board of exchange and has no bearing on the role of market maker played by Noticee No.1. Price and volume manipulation is nowhere allowed in the securities market, be it during market making or otherwise. Hence, the submission of the Noticees is without any merit and is accordingly rejected.

Alleged Last Traded Price (LTP) contribution in Patch -1

28. From analysis of top 10 Last Trade Price(LTP) contributors among buyers during the Patch 1 (pre-split) period, it was observed that trades by the NNM group contributed to LTP as below:

PAN	Client Name	All Ltp Rate (INR)	All Traded Qty	All No Trades	Positive Ltp Rate (INR)	Positive Traded Qty	Positive Number of Trades	Negative Ltp Rate (INR)	Negative Traded Qty	Neg No Trades	Zero Traded Qty	Zero No Trades	%Ltp
AAACN 8070G	Nnm Securities Pvt Ltd	165.20	537469	1256	443.20	224637	395	-278.00	62620	288	250212	573	7.20%
AACCV0 831D	Vibhuti Commodities Private Limited	33.75	242346	338	149.15	102630	85	-115.40	32979	107	106737	146	2.42%
AAECM 1798G	Miker Financial Consultants Private Limited	59.65	197097	167	115.70	118746	46	-56.05	10071	54	68280	67	1.88%
Total		**258.60**	**976912**	**1761**	**708.05**	**446013**	**526**	**-449.45**	**105670**	**449**	**425229**	**786**	**11.50%**
Market Total		**224.85**	**2571456**	**20403**	**6154.05**	**800603**	**4643**	**-5929.20**	**469869**	**5142**	**1300984**	**10618**	**100.00 %**

29. Out of net LTP of Rs.258.60 by NNM group during pre-split IP period, the NNM group has contributed Rs.156.80 net LTP by trades amongst themselves. Details of few such trades are provided below:

Date of Trade	Client Name	Counter Party Name	LTP	LTP Percentage
01/11/2021	Vibhuti Commodities Private Limited	NNM Securities Pvt Ltd	197	16
24/11/2021	Miker Financial Consultants Private Limited	NNM Securities Pvt Ltd	194	13
29/10/2021	Vibhuti Commodities Private Limited	NNM Securities Pvt Ltd	189.05	8

Order Level analysis for Large LTP trades

30. Further analysing the LTP trades, it was observed that both buy and sell orders for the large LTP trades were placed from the same location/Counter Party (CP)

location ID, viz. 4000530050050099 (user/CP user - Sameer Kumar Tiwari, Trading member-NNM Securities Pvt. Ltd.). Some instances of these are provided below:

31. To substantiate the charges, the relevant extract of the order log for September 15, 2021 and November 01 & 09, 2021 was perused:

September 15, 2021

ORDER_TIME	RATE (INR)	QTY	BUY/SELL	CLIENT_NAME	AUD CODE
11:46:51.984567	146.5	10000	S	FESTINO VINCOM LIMITED	A
11:46:59.073867	146.55	9000	B	VIBHUTI COMMODITIES PRIVATE LIMITED	A

32. On September 15, 2021, when the LTP was Rs.144.50, Festino Vincom Limited placed sell order at price of Rs.146.5 i.e. Rs.2 higher than prevailing market price for 10000 shares. Within 8 seconds, connected entity Vibhuti Commodities Private Limited placed buy order at price of Rs.146.55 for 9000 shares. Both the buy and sell order was placed from same location ID 4000530050050099 (user name- Sameer Kumar Tiwari, Trading member- NNM Securities Pvt. Ltd). On perusal of trade log for order no 1631676600008038155 and 1631676600008038156, it was observed that aforementioned order was converted into trade (trade ID 104) and contributed Rs.2 market positive LTP. The traded quantity for aforementioned trade was 9000 shares.

November 01, 2021

ORDER_TIME	RATE (INR)	QTY	BUY SELL	PAN	CLIENT_NAME	AUDCODE
12:16:36.904845	181	10	B	CHCPS2986N	AJAY SHEKHAWAT	A
12:29:25.347467	197	1000	S	AAACN8070G	NNM SECURITIES PVT LTD	A
12:29:31.588634	197.95	100	B	AACCV0831D	VIBHUTI COMMODITIES PRIVATE LIMITED	A

33. From the above I note that, on November 1, 2021, when the LTP was Rs.181, NNM Securities Pvt Ltd placed sell order at price of Rs.197 i.e. Rs.16 higher than prevailing market price for 1000 shares. Within 6 seconds, connected entity Vibhuti Commodities Private Limited placed buy order at price of Rs.197.95 for

100 shares. Both the buy and sell orders were placed from same location ID 4000530050050099 (user name- Sameer Kumar Tiwari, trading member- NNM Securities Pvt. Ltd). On perusal of trade log for order no 1635737400066007034 and 1635737400066007035, it was observed that aforementioned order was converted into trade (trade ID 18) and contributed Rs.16 market positive LTP. The traded quantity for aforementioned trade was 100 shares.

<u>November 09, 2021</u>

ORDER_TIME	RATE (INR)	QTY	BUY /SELL	CLIENT_NAME	AUDCODE
15:21:47.061796	0	10	S	RAJASHREE MISHRA	A
15:26:07.641614	205.5	5000	S	NNM SECURITIES PVT LTD	A
15:26:14.298026	205.5	2000	B	MIKER FINANCIAL CONSULTANTS PRIVATE LIMITED	A
15:26:23.372235	205.5	1000	B	MIKER FINANCIAL CONSULTANTS PRIVATE LIMITED	A

34. On November 9, 2021, when the last traded price was Rs.196.55, NNM Securities Pvt Ltd placed sell order at price of Rs. 205.5 i.e. Rs.8.95 higher than prevailing market price for 5000 shares. Within 7 seconds, connected entity Miker Financial Consultants Private Limited placed buy order at price of Rs.205.5 for 2000 shares. Both the buy and sell orders were placed from same location ID 4000530050050099 (user name- Sameer Kumar Tiwari, trading member- NNM Securities Pvt. Ltd). On perusal of trade log for order no 1636428600100008045 and 1636428600100008046, it was observed that aforementioned order was converted into trade (trade ID 21) and contributed Rs.8.95 market positive LTP. The traded quantity for aforementioned trade was 2000 shares.

35. The Noticees with regard to the price manipulation and positive LTP contribution have contended that only positive LTP contributions have been highlighted in the SCN and the negative LTP trades done by them in the scrip of Bhatia Commincations during the IP were ignored. Further, it was submitted that the investment was made in the scrip of Bhatia Communications as the company

was performing well and showing growth in performance as the profits of the company were on the rise. Hence, the trades were executed only after the requisite research.

36. With regard to the aforementioned contention regarding LTP, I note that the numbers related to positive LTP trades of NNM Group are too significant and alarming as the trades of the said Noticees were the primary reason for prise rise in the scrip of Bhatia Communications during the IP and hence were focussed upon. Regarding the investment decision based on research and performance of the company, I note that post IP the price of the scrip started to fall and could not maintain the high levels shown during the IP. The fall was instant and huge as the scrip fell from Rs. 325.25 to Rs. 26.7. This itself negates the claim of the Noticees, as the scrip could not sustain such high levels post offloading of shares by the NNM Group. Despite the claim of NNM Group that the rising profits were the reason behind the prise rise and their trading in the scrip, as mentioned above, the price of the scrip fell from the high levels as those were artificial and managed by NNM Group. Hence, I find no merit in the submissions of the Noticee and hence reject the same.

37. With regard to the trades done above last traded price, I note that the Hon'ble SAT in the matter of ***Systematix Shares & Stocks (India) Ltd. vs. SEBI*** decided on April 23, 2012, has observed as follows:

"…It is true that trading at a price above the last traded price is no offence. However, the pattern of trading in the present case proves that there was a well thought out plan behind the placing of orders by the clients through the appellant. As observed above, the scrip was illiquid and low profile. The financial results of the company had nothing great to be spoken about. The paid up capital of the company was only Rs.96 lacs consisting of 9,60,000 shares of Rs.10 each. The highest net profit registered by the company was Rs.6.5 lacs in March 2009. The value of the scrip at 874 achieved in June 2009 is to be gauged against the above background. Obviously, an attempt was

made to inflate the share price by trading in single shares above the last traded price over a period of time. The adjudicating officer found that during the investigation period there was more buying interest in the scrip than that of selling which is revealed through the quantum of buy and sell orders. He has established that the trading in minimum number of shares per day was for the purpose of setting a new high price so that it would serve as the opening price in the next day and the process continued over a period of time. Considered in the background of the facts available in the case, the conduct of the appellant cannot be brushed aside as a normal and lawful market practice…"

38. With regard to the price manipulation by way of LTP contribution, it is also important to refer to the observations made by the Hon'ble SAT in its order dated March 21, 2014 in ***Saumil Bhavnagari Vs. SEBI*** which are as under:

"… but by purchasing shares at the higher price in LTP in most of the trades, the Noticee had given a wrong impression about the liquidity of the scrip in the market. It must not be forgotten that every trade establishes the price of the scrip and the Noticees trading at higher than LTP resulted in the price of the scrip going up and were done with a view to set the price at a desired level and thereby influencing the innocent/gullible investors. By purchasing at a higher price in most of his trades, the Noticee had given the wrong impression about the price of the scrip in the market. It is an accepted state of affairs that in cases of manipulation of the volume and / or price of a particular scrip, it is usually an arduous task to obtain direct evidence. However, the analysis of the trade and order logs as undertaken hereinabove, establishes the malafide intention of the appellant."

39. In this context, reliance is also placed on the observations of the Hon'ble SAT in the matter of ***Amaresh Pathak vs. SEBI***, Appeal no. 332 of 2020 decided on February 16, 2021, wherein it had held that:

"11. ... When a person enters into a transaction in securities with the intention to artificially raise the price, he thereby automatically induces the innocent

investors in the market to buy/sell the stocks. The buyer or the seller is invariably influenced by the price of the stocks and if that is manipulated the person doing so is necessarily influencing the decision of the buyer/seller thereby inducing him to buy or sell. This is what Regulation 4 of the PFUTP Regulation speaks of. Inducement to any person to buy or sell securities leads to manipulation in the price of the scrip. If the factum of inducement is established, it will necessarily follow that a fraud has been played and there has been a manipulation."

40. With regard to the aforesaid trading done by the Noticees, Noticee No. 1,2,3 and 5 have submitted that unless interfered with by validly made law, all matters of human enterprise are permitted. Adding to the same it was stated that, for any activity of human agency to be interfered with, validly made law would need to be introduced to bring in a prohibition and a prohibition can never be presumed. It was also submitted that although Noticee No.1 continued its tenure as market maker, they continue to provide two-way quotes in order to safeguard their investment, as there is no requirement to stop the market making. Hence, the said Noticees submitted that the trading in Bhatia Communications during IP was in furtherance to their market making activities and there is no bar on the same.

41. With respect to the above submission, I note that the Noticees have drawn a rather dangerous inference from the market making mechanism provided for the SME platform. At the outset, I want to highlight the role of a market maker in the market and how they facilitate in bringing liquidity in the scrips listed on SME platform:
    a) A market maker is allowed to participate in scrips listed in SME exchange, buying securities from sellers and selling securities to buyers.
    b) Market makers make it easier for investors to buy or sell a security quickly, or in large volumes.

c) In financial terms, they deliver liquidity and depth to the market. Market makers provide a 'two-way quote' to the market, which means they are willing to both buy and sell a security at a competitive price in all market conditions.

d) The buy and sell quotes provided by the market maker is for the general investors willing to buy/sell the scrip listed on SME platform and not to trade among the designated investors.

42. I also note from the submissions made by the Noticee No. 1,2, 3 and 5 that there is contradiction in the submissions made by the said Noticees, as at one instance they are submitting that pursuant to migration of the scrip of Bhatia Communications from SME to main board, they stopped the market making activity and started dealing in the scrip independently as per their own research. However, in the submissions made at the later stage of the proceedings, the Noticees retracted from the aforesaid statement and submitted that despite the completion of their market making tenure, the Noticees continued to provide two-way quotes, as there is no requirement to stop the market making activity.

43. With respect to the above submission, I note that, the divergent stand taken by the said Noticees is negated by the principle of estoppel. An estoppel is a principle, whereby a party is precluded from denying the existence of facts, which was previously admitted. A person cannot approbate and reprobate at the same time. Accordingly, the submission made by the Noticee subsequently regarding carrying on the market making activities cannot be accepted. I also note that the arrangement of market making was only restricted to the scrips listed on SME platform of exchange and the same cannot be continued after the migration to main board. While acting as a market maker too, any sort of manipulation in the market is not allowed and that is only to provide liquidity to the scrip. The Noticees by trading in the manner and by trading among themselves, as examined in the previous paragraphs, have abused the securities market mechanism and had affected the interest of gullible investors participating therein.

44. The observation of Hon'ble SAT in ***Suresh Mehta vs SEBI*** (Appeal No. 321 of 2018 decided on 29.06.2021) regarding the abuse of permitted activities in the market and its scope of having negative impact on the market needs to be mentioned. Therein it was held that,

"Merely because the regulation permit that a trader or investor can modify or cancel the order, it does not mean that the appellant who according to himself is a seasoned trader would use the exchange platform like a video game playing with the joystick as much as he could. In fact all these continuous activities of the appellant as detailed supra had derailed the market equilibrium by creating a false impression."

45. The net LTP contribution by NNM group as well as the LTP contribution by trading amongst themselves shows that the NNM group not only generated artificial volumes but also caused the price to move up substantially through their trades.

46. In view of the above, it can be concluded that NNM Securities Pvt Ltd (in its proprietary account) and its connected Noticees viz. Miker Financial Consultants Pvt Ltd, Vibhuti Commodities Pvt Ltd and Festino Vincom Limited indulged in manipulative and fraudulent trades in the scrip. Through such trades, NNM group contributed Rs.708.05 to market positive LTP (11.50% of market positive LTP) and Rs.258.60 to net LTP as buyer (market total net LTP Rs. 224.85) during pre-split period.

47. As detailed above, during pre-split period NNM group created artificial volume through fraudulent and manipulative trades by contributing substantial volume among the group. In view of the connections among the 4 NNM group entities, it is concluded that 34% of the total delivered volume and 28% of the total traded volume in pre-split was carried out between related entities without the intention of change in beneficial ownership to entities outside of the NNM group and to

create artificial volume, as well as to cause artificial price rise, in order to profit from selling shares at high price.

48. In this regard, it is pertinent to note the following observations of the Hon'ble SAT in its order dated October 25, 2016 in Appeal No. 126 of 2013 ***Pan Asia Advisors Limited vs. SEBI***, while interpreting the expression '*fraud*' under the PFUTP Regulations, 2003:

"*From the aforesaid definition (of 'fraud') it is absolutely clear that if a person by his act either directly or indirectly causes the investors in the securities market in India to believe in something which is not true and thereby induces the investors in India to deal in securities, then that person is said to have committed fraud on the investors in India. In such a case, action can be taken under the PFUTP Regulations against the person committing the fraud, irrespective of the fact any investor has actually become a victim of such fraud or not. In other words, under the PFUTP Regulations, SEBI is empowered to take action against any person if his act constitutes fraud on the securities market, even though no investor has actually become a victim of such fraud. In fact, object of framing PFUTP Regulations is to prevent fraud being committed on the investors dealing in the securities market and not to take action only after the investors have become victims of such fraud*".

Role of Noticee No. 5, Nikunj Anilkumar Mittal

49. While determining the liability of corporate entities (Noticee No.1 to 4 in the instant case), the concept of *'lifting of corporate veil'* is a commonly employed mechanism to find out the person/s acting for the legal corporate entities or their role in the contraventions committed by the corporate entities. As seen in previous part of the order, Noticee no. 5 was connected with the NNM Group either through by directorship or by holding significant number of shares. The concept of 'lifting of corporate veil' is also incorporated in the SEBI Act, 1992:

"27. Contravention by companies.

(1) …

(2) Notwithstanding anything contained in sub-section (1), where an contravention under this Act has been committed by a company and it is proved that the contravention has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly." (emphasis supplied)

50. I note from SCN that during investigation, Noticee No. 1-4 vide common email dated February 08, 2023 submitted that Nikunj Anilkumar Mittal (Noticee 5) was authorized to take all decisions on their behalf during the IP. Accordingly, Noticee No. 5's statement under oath was recorded on February 14, 2023 during investigation wherein he admitted that he took trading and investment decisions for Noticee No. 1 to 4 during the IP and, inter-alia, made the following submissions:

    - The Noticees 1 to 4 had large holdings of the company with them due to their market making activities in the scrip. Hence, both buy and sale trades were executed in large quantities during July 14, 2021 to July 14, 2022. For trades executed among Noticees 1 to 4 internally, it was submitted by them that all the 4 entities (Noticee 1 to 4) belonged to the NNM group Company and these entities could not move funds directly amongst themselves except to discharge their trading obligations, otherwise the said fund movements/payments amongst themselves would have been treated as "*deemed dividend*" as per IT Act, therefore the said transactions were done to get required funds to meet business obligations of individual group companies.

51. I note from the material available that the aforesaid was also confirmed by Noticee No.4 in the statement made on February 13, 2023 during the investigation.

52. From the aforesaid, I note that, all the decisions for buy and/or sell in the scrip of Bhatia Communications & Retail (India) Ltd were taken by Noticee No.5 for Noticee No.1 to 4 (NNM Group) during the IP. Hence, he can be said to be acting on behalf of the corporate entities, the NNM Group, and hence is equally liable for the violations committed by them.

Profits made by Noticees

53. Thus, as seen from the above, in the pre-split period through artificial volume and manipulative and fraudulent trades, price was artificially increased and gullible investors were attracted to the scrip and induced to buy the shares of the company, as seen by the increase in number of public shareholders during pre-split investigation period, as follows:

Period	**Pre-split**			
	June 30, 2021	**Sep 30, 2021**	**Dec 31, 2021**	**Feb 16, 2022**
Number of public shareholders	621	776	1144	4486

54. I note from SCN that during post-split period, NNM group entities contributed 12% to the deliverable market volume and 11% of total market volume to buy volume. They contributed on the sale side to 36% of the deliverable market volume and 33% of total market volume as detailed in previous paragraphs. While they were both buying and selling during this period and traded amongst themselves to the extent of 11% of total market volume, they were net sellers during this period, when the price had risen around considerably and after the stock split. During post-split period as the number of public investors increased, NNM group sold the excess shares bought in the pre-split period as well as shares already held by them and shares bought during the post-split period. The

profits made by the NNM Group during the post – split period through the sale of 69,24,104 shares is as follows:

Particulars	**Quantity**	**Total value (in INR)**	**Remarks**
Total sell quantity and value(A)	**69,24,104**	**19,37,71,453**	Sold in the Patch 2 (post –split) period at actual value
Total buy quantity and value(B)	23,08,628	6,84,76,515	(a) Bought in Patch 2 (post-split) at actual value
	24,84,870	3,63,40,524	(b) Net bought in Patch 1 (pre-split) at adjusted value for stock – split
	21,30,606	1,39,98,081	(c) Already held shares prior to Investigation Period at open price of Investigation Period after adjusted for stock – split.
	69,24,104	**11,88,15,120**	Total buy prior to IP, pre-split and post-split period. (a) + (b) + (c)
Profit (A-B)		**7,49,56,333**	Net profit made from shares sold during Patch 2 (post-split) period

55. The aforesaid facts clearly demonstrates the meeting of minds and a deliberate attempt to deal in the scrip in fraudulent fashion. Here, I would like to rely on the judgment of Hon'ble Supreme Court in ***SEBI v Kishore R Ajmera*** (AIR 2016 SC 1079), wherein it was held that *"in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive."* It was further held that, *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the*

absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion."

56. I note that the trading behaviour as noted above make it clear that aforesaid trades could not have been possible without meeting of minds at some level. In this regard, reliance is placed on judgment of the Hon'ble Supreme Court in the matter in respect of ***SEBI v Rakhi Trading Private Limited*** [Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011] decided on February 8, 2018 on similar factual situations, which *inter alia* states that:

"Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade transactions with huge price variations, it will be too naive to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the board's circular. The impugned transactions are manipulative/deceptive device to create a desired loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities....."

57. The role of NNM group in price volume manipulation during the IP is summarized below:

Period	**Particulars**	**Buy quantity**	**Among Group**	**Sell quantity**
Pre-split IP	% by group *vis-a-vis* market total volume	38%	10%	28%
	% by NNM group vis-a-vis market deliverable total volume	45%	12%	34%
Post-split IP	% by group *vis-a-vis* market total volume	11%	5%	33%
	% by NNM group vis-a-vis market deliverable total volume	12%	5%	36%
LTP-Pre-split IP- INR 708.05 to market positive LTP (11.50% of market positive LTP) and INR 258.60 to net LTP (market total net LTP INR 224.85)				

Profits made by NNM Group (in Rs.)	**7,49,56,333**

58. For the charge of violation of Regulation 4(1) of SEBI (PFUTP) Regulations which refers to *unfair trade practices* in securities, it would be noteworthy to quote the observations of Hon'ble Supreme Court of India in the matter *of **Securities and Exchange Board of India and Ors. vs. Shri Kanaiyalal Baldevbhai Patel and Ors.*** (2017 SCC Online SC 1148) wherein it was observed as follows:

"...Although unfair trade practice has not been defined under the regulation, various other legislations in India have defined the concept of unfair trade practice in different contexts. A clear cut generalized definition of the 'unfair trade practice' may not be possible to be culled out from the aforesaid definitions. Broadly trade practice is unfair if the conduct undermines the ethical standards and good faith dealings between parties engaged in business transactions. It is to be noted that unfair trade practices are not subject to a single definition; rather it requires adjudication on case to case basis. Whether an act or practice is unfair is to be determined by all the facts and circumstances surrounding the transaction. In the context of this regulation a trade practice may be unfair, if the conduct undermines the good faith dealings involved in the transaction. Moreover, the concept of 'unfairness' appears to be broader than and includes the concept of 'deception' or 'fraud'."

59. With respect to the impact on the market and investors of the activities of the Noticees, I note the following from the judgement of the Hon'ble SAT in the matter ***of Ketan Parekh vs SEBI*** (Appeal No. 02 of 2004 Decided on 14/07/2006):

"We are therefore of the view that inducement to any person to buy or sell securities is the necessary consequence of manipulation and flows therefrom. In other words, <u>if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no</u>

further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4 (a) of the Regulations." (emphasis supplied)

60. Thus, placing reliance on the aforesaid judgements and considering the facts beforehand, I find that the Noticees while executing trades in the scrip of Bhatia Communications during the IP has abused the stock market platform by creating false and misleading appearance of trading.

61. From the above, it is established that during the pre-split investigation period NNM Securities Pvt Ltd (Noticee No.1) (in its proprietary account) and the other Noticees viz. Miker Financial Consultants Pvt Ltd (Noticee No.2), Vibhuti Commodities Pvt Ltd (Noticee No.3), Festino Vincom Limited (Noticee No.4) and Nikunj Anilkumar Mittal (Noticee No.5) were indulged in price and volume manipulation in the scrip of Bhatia Commincations during the IP and resultantly attracted gullible investors to buy the shares of the company, and thereafter off-loaded shares at a higher price onto them during post-split investigation period making substantial profits. Hence the Noticees have violated Sec. 12A (a), 12A (b), 12A (c) of SEBI Act, 1992 r/w Reg. 3 (a), 3 (b), 3 (c) and 3 (d) and 4(1), 4(2) (a), 4(2)(b), 4(2) (e), 4(2)(g) and 4(2)(n) of SEBI PFUTP Regulations.

Issue No.3 - If the violations alleged against the Noticees were established, what directions are required to be issued and what directions including the amount of monetary penalty is required to be passed/imposed on the Noticees?

62. Since the violations against the Noticees are established in the preceding paragraphs, I hereby refer to the judgment of the Hon'ble Supreme Court of India

in the matter of ***SEBI vs. Shri Ram Mutual Fund*** [(2006) 68 SCL 216 (SC)] held that:

"once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established, then the penalty is to follow."

63. The aforementioned fraudulent activities by the Noticees, with a view to increase the price and traded volume in the scrip are of serious and grave in nature and are inimical to the interests of participants in the securities market. The facts and circumstances detailed in the forgoing paragraphs clearly indicate that all the Noticees acted as a group and conspired and connive with one another in executing the whole scheme of manipulation.

64. As a capital market regulator, SEBI strives to safeguard and protect the interests of a genuine investor in the Indian securities market. Allowing such entities/persons who are found to be involved in such fraudulent, unfair and manipulative practices to continue to operate in the market would shake the confidence of the investors in the securities market. Further, the fraudulent, manipulative and deceptive device, plan and artifice employed by Noticees in this case, not only endanger the interests of investors in securities but also the integrity of securities market as a whole. If such activities are left unchecked, it will give wrong signals to the securities market. I am of also of the view that such fraudulent, manipulative and deceptive acts, device, plan and artifice employed by the Noticees in this case have wider impact on the securities market and should be dealt with sternly.

65. In this regard, before deciding the directions, it is relevant to refer to the following observations made by the Hon'ble Supreme Court in ***N. Narayanan vs.***

Adjudicating Officer, SEBI *[(2013) 12 SCC 152] decided on 26.04.2013* is also noteworthy:

"SEBI, the market regulator, has to deal sternly with companies and their Directors indulging in manipulative and deceptive devices, insider trading etc. or else they will be failing in their duty to promote orderly and healthy growth of the Securities market. Economic offence, people of this country should know, is a serious crime which, if not properly dealt with, as it should be, will affect not only country's economic growth, but also slow the inflow of foreign investment by genuine investors and also casts a slur on India's securities market. Message should go that our country will not tolerate "market abuse" and that the "Rule of Law" governs us. Fraud, deceit, artificiality, SEBI should ensure, have no place in the securities market of this country and 'market security' is our motto. People with power and money and in management of the companies, unfortunately often command more respect in our society than the subscribers and investors in their companies. Companies are thriving with investors' contributions but they are a divided lot. SEBI has, therefore, a duty to protect investors individual and collective, against opportunistic behavior of Directors and Insiders of the listed companies so as to safeguard market's integrity."

Directions and Penalty

66. In view of the foregoing, I, in exercise of powers conferred upon me under sections 11(1), 11(4), 11(4A), 11B(1), 11B(2) and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 read with Section 15HA and Section 19 of the SEBI Act, hereby direct the following:

   i. The Noticees shall disgorge, jointly and severally, the wrongful gain made by them i.e. **₹7,49,56,333/-** (Seven crores forty nine lakhs fifty six thousand three hundred and thirty three rupees) along with simple interest @12% per annum from July 14, 2022 till the date of payment. They shall pay the said amount within 45 (forty-five) days from the date of this order.

ii. The Banks, with whom the Noticees accounts lie, are directed that no debit shall be made, without permission of SEBI, in respect of the bank accounts held, by said Noticees except for the purposes of compliance of this order;

iii. The Noticees are also directed not to dispose of or alienate any of their assets/ properties/ securities, till such time the direction of this order is complied with;

iv. Except for the purpose mentioned in point (i), above, the Noticees are hereby restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, for a period of **three (3) years** from the date of this order;

v. Further, during the period of restraint, the existing holding of securities including the holding of units of mutual funds of the Noticees shall remain frozen;

vi. Noticee No.1 shall, after receipt of this order, immediately inform its existing clients, if any, about the aforesaid direction in point (iv) above.

vii. The obligation of the aforesaid debarred Noticees, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange(s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order only, in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the Noticees debarred in the present Order, in the F&O segment of the stock exchanges, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

viii. The SCN has also contemplated directions under Sections 11(4A) and 11B(2) of the SEBI Act read with Rule 4 of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ("**Adjudication Rules, 1995**") imposing monetary penalty as stated in Section 15HA of the SEBI Act in respect of all the Noticees.

ix. Since the violations against the Noticees have been established, it would be, therefore, relevant to place hereunder Section 15HA of SEBI Act, 1992 for facility of reference:

"15HA Penalty for fraudulent and unfair trade practices:

If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."

x. It is relevant to mention here that for the imposition of penalty under the provisions of the SEBI Act, guidance is provided by Section 15J of the said Act. The said provision reads:

"15J. Factors to be taken into account while adjudging quantum of penalty.

While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

xi. Accordingly, the Noticees are hereby imposed with the following monetary penalties:

Noticee No.	Name of the Noticee	Penal Provision	Amount (in Rupees)
1.	NNM Securities Pvt Ltd.	Section 15HA of SEBI Act, 1992.	10,00,000 (Ten Lakhs)
2.	Miker Financial Consultants Pvt. Ltd.		10,00,000 (Ten Lakhs)
3.	Vibhuti Commodities Pvt Ltd.		10,00,000 (Ten Lakhs)
4.	Festino Vincom Ltd.		10,00,000 (Ten Lakhs)
5.	Mr. Nikunj Anilkumar Mittal		10,00,000 (Ten Lakhs)

67. The amount, as directed to be disgorged in Point (i) above, shall be remitted by the Noticees to Investor Protection and Education Fund (IPEF) referred to in Section 11(5) of the SEBI Act, 1992 the payment link for the same is provided on SEBI's website (www.sebi.gov.in).

68. The Noticees shall remit / pay the amount mentioned against their respective names in table at point (x) above, within 45 days of receipt of this order by using the undermentioned pathway: www.sebi.gov.in/ENFORCEMENT → Orders → Orders of EDs / CGMs → Click on PAY NOW or by using the weblink: https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html.

69. The Noticees shall forward the details/confirmation of penalty/disgorgement amount so paid through e-payment to *"The Division Chief, IVD-ID9, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra-*

Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id: *tad@sebi.gov.in* in the format given in the table below:

Case Name:	
Name of payee:	
Date of payment:	
Amount paid:	
Transaction no:	
Bank details in which payment is made	
Payment is made for:(like penalties / disgorgement / recovery / settlement amount and legal charges along with order details)	

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

71. A copy of this order shall be sent to the Noticees, all the recognized Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for information and compliances.

Date: May 30, 2024 **G. RAMAR**

Place: Mumbai **SECURITIES AND EXCHANGE BOARD OF INDIA**