

BEFORE THE ADJUDICATING OFFICER SECURITIES AND EXCHANGE BOARD OF INDIA [ADJUDICATION ORDER NO. Order/AA/JR/2020-21/9441]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

In respect of

Anand Kalu Marathe (PAN: AKWPM0699M)

In the matter of Gemstone Investments Limited

BACKGROUND OF THE CASE

1. The Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed huge rise in the traded volumes and/or price of the shares of the Gemstone Investments Limited (herein after referred to as '**Gemstone /Company**'). SEBI conducted an investigation in the scrip of Gemstone which is listed on the Bombay Stock Exchange (hereinafter referred to as '**BSE**') for the period January 06, 2009 to December 30, 2009 (hereinafter referred to as '**Investigation Period / IP**'). The price movement during the IP is given in Table-1.

Table - 1

Name of scrip	Examination Period	Price variation (based on closing price) (in Rs.)	Daily high-low traded Volume; (number of Share)
Gemstone Investments Limited	January 06, 2009 to December 30, 2009	21.20 to 78.35	1 to 2,46,015

2. The Adjudicating Officer (hereinafter referred to as '**AO**') of SEBI in his order dated November 28, 2014 (hereinafter referred to as '**AO order**') concluded that certain entities including Anand Kalu Marathe (hereinafter referred to as '**Noticee / by name**') has created artificial volume in the scrip of Gemstone and imposed penalties accordingly. The aforesaid AO order was challenged by the Noticee in the Hon'ble Securities Appellate Tribunal (hereinafter referred as '**SAT**') in Appeal No. 139 of 2015 and the SAT vide order dated March 18, 2016 (herein after referred to as '**SAT Order**') set aside the AO order with respect to the Noticee and restored the matter to the file of AO.

APPOINTMENT OF ADJUDICATING OFFICER

3. Considering the directions of SAT, the Competent Authority of SEBI, vide order dated May 17, 2018 appointed Shri Suresh B. Menon as AO to conduct the adjudication proceedings in the manner specified under Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**AO Rules**') and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of the Adjudication Rules and Section 15HA of the SEBI Act. Pursuant to the posting of Shri Suresh B. Menon to another department of SEBI, the undersigned was appointed as the Adjudicating Officer vide order dated March 18, 2019.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice No. EAD-2/RG/27979/2013 dated November 01, 2013 (hereinafter referred to as '**SCN**') issued to the Noticee by the erstwhile AO under Rule 4(1) of the AO Rules to show-cause as to why an inquiry should not be initiated against the Noticee and penalty not be imposed upon it under Section 15HA of the SEBI Act for the alleged violation of the Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a), (b), (e) & (g) of the SEBI (Prohibition of Fraudulent

and Unfair Trade Practices relation to securities market), 2003 (hereinafter referred to as the 'PFUTP Regulations') is being relied upon in the instant proceedings.

5. The details in respect of violation/ non-compliance by the Noticee as observed from the SCN are as given below:

- a) *The shares of GIL are traded at Bombay Stock Exchange Limited (BSE). On analysis of the trading activity in the scrip of GIL, the investigation, prima facie, revealed that a group of entities namely, Rajesh Pravin Bhanushali, Bhupesh Rathod, Spectrum Chemicals Pvt. Ltd, Amar Premchand Walmiki, Bharat Shantilal Thaker, Bipin Jayant Thaker, Navneetlal Jeevanlal Gandhi, Chirag Rajnikant Jariwala, Kishore Chauhan, Manish Suresh Joshi, Samir Sureshbhai Shah, Manoj Bhandari, Jignesh C. Shah, Shalin Kirtikumar Parikh, Bipinkumar Gandhi, Bhavesh Pabari, **Anand Kalu Marathe**, Rekha Bhandari, Prem Mohanlal Parikh, Devendra Suresh Gupta, Nareshbhai Devabhai Patel, Hemant Madhusudan Sheth, Ashokkumar Bhikhalal Parmar, Manisha Navneetlal Gandhi, Pandya Yaminiben M, Pandya Hardik M, Bharatkumar Baldevbhai Parmar, Mala Hemant Sheth, Gaurang Ajit Sheth, Ankit Sanchaniya and Vivek Kishanpal Samant (hereinafter collectively referred to as Pabari-Parikh Group) were connected to each other and had traded heavily in the scrip of GIL through multiple brokers.*
- b) *It was observed from the trade log analysis that 31 Pabari-Parikh Group entities dealing through multiple brokers purchased 19,67,956 shares accounting for 39.67% of the total market volume and sold 34,24,824 shares accounting for 69.05% of the total market volume during the period under investigation. From the analysis it was observed that Sunidhi Securities and Finance Limited dealing for Bhavesh Prakash Pabari contributed 4.79 % of the total market volume on buy side transaction and 4.07% of the market volume on sale side of the transactions.*
- c) *The details of 31 Pabari-Parikh Group entities along with connection within the group is given below:*

Table – 2 Connections among PPG entities:

Client Name	KYC Relation	Fund Movement	Share movement through off market	Client Name	KYC Relation	Fund Movement	Share movement through off market
1.Rajesh Pravin Bhanushali	Sl. no.1, 16 & Narendra Ganatra have common office address.			17.Anand Kalu Marathe	Sl. no. 4 is witness in nomination form.	With Sl. No. 19, 26, 4.	
2.Bhupesh Rathod	Introduced sl. no.22, 19, 16, 9 for trading a/c and knows sl. No. 28	With Sl. No. 30		18.Rekha Bhandari	Common contact no. as that of Sunil Bhandari. Sl. no. 18 is the wife of Sunil Bhandari.	With Sl. No. 26, 4.	With Sl. No. 4,

Client Name	KYC Relation	Fund Movement	Share movement through off market	Client Name	KYC Relation	Fund Movement	Share movement through off market
3.Spectrum Chemicals Pvt. Ltd	Common address as that of Khodiyar Industry (Ramniklal Patel). Ramniklal Patel has same address as that of sl.no. 15 who has share and fund movement with sl. no. 16.			19.Prem Mohanlal Parikh	Sl. no. 19 is cousin of sl. no.16. Common email with sl. 30, 19 & 31. Sl. no. 22 is nominee of sl. no.19. BR* with sl. no. 5, 6, 8, 9, 16, 22, 30, 31.	With sl. no. 16, 22, 9.	With sl. no. 16, 22, 9, 5, 6, 22, 30, 31.
4.Amar Premchand Walmiki		With Sl. No. 12, 17, 16, 11, 18, 26, 25,	With Sl. No. 16, 7, 11, 12, 24, 27,	20.Devendra Suresh Gupta	Has traded with sl. no. 2, 5, 19 & 30, who all have off market share and fund movement with sl. no. 16.		
5.Bharat Shantilal Thakkar	Sl. no. 16 is his nephew. Same address with sl. no.16. Sl. no. 16 is his nominee. Joint a/c with sl. no. 16. BR* with sl. no. 6, 8, 9, 19, 22, 30, 31.	With sl. no. 16, 19, 30.	With sl. no. 16, 12.	21.Nareshbhai Devabhai Patel	sl. no. 21 is the client of Samir Shah, who has off market transfer with Amar Premchand Walmiki and who in turn has off market transfer with sl. no. 16.		
6.Bipin Jayant Thaker	Same Tel. no. with sl. no. 16. BR* with sl. no. 5, 8, 9, 16, 19, 22, 30, 31,	With sl. no. 16.	With sl. no. 8, 16, 19, 22.	22.Hemant Madhusudan Sheth	Sl. no. 16 & 22 both directors of Rajnandi Yarns Pvt. Ltd. Same email with sl. no. 31. BR* with 2, 5, 19, 30, 31, 6, 8, 9, & sl. no. 28 is his wife & sl. no. 29 is his nephew.	With sl. no. 16, 19, 9.	With sl. no. 16, 19, 9, 28, 30, 31, 6, 26.
7.Navneetlal Jeevanlal Gandhi	Sl. no. 26 introduced him for trading a/c.		With sl. no. 4, 11, 20, 21, 24,	23.Ashokkumar Bhikhhalal Parmar	Sl. no. 11 introduced him for trading a/c. He knows sl.no. 11 who is a stock broker. Sl. No.	With sl. no. 26, 11,	With sl. no. 11, 25, 26,
8.Chirag Rajnikant Jariwala	Same Tel. no. with sl.no.16. Sl. no. 16 is his uncle. BR* with sl. no. 5, 6, 9, 16, 22, 30, 31.	With sl. no. 16, 22.	With sl. no. 6	24.Manisha Navneetlal Gandhi	Sl. No. 4 has off market transactions with sl. No. 16 & has fund movement with sl. No. 26.		With sl. no. 4, 11, 7,
9.Kishore Chauhan	Join a/c with sl. no. 16 Sl. no. 16 & 22 are witness for demat a/c. BR* with sl. no. 5, 6, 8, 16, 19, 22, 30.	With sl. no. 16, 19, 22.	With sl. no. 16, 19, 22, 31.	25.Pandya Yaminiben M	Same address with sl. No. 26. Knows sl. No. 11 & sl. No. 26 is his relative.	With sl. no. 26, 11, 31,	With sl. no. 11, 23, 26,
10.Manish Suresh Joshi				26.Pandya Hardik M	Having common Tel. no. with sl. no. 11. Sl. No. 11 is the promoter of Samir Shah & Co. and sl. No. 26 is one of its employees. Knows sl. No. 11 & sl. No. 25 is his relative.	With sl. no. 12, 18, 4, 11, 17, 25,	With sl. no. 11, 23, 25, 16, 22.
11.Samir Sureshbhai Shah	Sl. No. 7 is his father. Sl. no. 6, 13, 14, 21, 23, 25, 24 are his clients. Sl. No. 4, 12, 15, 26, 17, are Paras Chaplot friend. He came in touch with Paras Chaplot as a stock broker.		With sl. no. 4, 7, 14, 21, 23, 24, 25, 26, 27,	27.Bharatkumar Baldevbhai Parmar	Having common Tel. no. with Rameshbhai Parmar.		With sl. no. 4, 11.
12.Manoj Bhandari		With sl. no. 4, 11, 26.	With sl. no. 4, 5, 16, 30, 9,	28.Mala Hemant Sheth	Sl. no. 28 is the wife of sl. no. 22 and sl. no. 29 is the nephew.	With sl. no. 16, 19.	With sl. no. 22.
13.Jignesh C. Shah	Sl. no. 26 introduced him for trading a/c.			29.Gaurang Ajit Seth	Has common address & Tel. no. with sl. no. 22. & sl. no.		

Client Name	KYC Relation	Fund Movement	Share movement through off market	Client Name	KYC Relation	Fund Movement	Share movement through off market
	Sl. No. 26 has off market transactions with sl. No. 16 & 22.				22 and 16 both directors of Rajnandi Yarns Pvt. Ltd.		
14. Shalin Kiritkumar Parikh	Sl. no. 11 introduced him for trading a/c and sl. No. 11 has off market transactions with sl. No. 4 & sl. No. 4 has off market transactions with sl. No. 16.		With sl. no. 11	30. Ankit Sanchaniya	Same Tel. no. with sl. no. 19 and also shares Tel. no. with sl. no. 16 who is the nominee for his a/c. BR* with sl. no.5, 6, 8, 9, 16, 19, 22, 31.	With sl. no. 16, 19.	With sl. no. 16, 19, 22, 8, 31.
15. Bipinkumar Gandhi			With sl. no. 16.	31. Vivek Kishanpal Samant	Sl. no. 16 is the brother in law & shares common Tel. no. & sl.no. 16 is the nominee of sl. no. 31 for trading a/c & bank a/c. Shares email with sl. no. 22. Shares email with sl. no. 19.	With sl. no. 22.	With sl. no. 16, 22, 8, 9, 19, 30.
16. Bhavesh Pabari	Sl. no. 5 is his uncle & sl. no. 31 is his brother in law. Sl. no. 19 is cousin of sl. no.16 Sl. no. 16 & 22 both directors of Rajnandi Yarns Pvt. Ltd. Share common Tel. no. with sl. no. 30, 31, 6. Sl. no. 2 introduced him for trading a/c. BR* with sl. no. 6, 8, 9, 19, 22, 28, 30.		With sl. no. 4, 12, 25, 19, 22, 5, 6, 30, 31, 15.				

*BR - Business relation.

- d) From the examination of the material collected, it is noticed that the Pabari-Parikh group had indulged in off-market transfer of 23,37,086 shares of Gemstone amongst themselves during the period January 01, 2009 and January 31, 2011. These off-market transfers among the group further establishes the connection between the group.
- e) It was observed that during the investigation period the 31 Pabari-Parikh Group entities, out of their total purchase and sale of 19,67,956 shares and 34,24,824 shares, respectively, traded for 12,41,518 shares (25.03% of the market volume) accounting for 63.09 % of the total purchase of the group and 36.25 % of the total sale of the group within Pabari-Parikh Group entities and 25.03% of the market volume from within the group entities.
- f) It was observed that out of the total trading of 12,41,518 shares within the group entities, for 2,56,661 shares accounting for 5.17% of the market volume the buy and sale orders were placed within one minute time difference. It was noted that 2,56,661 shares constituted 13.04% of the total purchase of Pabari-Parikh Group entities and 7.49% of the total sale of the Pabari-Parikh Group entities. Out of 2,56,661 shares, in the case of 84,749 shares accounting for 1.71% of the total market volume, the buy and sale orders were placed in synchronised manner (i.e. difference between placement of order by buyer and seller within one minute and order rate as well as

order quantity of buy side and sale side being same). It was noted that 84,749 shares constituted 4.31% of the total purchase of Pabari-Parikh Group entities and 2.47% of the total sale of the Pabari-Parikh Group entities.

- g) It was observed from the Price volume data that the scrip was traded on 226 trading days. Out of 226 trading days, the group entities traded among themselves on 90 days, i.e. 25% of the total number of days the scrip was traded during the relevant period under investigation. It was observed that the Pabari-Parikh Group entities contributed 100% to the daily market volume on January 06, 2009 and February 12, 2009. Further, it was observed that the Pabari-Parikh Group entities contribution to daily market volume ranging from 0.09% on April 09, 2009 to 99.61% on July 23, 2009. It is therefore alleged that out of 90 trading days the Pabari-Parikh Group entities traded among themselves, on 44 trading days and thereby contributed more than 50% of the total market volume.
- h) Out of the 90 Pabari-Parikh Group trading days, on 40 trading days both buy and sell orders were placed within time difference of one minutes. The Pabari-Parikh Group entities contribution to daily market volume ranging from 0.06% on February 26, 2009 to 94.89% on April 23, 2009. It is also alleged that out of 40 trading days, on 7 trading days Pabari-Parikh Group entities contributed for more than 50% of the total market volume by placing both buy and sale order within one minute time difference.
- i) Further, it was observed that out of 40 trading days, on 13 trading days the trades executed by the Pabari-Parikh Group entities were synchronised in nature. By executing synchronised trades among the group entities, Pabari-Parikh Group entities contributed to total market volume ranging from 1.90% on April 02, 2009 to 82.84% on May 27, 2009. On four trading days by entering into synchronised trading the group entities contributed more than 50% of the market volume.
- j) In view of the above, it is alleged that that the Pabari-Parikh Group entities indulged in trading among themselves by way of executing synchronised trades resulting in no change of beneficial ownership and thereby, created artificial volume in the scrip of GIL which gave a false and misleading appearance of trading in the scrip on the exchange. It is further alleged that Bhabesh Prakash Pabari, Prem Mohanlal Parikh, Hemant Madhusudan Sheth, and Vivek Kishanpal Samant indulged in self trades which contributed to the creation of artificial volumes in the scrip of SIL and therefore, allegedly violated provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) (b) (e) & (g) of the PFUTP Regulations.

6. The Hon'ble SAT vide order dated March 18, 2016, set aside the AO order, with respect to the Noticee and restored the matter to the file of AO, in the light of the Judgment of the Hon'ble Supreme court dated November 26, 2015, in the case of SEBI vs. Roofit Industries Limited. Thereafter, in view of the change in AO, the Noticee was granted an opportunity of personal hearing on December 19, 2019, vide hearing notice dated December 06, 2019, in the interest of natural justice. The

hearing notice, which was sent through SPAD at the last known address of the Noticee returned undelivered. Thereafter, the Noticee was granted an opportunity of personal hearing on February 11, 2020 vide hearing notice dated January 17, 2020. However, neither the notice could be hand delivered nor it could be affixed at the last known address of the Noticee.

7. In the interest of natural justice, another opportunity of personal hearing was given to the Noticee on April 20, 2020 vide newspaper publication. Accordingly, an intimation of the same was published in Times of India Mumbai edition on March 25, 2020, Nav Bharat, Mumbai edition on March 25, 2020 and Maharashtra Times, Mumbai edition on March 25, 2020. Due to the countrywide lockdown imposed during the period, a further opportunity of personal hearing had to be given to the Noticee. Hence, a hearing was scheduled on October 5, 2020 vide newspaper publication. An intimation of the same was published in the Times of India, Mumbai edition on September 12, 2020 and Maharashtra Times, Mumbai edition on September 12, 2020. It was also mentioned in the newspaper publication that the Noticee may make submission in respect of the SCN on or before the date of hearing. However, the Noticee neither availed any opportunity of hearing nor made any submission in the matter before the undersigned. However, I note that the Noticee, vide letter dated August 21, 2014, *inter alia* made the following submissions before the erstwhile AO, in the previous proceedings:

- i. *It was alleged in the SCN that I have violated provisions of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a), (b), (e) and (g) of PFUTP Regulations. It was never explained to me that how I have violated the said Regulations. I am in complete dark about the allegation made against me in the SCN.*
- ii. *It was nowhere explained in the SCN that how the group named Pabari-Parikh group. I deny and refute that I belong or connected to any of the purported Pabari-Parikh group.*
- iii. *It is further submitted that I have not executed any off market transaction in the scrip of GIL with any entities or person during the Investigation Period.*
- iv. *It is further submitted that in Para no. 8 it was alleged that I had executed synchronized trades in the scrip of GIL. It was alleged that 11300 shares from buy side and 14000 shares from the sell side trades were synchronized trades. I say and submit that it is an admitted position that synchronized trades are per se not*

illegal.

- v. *It is further submitted that my various trades were remain pending from 30 minutes to 5 hours before execution. Only few trades (3-4 trades) were remained pending below one minute.*
- vi. *It is further submitted that my trades executed in the scrip of GIL are genuine and transfer of beneficial ownership were changed. However, it is to be noted that I have not been provided complete trade and order log but provided only selected trade and order log which suits to the Investigation Department, SEBI. But it can be seen from the trade and order log which was provided to me that transfer of beneficial ownership were happen.*
- vii. *I have not executed any self trades in the scrip of GIL.*
- viii. *My trades were in the price range of Rs. 22 to Rs. 25 except one trade of Rs. 28. I have not executed any trades after 21/04/2009. I have executed only on 12 days out of 226 trading days on Investigation.*
- ix. *I may have direct/ indirect connection with other entities but it does not make me liable for violation of SEBI FUTP Regulation. It is observed by the Hon'ble SAT in the matter of Jatin Shah in AppealNo. 16 of 2010 and appeal no 114 of 2012 dated 27.08.2013 in the matter of HB Stockholdings Limited that holding shares and being connected with the Promoters of the Company is again not an irregularity much less an illegality. However not a single document/ material has been provided to me about my connection with the purported Pabari-Parikh group. This is against the principle of natural justice.*

CONSIDERATION OF EVIDENCE AND FINDINGS

8. I have perused the written submissions of the Noticee filed before the erstwhile AO, in the previous proceedings and the documents available on record. The issues that arise for consideration in the present case are :
- a) Whether the Noticee has violated Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a), (b), (e) & (g) of PFUTP Regulations by indulging in manipulative trades.
 - b) Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act?
 - c) If yes, what should be the quantum of penalty?
9. Before moving forward, it is pertinent to refer to the relevant provisions of the PFUTP Regulations read as under:

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 fraudulent or an unfair trade practice in securities.

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

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

(b) dealing in a security not intended to effect transfer of beneficial ownership but intended to operate only as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gain or avoidance of loss;

(c).....

(d).....

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

(g) entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security;

10. The Hon'ble SAT, remanded the AO order citing the judgment of the Hon'ble Supreme court dated November 26, 2015, in the case of SEBI vs. Roofit Industries Limited. I find it pertinent to note that subsequent to the remand of the AO order, the issue involved in Roofit case was differently interpreted in case of SEBI Vs. Bhavesh Pabari (decided on February 28, 2019) by the Hon'ble Supreme Court of India. In the meantime, as per "The Finance Act 2017" (Notified for Part VIII of Chapters VI came into effect from April 26, 2017) the following has been *inter – alia* clarified in respect of adjudication under SEBI Act-

147. In section 15J of the principal Act, the following Explanation shall be inserted, namely:

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"Explanation-

For the removal of the doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under section 15A to 15E and 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.”

In view of the above, I find it appropriate to proceed in the matter.

11. The first issue for consideration is whether the Noticee has violated provisions of Regulation 3(a), (b), (c), (d) and Regulation 4(1) & 4(2)(a), (b), (e) and (g) of PFUTP Regulations. On consideration of the SCN, its annexure and other material available on record, I observe that a Group of thirty one (31) entities (hereinafter collectively referred to as the '**PPG entities**') including the Noticee, in collusion with each other, had traded heavily in the scrip of Gemstone during the period January 06, 2009 to December 30, 2009.

12. I note from the SCN that the Noticee is alleged to be connected to the PPG entities on the basis of fund transfers with Mr. Prem Mohanlal Parikh, Mr. Hardik M Pandya and Mr. Amar Premchand Walmiki. In this regard, I note from the bank account statement (Axis Bank Account No. 004010200983075) of the Noticee available on record that the Noticee had transferred Rs. 2,00,000/- on March 3, 2009 and Rs. 20,00,000/- on March 26, 2009 to Amar Premchand Walmiki. Further from another bank account statement (Bank of India Account No. 000120110000230) of the Noticee, it is observed that on October 15, 2009, the Noticee had transferred Rs. 9,50,000/- to Mr. Amar Premchand Walmiki. From the material available on record, I do not find any funds being transferred to or from accounts of Mr. Prem Mohanlal Parikh and Mr. Hardik M Pandya. In the absence of the same, I conclude that the Noticee had transferred funds only with Mr. Amar Premchand Walmiki.

13. I note from the available records that the Noticee, in collusion with the other PPG entities, is alleged to have contributed to the creation of artificial volume in the scrip of Gemstone during the Investigation period. I observe that out of 226 days on which the scrip of Gemstone was traded during the investigation period, the trades amongst PPG entities were executed on 90 days, i.e., 39.82% of the total number of days the scrip was traded during the investigation

period. Further, the PPG entities purchased 19,67,956 shares accounting for 39.67% of the total volume traded during the investigation period and sold 34,24,824 shares accounting for 69.05% of the total volume traded during the investigation period. Further, 31 PPG entities including the Noticee, had traded 12,41,518 shares (25.03% of the market volume) within PPG entities which accounts for 63.09% of the total purchase of the group and 36.25% of the total sale of the group. Thus, I find that the PPG entities contributed significant volume in the scrip of Gemstone during the investigation period.

14. I observe from the available records and the trade log, that the Noticee and other PPG entities have executed the following trades, in the scrip during the investigation period:

Table – 4

Sr. No.	Client Name	Total Buy (Market)	Percentage of Market Volume	Buy amongst Group	Total Sell (Market)	Percentage of Market Volume	Sell amongst Group
1	Rajesh Pravin Bhanushali	0	0.00	0	118700	2.39	30553
2	Bhupesh Harishchandra Rathod	5555	0.11	5403	148990	3.00	51451
3	Spectrum Chemicals Pvt. Ltd. (Praveen Venugopal)	0	0.00	0	10000	0.20	10000
4	Amar Premchand Walmiki	40900	0.82	39900	74148	1.49	33848
5	Bharat Shantilal Thakkar	10500	0.21	6950	85387	1.72	18674
6	Bipin Jayant Thaker	52890	1.07	27900	43450	0.88	12000
7	Navaneetal Jeevanlal Gandhi	5000	0.10	5000	5000	0.10	0
8	Chirag Rajnikant Jariwala	19550	0.39	19550	19550	0.39	0
9	Kishorbhai Balubhai Chauhan	52200	1.05	44800	92050	1.86	34125
10	Manish Suresh Joshi	0	0.00	0	31416	0.63	20000
11	Samir Sureshchandra Shah	28005	0.56	27635	28005	0.56	0
12	Manoj B Bhandari	119000	2.40	103900	14000	0.28	14000
13	Jignesh Chandrakant Shah	5000	0.10	5000	5000	0.10	0
14	Shalin Kiritkumar Parikh	2000	0.04	2000	2000	0.04	0
15	Bipinkumar Ramniklal Gandhi	535	0.01	0	56833	1.15	24250
16	Bhavesh Prakash Pabari	395464	7.97	203164	683133	13.77	239193
17	Anand Kalu Rapu Marathe	53300	1.07	50300	10699	0.22	10699
18	Rekha Bhandari	31191	0.63	30440	30433	0.61	11463
19	Prem Mohanlal Parikh	449439	9.06	257866	554399	11.18	211785
20	Devendra Suresh Gupta	4000	0.08	4000	5484	0.11	5484
21	Nareshbhai D Patel	10000	0.20	9998	10000	0.20	0
22	Hemant Madhusudan Sheth	143503	2.89	60179	612700	12.35	236406
23	Ashokkumar Bhikhalal Parmar	9000	0.18	8997	9026	0.18	0
24	Manishaben Navneetal Gandhi	61495	1.24	61495	61495	1.24	31995
25	Yaminiben Maheshbhai Pandya	4101	0.08	4000	4000	0.08	0
26	Pandya Hardik M	44007	0.89	44000	14000	0.28	14000
27	Bharatkumar Baldevbhai Parmar	22000	0.44	22000	22000	0.44	14725
28	Mala Hemant Sheth	72566	1.46	15742	265721	5.36	85741
29	Gaurang Ajit Sheth	16965	0.34	5829	18063	0.36	7593
30	Ankit Rajendre Sanchaniya	279790	5.64	168802	373142	7.52	108033
31	Vivek Kishanpal Samant	30000	0.60	6668	16000	0.32	15500

Total	1967956	39.67	1241518	3424824	69.05	1241518
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15. I note from the available records that the Noticee has bought & sold 53,300 & 10,699 shares respectively, which contributed 1.07% & 0.22%, respectively, of the total market volume in the scrip of Gemstone. The Noticee's buy & sell quantity within the PPG entities, in the scrip, was 50,300 & 10,699 shares, respectively, among the PPG entities. From the above, I find that the Noticee, by trading amongst the PPG entities, has contributed to the volume in the scrip of Gemstone.

16. In view of the above, I conclude that the Noticee being part of the PPG entities, having executed trades in the investigation period, involving no change in beneficial ownership, has indulged in trading among the group entities. I find that the trading of the Noticee has also contributed to the creation of artificial volume and such trading is fraudulent in nature. Therefore, I find that the dealings of the Noticee are manipulative and therefore, the charges leveled against him in the SCN regarding the contravention of the provisions of Regulations 3(a), (b), (c), (d) and Regulations 4(1), 4(2)(a), (b), (g) of PFUTP Regulations stand established.

17. I find from the investigation report that the buy order rate at which the Noticee placed the orders was close to the best available sell orders and as such the price rise on account of the said trades cannot be attributed to the Noticee. In view of the above, the allegation against the Noticee for violation of the provisions of Regulation 4(2)(e) of the PFUTP Regulations does not stand established.

18. As discussed in paragraph 12 above, of this order, the Noticee is connected to Mr. Amar Premchand Walmiki on the basis of fund transfers between the Noticee and him, a PPG entity. I also note that Mr. Amar Premchand Walmiki is connected to other PPG entities as shown in Table 2 above of this order.

Thus, the connection of the Noticee with the PPG group is established.

19. The Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) held that - *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."*.

20. In view of the above, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of Section 15HA of the SEBI Act, which reads as under:

SEBI Act

Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

21. While determining the quantum of penalty under Section 15HA of the SEBI Act, it is important to consider the relevant factors as stipulated in the Section 15J of the SEBI Act which reads as under:-

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

15J. 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.

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.

22. I note that the available records do not mention the specific profits made by the Noticee or loss suffered by the investors due to volume manipulation committed by the Noticee in the instant case. However, I cannot ignore the gravity of violations involved in the matter. Having established that the Noticee had executed trades and traded within PPG entities through which he contributed to the volume manipulation, in my opinion, such trades are certainly in the nature of causing adverse impact in disturbing the equilibrium of fair market mechanism. I also note that the other PPG entities have contributed significantly to the artificial volume creation by trading among themselves and by indulging in synchronized trades in the scrip during the investigation period. However, the fact that there is considerable delay involved in the matter is also noted.

ORDER

23. Having considered all the facts and circumstances of the case, the material available on record, the submissions made by the Noticee and also the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the AO Rules, I hereby impose a penalty of Rs. 1,00,000/- (Rupees One Lakh only) on the Noticee viz. Shri Anand Kalu Marathe under the provisions of Section 15HA of the SEBI Act. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

24. The Noticee shall remit / pay the said total amount of penalty within 45 days of receipt of this order in either of the way, such as by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link

<https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

25. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD-DRA- II, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C- 7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051" and also to e-mail id:- tad@sebi.gov.in

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

26. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

27. In terms of the provisions of Rule 6 of the Adjudication Rules, copies of this order are being sent to the Noticee, viz., Anand Kalu Marathe and also to the Securities and Exchange Board of India, Mumbai.

Place: Mumbai
Date: October 23, 2020

Dr. ANITHA ANOOP
ADJUDICATING OFFICER