

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
ORDER**

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

**In Re: Securities and Exchange Board of India (Prohibition of Fraudulent and
Unfair Trade Practices Relating to Securities Market) Regulations, 2003**

In respect of:

Sl. No.	Name of the Entity	PAN
1.	Meena Ramniklal Vira	AAIPV0510A
2.	Anish Pravin Bagadia	AAIPB3703H
3.	Anish Pravin Bagadia HUF	AAKHA8817M
4.	Pravin Durlabhji Bagadia HUF	AALHP1297F
5.	Labdhi Enterprises	AACFL1039J
6.	Falguni Ketan Parekh	AABPP7364B
7.	Archana Mukesh Parekh	AGNPP2265K
8.	Mukesh Parekh	AAFPP9715L
9.	Foram Bhavesh Gandhi	BFMPS4035R
10.	Dhimant Himatlal Shah	AAJPS8256P
11.	Rajesh Himmatlal Shah	AAJPS9800P
12.	Sanket Rajeshkumar Shah	CMFPS8479E
13.	Across Broking Pvt Ltd.	AAGCA8645J
14.	Harshal Ramnik Vira	ABTPV5283G

15.	Bhavesh Gandhi	AKBPG4777D
16.	Abhijeet Nandkumar Jain	AAJPF0833B
17.	Ketan Bharat Parekh	AABPP1483F
18.	Rutul Rajeshbhai Shah	EDOPS7385P
19.	Mukesh Jain	ADFPJ8088D
20.	Rahul Doshi	ALCPD0859K

In the matter of Front Running Trading activity of Dealers of Reliance Securities Ltd. and other connected entities

Background

1. Securities and Exchange Board of India's ("SEBI") alert system had generated front running alerts for the months of December 2019 and January 2020 against Ms. Meena Ramniklal Vira, suspected to be front running the trades of Tata Absolute Return Fund, a scheme of Tata AIF, a SEBI registered Alternative Investment Fund ("**Big Client / BC**").
2. Based on the aforesaid alert, SEBI conducted a preliminary examination for the period December 1, 2019 to April 15, 2020 ("**Examination Period**") to look into the possible violations of provisions of Securities and Exchange Board of India Act, 1992 ("**SEBI Act**") and various regulations framed thereunder including SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("**PFUTP Regulations**") by certain connected entities including Ms. Meena Ramniklal Vira.

SEBI's Examination

3. SEBI's preliminary examination brought out the following:
 - 3.1. It is observed that around 99% of trades of the Big Client in value terms were executed through their broker, Reliance Securities Ltd. ("**RSL**"). At RSL, the Big Client was placing orders through the following 3 Dealers namely, Mr. Harshal

Ramnik Vira (Chief Dealer of RSL), Mr. Bhavesh Gandhi (Senior Dealer of RSL) and Mr. Abhijeet Nandkumar Jain (Deputy Dealer of RSL).

3.2. Certain entities connected with the aforesaid Dealers of RSL were *prima facie* observed to have traded depending on the impending orders of the Big Client on numerous occasions during different time periods during the Examination Period. Subsequently, these connected entities squared off their positions when the orders of the Big Client were placed in the market. Thus, they were able to generate substantial proceeds for themselves by placing orders in anticipation of the price movement of scrips on account of large buy / sell orders of the Big Client.

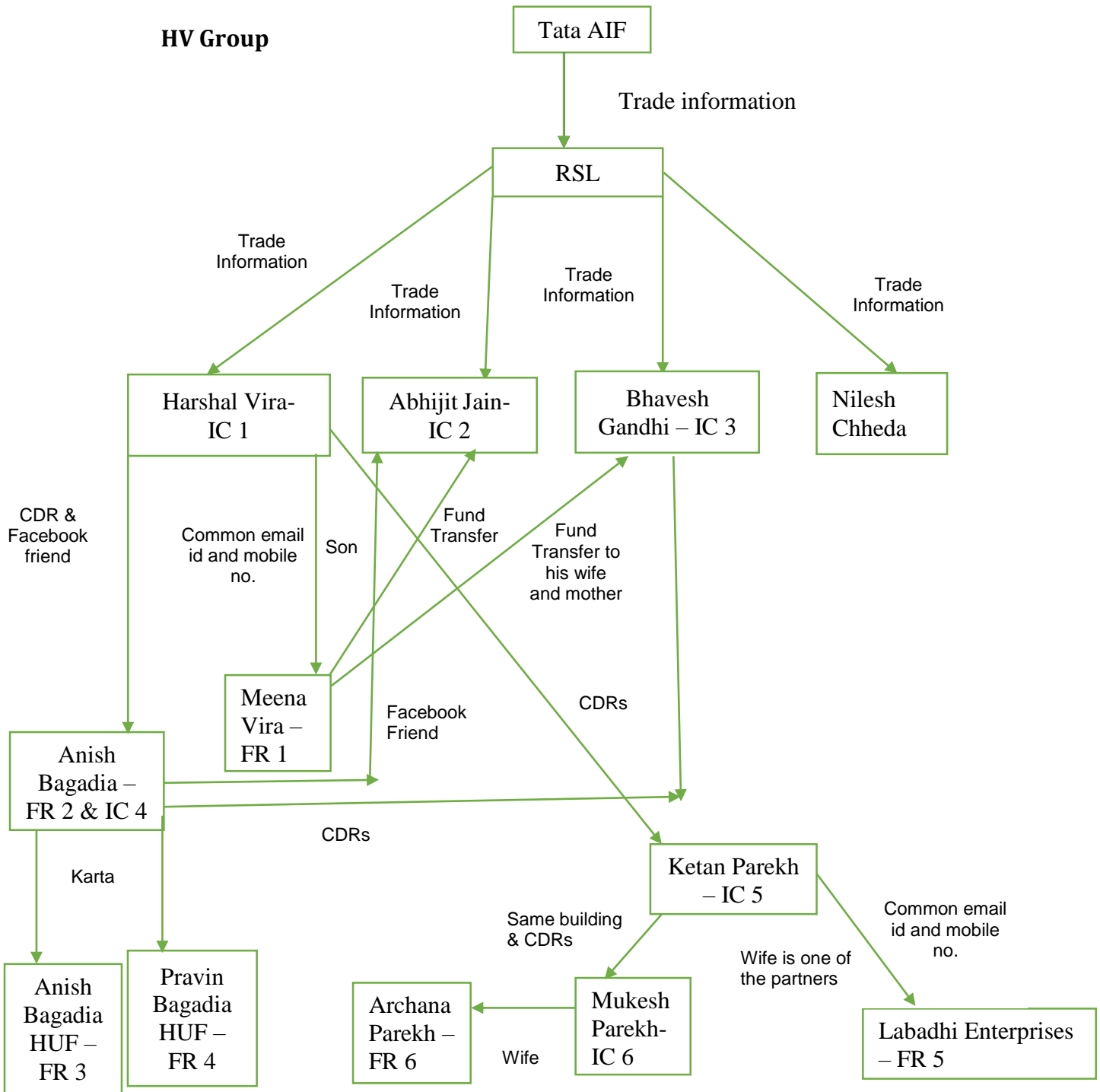
Interim Order

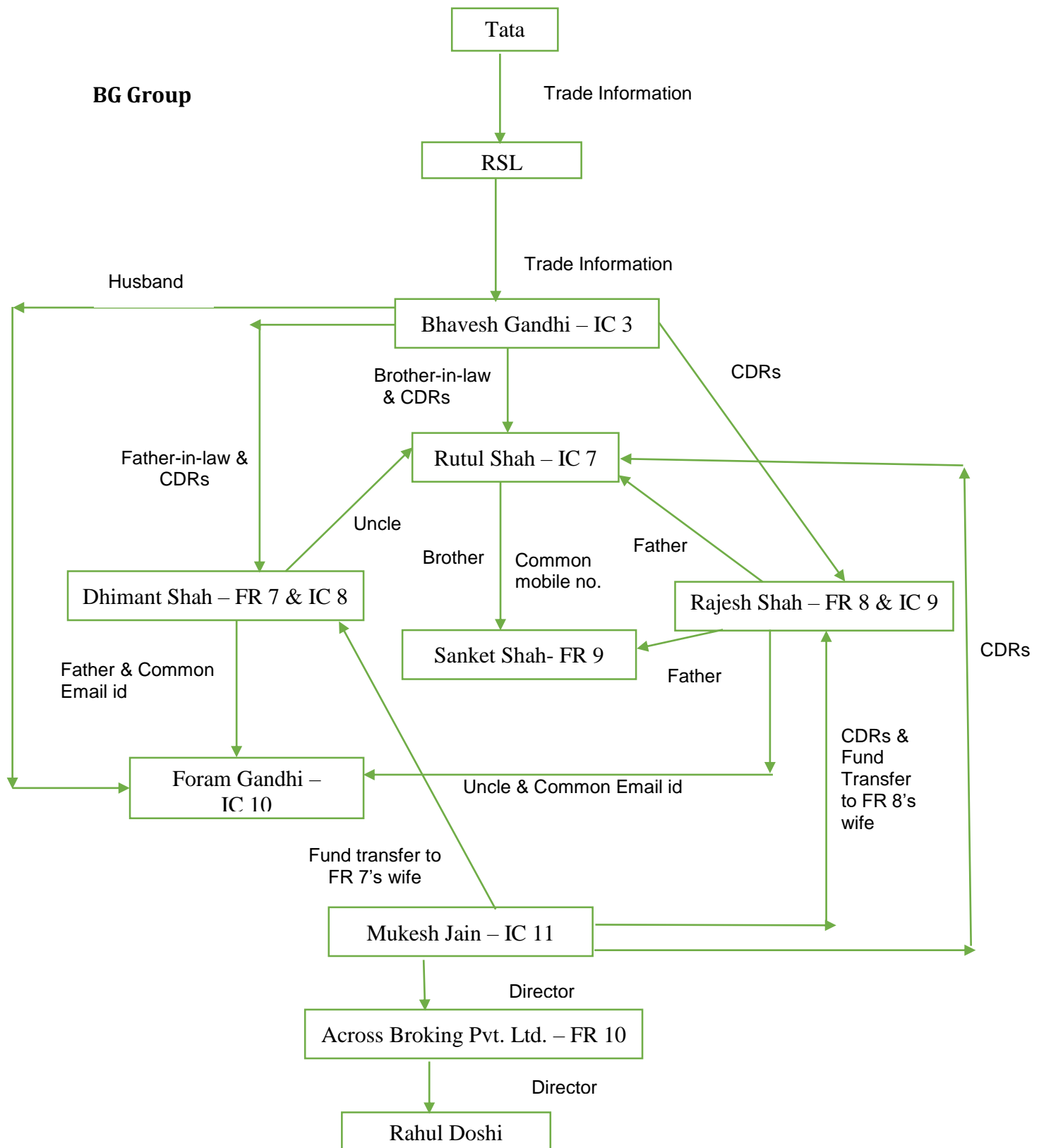
4. In light of the aforesaid findings of the examination, an interim order dated August 7, 2020 (“**Interim Order**”) was passed by SEBI *inter alia* against Mr. Harshal Vira, Mr. Bhavesh Gandhi, Mr. Abhijeet Jain, Mr. Ketan Parekh, Mr. Anish Bagadia, Mr. Mukesh Parekh, Mr. Rutul Shah, Mr. Mukesh Jain, Ms. Meena Ramniklal Vira, Anish Pravin Bagadia HUF, Pravin Durlabhji Bagadia HUF, Ms. Falguni Ketan Parekh, Ms. Foram Bhavesh Gandhi, Mr. Dhimant Himatlal Shah, Mr. Rajesh Himmatlal Shah, Mr. Sanket Rajeshkumar Shah, Ms. Archana Mukesh Parekh, Mr. Rahul Doshi, Labdhi Enterprises and Across Broking Pvt. Ltd. (collectively referred to as “**Noticees**”). The interim order against the Noticees was passed taking into account the facts and circumstances described therein, which are, *inter alia*, summarised as under:

4.1. Mr. Harshal Vira, Mr. Bhavesh Gandhi and Mr. Abhijeet Jain were privy to information with respect to the impending orders of the Big Client as they were the Dealers on behalf of the Big Client for its trades. Thus, they were in possession of information of the impending trades of the Big Client which was not available in the public domain.

4.2. Based on KYC details, Call Data Records (“**CDRs**”), social media posts and bank statements of the Noticees, the Noticees involved in the extant matter were broadly classified under two distinct groups, namely Harshal Vira Group (“**HV**

Group”) and Bhavesh Gandhi Group (“BG Group”). Mr. Bhavesh Gandhi being common to both the groups. The same is depicted pictorially, as under:





- 4.3. The trading pattern of the trades executed from the trading account of the Noticees, except the Noticees who were only information carriers (“IC”) belonging to both the groups was analysed and it showed that the trades executed from the trading account of the Noticees, except the Noticees who were only ICs, have followed a Buy-Buy-Sell (“BBS”) pattern or Sell-Sell-Buy (“SSB”) pattern around the orders of the Big Client which, as noted from their order log trade log, was done consistently during the Examination Period.
- 4.4. Based on the cumulative effect of various related facts like pre-examination period trading activity of the Noticees, except the Noticees who were only ICs, common scrip days / contract days with the Big Client and proceeds generated by Noticee’s trades during the Examination period along with the trading pattern of the Noticees, except the Noticees who were only ICs, it was *prima facie* concluded that the trades executed from the trading account of the Noticees, except the Noticees who were only ICs, in the equity derivative segment of the market had ‘front run’ the orders of the Big Client.
- 4.5. It was *prima facie* observed that the registered owners of the trading accounts are *prima facie* liable for the fraudulent trades. However, it was noted that there are other individuals who have also *prima facie* played an active role in the execution of the *prima facie* front running trades from the trading accounts of the Noticees who were front runners. These Noticees were Mr. Harshal Vira, Mr. Bhavesh Gandhi, Mr. Abhijeet Jain, Mr. Anish Bagadia, Ms. Falguni Ketan Parekh, Mr. Ketan Parekh, Mr. Mukesh Parekh, Mr. Rutul Shah, Ms. Foram Bhavesh Gandhi, Mr. Mukesh Jain and Mr. Rahul Doshi. It was *prima facie* held that on the basis of connection among the aforesaid Noticees and the front runners, access to the information and trading account and fund transfer amongst them, the orders placed in the trading account of front runners, were placed in nexus with one or more Noticees mentioned above. Therefore, the aforementioned Noticees were *prima facie* responsible for the trades executed from the trading account of the front runners.

4.6. It was *prima facie* observed that a scheme was employed by the connected entities belonging to the HV Group and BG Group, to 'front run' the order of the Big Client. It was further, *prima facie* held that the aforesaid Noticees have violated regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations.

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

Table 1

Trading Account	Name of the Noticees	Proceeds of front running trades (Rs. in lakh)
FR 1	Meena Ramniklal Vira, Harshal Vira, Bhavesh Gandhi and Abhijeet Jain.	75.00
FR 2	Anish Bagadia, Harshal Vira and Bhavesh Gandhi.	3.89
FR 3	Anish Pravin Bagadia HUF, Anish Bagadia, Harshal Vira and Bhavesh Gandhi.	2.55
FR 4	Pravin Durlabhji Bagadia HUF, Anish Bagadia, Harshal Vira and Bhavesh Gandhi.	3.93
FR 5	Labdhi Enterprises, Falguni Ketan Parekh, Ketan Parekh and Harshal Vira.	16.97
FR 6	Archana Mukesh Parekh, Mukesh Parekh, Ketan Parekh and Harshal Vira.	66.00
FR 7	Dhimant Himatlal Shah, Rutul Shah, Bhavesh Gandhi and Foram Bhavesh Gandhi.	139.51
FR 8	Rajesh Himmatlal Shah, Rutul Shah, Bhavesh Gandhi and Foram Bhavesh Gandhi.	14.64
FR 9	Sanket Rajeshkumar Shah, Rutul Shah and Bhavesh Gandhi	4.30
FR 10	ABPL, Mukesh Jain, Rahul Doshi, Bhavesh Gandhi, Rutul Shah and Rajesh Himmatlal Shah.	122.35
Total		449.14

- 4.8. Based on the aforesaid findings, certain directions were issued against the Noticees vide the interim order which *inter alia* were as follows:
- 4.8.1. The Noticees were restrained from buying, selling or dealing in the securities market or associating themselves with securities market, either directly or indirectly, in any manner whatsoever till further directions.
 - 4.8.2. The Noticees were directed to cease and desist from undertaking any activity in the securities market, directly or indirectly, in any manner whatsoever till further directions.
 - 4.8.3. The bank accounts of the Noticees mentioned in the table 1 to the extent of amount mentioned therein is impounded. Further, the said Noticees are directed to open an escrow account with a nationalised bank, jointly and severally and deposit the impounded mentioned therein which has been *prima facie* found to be proceeds generated from the *prima facie* front running trades, in the Order, within 15 days from the date of service of the Order. The Noticees shall jointly and severally so deposit the proceeds. The escrow account/s shall be an interest bearing escrow account and shall create a lien in favour of SEBI. Further, the monies kept therein shall not be released without permission from SEBI.
5. Vide the aforesaid interim order, the Noticees were advised to submit their replies, if any, within 21 days from the service of the interim order and they were also advised to indicate whether they desire to avail an opportunity of hearing on a date and time to be fixed on a specific request to be made in that regard.

Service of interim order, reply and hearing

6. The interim order was served on the Noticees vide email dated August 10, 2020. Pursuant to the interim order, all the Noticees except Mr. Dhimant Himatlal Shah, Mr. Rutul Shah, Mr. Bhavesh Gandhi and Ms. Foram Bhavesh Gandhi, opened an escrow

account and deposited the entire *prima facie* proceeds generated from the front running trades as directed in the interim order. The aforesaid four Noticees who were *prima facie* responsible for the front running trades executed from the trading account of Mr. Dhimant Himatlal Shah, deposited Rs. 81,03,366.47/- instead of Rs. 139.51 lakh. Further, except Labdhi Enterprise and Ms. Foram Bhavesh Gandhi, the other Noticees also declared their assets to SEBI.

7. The following Noticees submitted a reply:

7.1. Mr. Abhijeet Jain vide his letter dated August 24, 2020 *inter alia* stated as follows:

7.1.1. He had taken a loan from Mr. Harshal Vira for 6-7 months to purchase a land nearby his hometown in Vashim. Mr. Harshal Vira agreed to give him Rs. 12 lakh from his mother's account as he informed him that he does not have sufficient funds in his bank account.

7.1.2. Since the land deal did not work out, he returned the money to Mr. Harshal Vira's mother through cheque on May 30, 2020.

7.1.3. He knows Mr. Anish Bagadia as he had opened a broking account with LFC Securities Pvt. Ltd. ("**LFC**") for the purpose of IPO. The said account is inactive since last 7-8 years.

7.2. Ms. Foram Gandhi vide her emails dated September 4, 2020 and October 12, 2020 *inter alia* stated as follows:

7.2.1. She has not traded in a single share in any of the scrips mentioned in the interim order. Her name has come up in the interim order purely on account of being wife of Mr. Bhavesh Gandhi and no further.

7.2.2. Please note that the email address is not owned or used by her at all. The email address has been created by her uncle many years back and out of sentimental reasons and out of natural love and affection for her being his niece, he has used her name, which is

very common in India. It is used by him for his own purposes, and she has no access to it or use of it.

7.3. Mr. Rahul Doshi vide his letter dated October 8, 2020 *inter alia* stated as follows:

7.3.1. He is a Chartered Accountant and is associated with ABPL in a professional capacity. His role in ABPL *inter alia* includes managing accounts and compliance functions, managing back office, prepare and provide data related to TDS and GST and coordinate with auditors / CA of ABPL.

7.3.2. The fund transactions with Mr. Mukesh Jain were part of loan transaction for the loan taken by him which is outstanding since 2 years. He is yet to repay him Rs. 26 lakh.

7.3.3. With respect to the allegation that he did not raise red flag when investment in the equity segment was suddenly stopped, it is submitted that there were only 20 transactions in 14 stocks during the entire financial year 2019-20. Prior to the examination period, ABPL had sold half its investments on account of Covid scenario and falling market sentiments.

7.3.4. Considering his role was to take care of back office functions and a Promoter-Director was managing intra-day trading activity of ABPL, the allegation that he did not raise red flags for the profits made in intra-day trading activities, is unwarranted. He is not privy to the proprietary trading decisions taken by ABPL.

7.4. Across Broking Pvt. Ltd. (“**ABPL**”) and Mr. Mukesh Jain vide letter dated November 7, 2020 submitted a common reply wherein *inter alia* they stated as follows:

7.4.1. ABPL is a trading member of NSE since February 25, 2014. It has a very large turnover and the alleged turnover is a small portion (9.34% - 16.05%) of its overall turnover.

- 7.4.2. As a standard business practice, ABPL enters into a jobbing agreement with all jobbers engaged by it. As per clause 9 of the said agreement, a jobber shall not indulge in any malpractices or any kind of unfair market practices or such other activities that will disturb market equilibrium.
- 7.4.3. Mr. Rajesh Shah had approached the Noticees and claimed to have deep knowledge of jobbing and experience of over 30 years in capital markets, F&O segment. He also had a technical analysis software that gives accurate short term transaction calls based on which the jobbing activity would be carried out. He was therefore, engaged by ABPL as a jobber and trader in the month of March, 2020.
- 7.4.4. Mr. Rajesh Shah never handed back the signed jobbing agreement to ABPL. Mr. Rajesh Shah requested the Noticees to permit him to work from his home with an assurance that he will submit the signed document, post lockdown. However, currently he has turned hostile.
- 7.4.5. The trades were executed by Mr. Rajesh Shah and the rationale for the said trades is known to Mr. Rajesh Shah only. Noticees have no knowledge that Mr. Rajesh Shah was generating calls through unlawful means as due to lockdown, Noticees had no way or manner of knowing about it.
- 7.4.6. The alleged calls between Mr. Mukesh Jain and Mr. Rajesh Shah and Mr. Rutul Shah has no correlation with the transactions mentioned in the interim order. There is nothing on record to establish that Noticees got the information in relation to the trades of the Big Client.
- 7.4.7. None of the calls matched the timings of the alleged trades. In order to establish front running, SEBI is required to provide

details that the calls so happened were placed to facilitate unlawful transactions. Merely the fact of calls being placed cannot amount to the charge of front running.

7.4.8. The fund transactions with Mr. Rahul Doshi were part of loan transaction for the loan extended by Mr. Rahul Doshi to Mr. Mukesh Jain. Relevant bank statements and a copy of ledger have been submitted in support of the submission.

7.4.9. The fund transactions with Ms. Ketna Shah and Ms. Jyoti Shah were part of temporary loan given in the month of April. The amounts were refunded much prior to SEBI's order.

7.5. Mr. Anish Bagadia, Anish Pravin Bagadia HUF and Pravin Durlabhji Bagadia HUF vide letter dated November 7, 2020 submitted a common reply wherein they *inter alia* stated as follows:

7.5.1. The allegation of calls between Mr. Anish Bagadia and Mr. Harshal Vira is completely misplaced. The alleged trades were placed by Mr. Anish Bagadia who regularly trades in the securities market. The trades executed by Mr. Anish Bagadia were not in the nature of front running.

7.5.2. The connection between Mr. Anish Bagadia, Anish Pravin Bagadia HUF and Pravin Durlabhji and Mr. Harshal Vira / Mr. Bhavesh Gandhi is unsubstantiated.

7.6. Ms. Meena Vira vide her letter dated January 14, 2021 *inter alia* stated as follows:

7.6.1. She is a regular trader in the securities market and has been trading for several years. Her son, Mr. Harshal Vira did not have access to her trading account.

7.6.2. There are various other trades also in her trading account other than the trades alleged to be front running the trades of Big Client.

This further substantiates the fact that her trades were independent of the trades of Big Client.

7.6.3. It might be a mere co-incidence that some of her trades were matched with the trades of the Big Client. As the orders of Big Client are usually large in quantity, some trades are bound to match with them.

7.6.4. With respect to the fund transfer from my account to the account of Mr. Abhijeet Jain, Ms. Foram Gandhi and Ms. Damyanti Gandhi, it is submitted that Mr. Abhijeet Jain and Mr. Bhavesh Gandhi are colleagues of her son and they were in requirement of some funds and requested her son to give some temporary loan to them.

7.6.5. She was not privy to any information of the impending orders of the Big Client.

7.7. Mr. Harshal Vira vide his letter dated January 14, 2021 *inter alia* stated as follows:

7.7.1. There is no link or correlation between the alleged trades and CDRs.

7.7.2. There is not complete matching between the trades of the alleged front runners and the Big Client.

7.7.3. He was the Chief Dealer at RSL and Mr. Bhavesh Gandhi and Mr. Abhijeet Jain used to report to him.

7.7.4. None of the alleged trades that have matched with Big Client have been executed from his terminal and therefore no correlation of trades with him can be done. He has not passed any information in his possession to anyone.

7.7.5. There is no denial that he knows Mr. Anish Bagadia but this cannot lead to the inference that he has transmitted nonpublic information of impending orders of Big Client to him.

- 7.7.6. Mr. Ketan Parekh is known to him for some time as he is also in the securities market and being from same field they know each other. However, they used to get in touch or on a call on very few occasions. To the best of his memory, it was not even during market hours.
- 7.7.7. With respect to his access to the trading account of Ms. Meena Vira (his mother), it is submitted that at the time of opening the demat account of his mother, she had no mobile no. or email id because of which she would have given his details in the KYC form. It is submitted that no trades were executed by him through the account of his mother.
- 7.8. Labdhi Enterprises and Ms. Falguni Ketan Parekh ("**FKP**") vide common letter dated January 16, 2021 *inter alia* stated as follows:
- 7.8.1. FKP is in charge of running Labdhi Enterprises, independent of her husband, Mr. Ketan Parekh ("**KP**").
- 7.8.2. The email address and mobile no. associated with Labdhi Enterprises does not belong to KP.
- 7.8.3. Labdhi Enterprises traded for 16 days and 3 calls between KP and HV cannot be correlated to the 16 days of trading. The calls were not made to pass on any information in relation to the alleged front running activity.
- 7.8.4. SEBI's case is based on two facets: KP's access to Labdhi Account and KP's calls with Mr. Harshal Vira. Since both the *prima facie* findings with regard to Labdhi Enterprises are incorrect, it is submitted that FKP and Labdhi Enterprises have not violated provisions of PFUTP Regulations.
- 7.9. KP vide his letter dated January 16, 2021 made submissions on the similar lines as made by Labdhi Enterprises and FKP.

- 7.10. Mr. Dhimant Himatlal Shah vide his letter dated January 19, 2021, *inter alia* made the following submissions:
- 7.10.1. All his trades which coincidentally matched with the trades of the Big client should be taken into account for the purpose of calculation of proceeds generated and should not be limited to only profit generating trades.
 - 7.10.2. Out of 440 instances which were used for the purpose of calculation of proceeds generation, in 54 instances trades were not matching either in the buy side or sale side with the trades of the Big Client. Further, the amount directed to be paid fails to take into account charges such as brokerage, transaction charges, securities transaction tax etc. If the same would have been considered the amount would reduce to Rs. 1,27,53,478.79/-.
 - 7.10.3. SEBI has in its possession various types of information and documents from third parties. It is pertinent to note that inspection has to be provided of the record and not of whether relied on in the interim order to press charges.
 - 7.10.4. He is active in the securities market since 1992 and has no business relationship or professional relationship with Mr. Bhavesh Gandhi or Ms. Forum Gandhi. There exists only family relationship amongst us.
 - 7.10.5. Trades were executed based on his in-house jobbing strategy. No real time red flags were issued at the time of his trading.
 - 7.10.6. The email id provided at the time of opening of account resembles the name of his daughter, Forum but it is wrong to presume and conclude that she has access to it or uses it. The said email id is used by his brother, Mr. Rajesh Himatlal Shah. The email id was created in 2005 which was handled by his brother as he could not handle these technology tools.

- 7.10.7. Ms. Foram Gandhi has a separate and distinct email id i.e., foram2506@gmail.com. Further, there is no bar on use of same email id by more than one client who belong to the same family.
- 7.10.8. Sharing common address with family could never be a basis to allege a connection.
- 7.10.9. The alleged calls cannot be presumed to have been related to share non-public price sensitive information since some of the calls were made on non-trading day and even on a trading day, the calls were made after the market hours.
- 7.10.10. The mobile number 99871116XX was never registered to Mr. Rutul Shah. It belongs to Mr. Sanket Shah. Accordingly, in light of the aforesaid fact, the conclusion that Mr. Rutul Shah was talking to him through that number as a dealer, falls flat.
- 7.10.11. For the trade in CHOLAFIN, he was drawn to the said trade as open interest and volume was continuously rising. His volume was very meagre compared to Big Client. He relies upon multiple sources of information like previous day volume, price, discussions among group of people, information available in print and electronic media etc.
- 7.10.12. Unless communication of non-public information is established, no allegation of front running can be made against him.
- 7.10.13. The increased trading activity is not because of the possession of non-public information but it is due to the opportunity presented by the market and his strategy in jobbing.
- 7.10.14. The fund transaction between his wife, Ms. Jyoti D Shah and Mukesh Jain HUF, is a loan transaction which is normally availed by them from time to time. The said loan was already repaid on June 8, 2020.

7.11. Ms. Foarm Gandhi vide her letter dated January 19, 2021 made submissions on similar lines as made by the Noticee at para 7.10 and *inter alia* made the following submissions:

7.11.1. The fund transaction was a loan given by her husband, BG to his colleague, HV and at that time there was a medical emergency related to her mother-in-law, the loan was returned by HV's mother. The money is still lying in the account as due to Covid the medical treatment was put on hold.

7.11.2. Her uncle, Mr. Rajesh Shah is the proprietor of the firm, Foram Investment and Finance which is in operation since 1992 and the email id, foram2478@yahoo.co.in was created on the firm's name representing the firm. She has no access or connection with the said email id.

7.11.3. Merely being spouse of BG does not tantamount to any connivance or meeting of mind. She is not aware of the trades executed by the other Noticees belonging to the BG Group. It has not been established that except her relationship with her husband, she has received or passed on any information related to the alleged trades.

7.12. Mr. Rutul Shah vide his letter dated January 19, 2021 made submissions on similar lines as made by the Noticee at para 7.10 and *inter alia* made the following submissions:

7.12.1. He is an Authorised Person with trading member, SMC Global Securities Ltd. since last 3 years. He acts as a dealer and punches order as per the instructions of his client.

7.12.2. He does have a trading account but he has not executed any trades from his trading account. He has not received any non-public information.

- 7.13. Mr. Sanket Shah vide his letter dated January 19, 2021 made submissions on similar lines as made by the Noticee at para 7.10 and *inter alia* stated as follows:
- 7.13.1. He is active in securities market for the last 10 years.
- 7.13.2. The mobile number 99871116XX belongs to him and not to his brother, Mr. Rutul Shah.
- 7.13.3. He deals mainly in the equity segment of the market but has recently started jobbing in the derivative segment of the market. No adverse inference can be drawn therefrom. His alleged involvement is only for 2 days whereas the Big Client has traded for 53 days. If he was in possession of non-public information, he would have traded for all 53 days and not for just 2 days.
- 7.14. Mr. Bhavesh Gandhi vide his letter dated January 19, 2021 made submissions on similar lines as made by the Noticees at para 7.10 and 7.11.
- 7.15. Mr. Rajesh Shah vide his letter dated January 19, 2021 made submissions on similar lines as made by the Noticees at para 7.10 and 7.11 and also further stated that his wife, Ms. Ketana Shah had received Rs 5 Lakh on April 8, 2020 and on April 9, 2020 from Mukesh Jain HUF. Mukesh Jain HUF had received Rs 10 lakh from ABPL on April 9, 2020. Thus, the allegation that Mukesh Jain HUF had transferred Rs 5 lakh on April 8, 2020 from the funds received from ABPL, cannot be sustained. Moreover, the interim order is silent on the fact that Mukesh Jain HUF had no other funds to transfer to Ms. Ketana Shah. In any case, bank statement of Mukesh Jain HUF was not provided at the time of inspection and hence placing reliance on them would result in violation of principles of natural justice.
- 7.16. Mr. Mukesh Parekh and Ms. Archana Mukesh Parekh vide their common letter dated February 9, 2021 *inter alia* submitted as follows:

- 7.16.1. Mr. Mukesh Parekh knows KP for the last 20 years as they reside in the same locality and are members of the same committee. Further, Noticees along with Mukesh Parekh HUF have trading accounts with LFC whose Director is KP.
- 7.16.2. In order to offset losses incurred by them, KP introduced Mr. Amar Vira who would ensure profits by undertaking successful trades on their behalf in lieu of a share in the profits (30%) thereof. It was represented to them that Mr. Amar Vira carried out research in relation to the stock market and was adept at giving profitable trading calls.
- 7.16.3. In furtherance of the understanding a letter of authority was executed between the Noticees and Mr. Amar Vira on December 1, 2019. However, after receiving a letter from NSE on February 6, 2020, the authority letter was revoked on February 8, 2020.
- 7.16.4. They were totally unaware of the alleged illegal trading activity in the account of Ms. Archana Mukesh Parekh as no margin call in relation to the said trading account was ever made. Further, they never met Mr. Amar Vira in person or had any communication with him.
- 7.16.5. In the normal course of trading, they receive call confirmation for trades done. However, for the trades undertaken in the said account no confirmation was sought from us.
- 7.16.6. The submission of LFC that orders were placed by Mr. Mukesh Parekh is incorrect. No material has been brought on record viz., phone recordings, record of trade related instructions etc., to substantiate that trade instructions prior to February 10, 2020 was given by Mr. Mukesh Parekh.
- 7.16.7. SEBI's inference emanating from CDRs is fallacious and unwarranted. Mr. Mukesh Parekh and KP are part of same

committee and hence they are in communication with each other. Neither any call recording nor any other material has been brought on record to establish, how the non-public information was allegedly conveyed by KP. Further, certain calls are beyond market hours while some are much prior to the execution of trades.

7.16.8. To support the allegation of front running SEBI has to prove that calls between Mr. Harshal Vira and KP and calls between KP and Mr. Mukesh Parekh, closely matched the timing of the orders placed in the account of Ms. Archana Mukesh Parekh. Supporting CDRS, emails / messages between the Noticees and Mr. Amar Vira also have to be brought on record to show the flow of instructions to execute trades in the trading account of Ms. Archana Mukesh Parekh.

8. The Noticees were granted an opportunity of hearing in the matter as mentioned in the table below:

Table 2

Sl. No.	Name of the Noticees	Date of Hearing
1	Meena Ramniklal Vira, Harshal Vira and Abhijeet Jain.	January 18, 2021
2	ABPL, Mukesh Jain, Rahul Doshi, Ketan Parekh, Labdhi Enterprises, Falguni Ketan Parekh, Anish Pravin Bagadia HUF, Anish Bagadia and Pravin Durlabhji Bagadia HUF.	January 19, 2021
3	Dhimant Himatlal Shah, Rutul Shah, Bhavesh Gandhi, Foram Bhavesh Gandhi, Rajesh Himmatlal Shah and Sanket Rajeshkumar Shah.	January 27, 2021
4	Archana Mukesh Parekh and Mukesh Parekh.	February 9, 2021

9. On the day of scheduled hearing, the authorised representatives (“**ARs**”) of the Noticees reiterated the submissions made by the Noticees in their reply and *inter alia* made the following submissions:

9.1. Mr. Harshal Vira and Ms. Meena Ramniklal Vira

9.1.1. Mr. Harshal Vira is a dealer with RSL for the last 14 years and has been rated Grade 5 in 12 out of the 13 ratings.

9.1.2. He has cordial relationship with Mr. Anish Bagadia and he knows KP for several years now.

9.1.3. Mr. Harshal Vira did not pass on any information pertaining to the trades of the Big Client.

9.1.4. The AR requested that since Mr. Harshal Vira has always worked in the securities market, the direction against him to be not associated with the securities market, may be revoked.

9.1.5. To a question asked at the time of hearing for an explanation for his mother’s trades which had a high coincidence of matching with the trades of the Big Client, the AR stated that Mr. Harshal Vira did not pass any information to his mother with respect to the trades of the Big Client.

9.1.6. The AR stated that details of call data has not been provided to the Noticee. SEBI was instructed accordingly to provide the same to the Noticee.

9.1.7. Mr. Harshal Vira was advised to submit the following information / documents on or before February 5, 2021:

9.1.7.1. Age, qualification and experience of Ms. Meena Ramniklal Vira.

9.1.7.2. What other scrip has Ms. Meena Ramniklal Vira traded during the Examination Period?

9.1.7.3. To provide the reason for the loan given to Mr. Abhijeet Jain and Mr. Bhavesh Gandhi?

- 9.1.7.4. When was the trading account of Ms. Meena Ramniklal Vira opened? The Noticee was further advised to submit an affidavit stating that Ms. Meena Ramniklal Vira did not have a telephone at the time of account opening.
- 9.1.7.5. To furnish the current phone no. of Ms. Meena Ramniklal Vira along with KYC.
- 9.1.7.6. To provide Whatsapp / Telegram (any kind of messaging app) chat between himself and KP.
- 9.1.8. With respect to the question pertaining to Ms. Meena Ramniklal Vira's basis for trade, the AR stated that it was based on her own research.
- 9.1.9. To a question with respect to high level of coincidence between the trades of Ms. Meena Ramniklal Vira and the Big Client, the AR stated that only some of her trades have matched with the Big Client.
- 9.1.10. The AR was advised to submit Ms. Meena Ramniklal Vira's source of income along with her ITR for the last 3 years on or before February 5, 2021.
- 9.2. Mr. Abhijeet Jain on the day of hearing *inter alia* submitted as follows:
- 9.2.1. He had taken the loan to buy a plot of land for a short period on the advice of his sister's husband who is a real estate broker.
- 9.2.2. He had paid an advance of Rs 1.5 lakh out of Rs 30 lakh. Further, he was required to pay Rs 5 lakh but he paid only Rs 3 lakh. Noticee was advised to submit documentary evidence with respect to the advance of Rs 1.5 lakh paid by him on or before January 27, 2021.
- 9.2.3. He cancelled the land deal as the prospects of losing his job due to lockdown was high.

- 9.2.4. He took Rs. 9 lakh from Mr. Harshal Vira as he had to register the plot. However, the deal was cancelled in April. There is no proof of cancellation as the same happened over the phone.
- 9.2.5. Earlier also fund transactions worth Rs 5,000-Rs 10,000 used to take place between him and Mr. Harshal Vira.
- 9.2.6. Mr. Harshal Vira and Mr. Bhavesh Gandhi used to execute trades. He executes trades when they are not present. He did execute some trades of Tata AIF.
- 9.2.7. He knows Mr. Anish Bagadia. Mr. Anish Bagadia used to call the dealing room for general market information.
- 9.2.8. He had approached Mr. Harshal Vira for loan as Mr. Harshal Vira belonged to a wealthy family.
- 9.2.9. His intention was never to buy the plot. Only the booking of the plot was done in his name.
- 9.3. The AR of Mr. Rahul Doshi *inter alia* submitted as follows:
 - 9.3.1. There has been no positive act on the part of the Noticee for the trades executed by ABPL.
 - 9.3.2. The Noticee is not a shareholder in ABPL. He was appointed as an Additional Director, after Mr. Mukesh Jain's wife resigned from ABPL.
 - 9.3.3. Extract of Annual Return 2018-19 and Director's Report for the financial year 2018-19 shows Mr. Mukesh Jain as the Chairman of ABPL.
 - 9.3.4. The entire money in the escrow account has been deposited by Mr. Mukesh Jain.
 - 9.3.5. Because of Covid and subsequent lockdown, ABPL had changed its investment strategy.
 - 9.3.6. Section 27 (2) of SEBI Act makes a Director in his individual capacity, liable for the act of the company if the contravention is

committed with the consent or connivance or is attributable to any neglect on the part of the Director. In the given circumstances, the parameters mentioned under Section 27 (2) of SEBI Act, have not been satisfied.

9.3.7. The fund transfer was with respect to a loan transaction pertaining to the financial year 2019-20. Noticee was advised to submit bank statements showing transfer of the loan amount. The Noticee was further advised to submit his ITR to substantiate that he can give loan to the tune of Rs 59 lakh, on or before January 29, 2021.

9.4. On the day of the scheduled hearing the submissions made by ABPL and Mr. Mukesh Jain *inter alia* are as follows:

9.4.1. They have complied with the directions against them in the interim order.

9.4.2. ABPL has no prior irregularity in the securities market.

9.4.3. Mr. Mukesh Jain has no connection with dealers of RSL.

9.4.4. Flow of information has to be established for sustaining the allegation of front running.

9.4.5. The intra day trades executed by Mr. Rajesh Shah were not alarming as the kind of scrips, positions taken and profits generated were similar to the other trades executed by ABPL.

9.4.6. Due to lockdown the agreement with Mr. Rajesh Shah could not be executed. Subsequently, payment due to him was stopped.

9.4.7. On a request made by Mr. Mukesh Jain, SEBI was instructed to furnish CDRs to him.

9.4.8. The Noticees were advised to submit trading pattern of ABPL showing commonality / identical behaviour vis-à-vis intra day trades executed by Mr. Rajesh Shah, if any, on or before January 29, 2021.

- 9.5. The AR of KP *inter alia* submitted as follows:
- 9.5.1. The KYC form relied upon by SEBI is old and the information has not been updated. The Noticee was advised to submit his explanation as to why his information was furnished at the time of account opening, if he had nothing to do with the activities of Labdhi Enterprises, on or before January 29, 2021.
 - 9.5.2. Trades have been executed on 16 days while the CDRs pertain to merely 3 calls.
 - 9.5.3. On a request made by the AR, SEBI was instructed to furnish CDRs to KP.
 - 9.5.4. KP knows Mr. Harshal Vira but is not connected to Mr. Mukesh Parekh.
- 9.6. The AR of Labdhi Enterprises and FKP *inter alia* submitted as follows:
- 9.6.1. KYC of Labdhi Enterprises has been modified some 3 years back.
 - 9.6.2. Calls made by KP to Mr. Harshal Vira, are not during market hours.
 - 9.6.3. SEBI has to show how the information, if any was passed on to Labdhi Enterprises.
 - 9.6.4. On a request made by the AR, SEBI was instructed to furnish CDRs to the Noticees.
 - 9.6.5. The AR was advised to submit the qualifications and experience of FKP along with 2 references from independent people who will state to the effect that FKP is capable of operating independently in the market based on her own knowledge. The information / documents had to be furnished on or before January 29, 2021.
- 9.7. On the day of the scheduled hearing the submissions made by Mr. Anish Bagadia, Anish Pravin Bagadia HUF and Pravin Durlabhji Bagadia HUF, *inter alia* are as follows:
- 9.7.1. Mr. Anish Bagadia knows HV for the last 15 years.

- 9.7.2. There has been no significant rise in the phone calls between Mr. Anish Bagadia and Mr. Harshal Vira.
- 9.7.3. Had Mr. Anish Bagadia been privy to the non-public information, the volume of the trades executed by the Noticees would have been higher.
- 9.7.4. The proceeds generated by the alleged front running trades has been deposited by the Noticees in an escrow account.
- 9.8. The AR of Mr. Dhimant Himatlal Shah, Mr. Rutul Shah, Mr. Bhavesh Gandhi, Ms. Foram Bhavesh Gandhi, Mr. Rajesh Himmatlal Shah and Mr. Sanket Rajeshkumar Shah reiterated the submissions made by the Noticees vide their letter dated January 19, 2021. The AR was advised to submit the following information / documents on or before February 4, 2021:
- 9.8.1. When was the firm, Foram Investment and Finance established and when was its email id created?
- 9.8.2. In the context of control and access, an explanation may be submitted as to why 2 people are using the same email id.
- 9.8.3. Evidence to show that the trades executed by the Noticees were in the normal course of trading i.e., their trades matching with the trades of Big Client was a mere coincidence.
- 9.8.4. As per NSE records the number mentioned in the interim order pertains to Mr. Rutul Shah and not Mr. Sanket Shah, as per Mr. Rutul Shah's authorized person application form. Noticee was advised to submit an explanation along with documentary evidence, if any to substantiate his submission.
- 9.8.5. Considering for the trades executed by Mr. Dhimant Himatlal Shah, entire proceeds were not deposited in an escrow account, Noticees were advised to give reasons supported by case laws to allow the Noticees to not deposit the remaining amount in the escrow account.

- 9.9. The AR of Ms. Archana Mukesh Parekh and Mr. Mukesh Parekh *inter alia* submitted as follows:
- 9.9.1. For the trades executed from the trading account of Ms. Archana Mukesh Parekh, the trading instructions were not given by the Noticees.
 - 9.9.2. KP had introduced Mr. Amar Vira to the Noticees and the Noticees had given him third party authority to trade in the account of Ms. Archana Mukesh Parekh.
 - 9.9.3. Mr. Amar Vira had caused loss to the Noticees by executing trades from the trading account of Ms. Archana Mukesh Parekh. The AR was advised to give evidence of the said loss along with third party verifiable documents viz., demat holding statement, bank statements etc.
 - 9.9.4. The AR was advised to also give evidence of 30% commission paid by the Noticees to Mr. Amar Vira. However, the AR stated that the Noticees never paid him commission as he had never asked for it. The authorisation given to Mr. Amar Vira was revoked when the Noticees received a letter from NSE in the subject matter.
 - 9.9.5. There is nothing on record to establish that the alleged trades were front running trades.
 - 9.9.6. The relationship between Ms. Archana Mukesh Parekh and Mr. Amar Vira was that of a principal – agent relationship where the agent acted beyond his authority.
 - 9.9.7. There is nothing on record to show how the non-public information was conveyed by HV to the Noticees.
 - 9.9.8. Trades were executed on 17 days while the calls were exchanged only on 6 days.
 - 9.9.9. Post revocation of authority, the matching of trades was coincidence.

9.9.10. The AR was advised to submit evidence of trading done by Ms. Archana Mukesh Parekh in NIFTY, Bank NIFTY etc.

9.9.11. The AR was advised to submit the aforesaid information / documents on or before February 29, 2021.

Post Hearing Submissions

10. The following Noticees post hearing have made additional submissions:

10.1. Mr. Rahul Doshi vide his letter dated January 27, 2021 *inter alia* submitted as follows:

10.1.1. With respect to the query as to why he did not raise any concerns regarding increase in the volume of trading by ABPL in F&O segment, it is clarified as follows:

10.1.1.1. Proprietary trading was carried out in past also by ABPL in F&O segment.

10.1.1.2. Mr. Mukesh Jain who had authorised the trades has complete powers to do so.

10.1.1.3. ABPL is a closely held private limited company in which Mr. Mukesh Jain and his family own more than 90% of equity and hence it is a case of owner director exercising the risk associated with the trading which he had no reason to question.

10.1.2. To the query as to the wherewithal using which he had given loans to Mr. Mukesh Jain, it is submitted that he has been working for a decade and had earned reasonable amounts since then bulk of which was saved by him and these savings are also accruing income.

10.2. Mr. Abhijeet Jain vide his email dated January 27, 2021 submitted the documents undertaken by him at the time of hearing except the document (Issar Pawti) for the token money given for the plots.

- 10.3. Ms. Meena Ramniklal Vira vide her letter dated January 28, 2021 replied to queries raised at the time of hearing as follows:
- 10.3.1. Trading account was opened around 2009.
 - 10.3.2. She did not have an active mobile connection at the time of opening of trading account.
 - 10.3.3. She is using her husband's phone connection after his demise.
 - 10.3.4. To the query for her basis of trades, she stated that not of all her trades are part of the alleged trades. Several trades were in the nature of Buy Today Sell Tomorrow and she has made good gains in these trades too. Thus, it can be construed that it may be a mere coincidence that some of her trades matched with the Big Client.
 - 10.3.5. The money invested was from her long term investments and savings.
 - 10.3.6. She is 68 years old and has a degree in BA.
 - 10.3.7. She has been trading in the securities market since last 12 years.
- 10.4. HV vide his letter dated January 28, 2021 replied to queries raised at the time of hearing and also made additional submissions as follows:
- 10.4.1. The reason to lend money to BG and Mr. Abhijeet Jain was that they were in personal need for some money. He had worked with them for 7-10 years so he requested his mother to lend them money without asking many questions as to what exactly they wanted money for.
 - 10.4.2. To the query of providing chat transcripts between him and KP, Mr. Harshal Vira stated that he is in the habit of deleting his chat history regularly and therefore he does not have any records thereof. Further, he does not remember chatting with KP.
 - 10.4.3. With respect to the CDRs with KP and Mr. Anish Bagadia, he stated that the call is either pre market hours or post.

- 10.4.4. To allege that he has passed on the non-public information, it is important to note that factors such as the time of the trade of alleged front runners and time of the Big Client's trade, time of the call and day and date of trade will also have to be looked at. After considering all these circumstances, inference can be drawn that he has not passed on any non-public information as there is no correlation of the calls with the alleged front running trades.
- 10.5. Labdhi Enterprises and FKP vide their common letter dated January 28, 2021 *inter alia* submitted as follows:
- 10.5.1. FKP is diploma holder in commercial arts by education. She has been working in the capital markets for the last 15 years and has been independently managing the affairs of Labdhi Enterprises since its inception. She has also qualified IRDA exams for life and general insurance.
- 10.5.2. Reference letters from Mr. Rupam Ketan Mehta, Insurance Agent and Mr. Rajesh V Ajmera, Proprietor of Nometa International working as Marketing Head has been submitted by the Noticee, vouching for the fact that FKP is well acquainted with the working and functioning of the securities market.
- 10.6. KP vide his letter dated January 28, 2021 while reiterating his earlier submissions *inter alia* submitted as follows:
- 10.6.1. Knowing Mr. Harshal Vira who is in the same line of business as him i.e., broking activity cannot be said to be fraudulent or manipulative act.
- 10.6.2. The calls are at such timings that they cannot be correlated with the alleged trades.
- 10.6.3. The only thing that connected him to the entire allegation of front running was the allegation regarding email id and phone number.

Other than that there is absolutely no *prima facie* evidence on record that would warrant continuation of the interim order.

10.7. ABPL and Mr. Mukesh Jain vide a common letter dated January 29, 2021 reiterated their earlier submissions and submitted that the loan given to Ms. Ketana Shah and Ms. Jyoti D Shah was at the instructions of Mr. Rajesh Shah for a short period on assurance of return. There was no need for security as Mr. Rajesh Shah was a jobber and had made profits. The amount could always be reduced while making payment for jobbing charges.

10.8. Mr. Dhimant Himatlal Shah, Mr. Rajesh Shah, Mr. Rutul Shah, Mr. Sanket Shah, BG and Ms. Foram Gandhi vide their letters dated January 29, 2021 while reiterating their earlier submissions *inter alia* submitted as follows:

10.8.1. SEBI vide its email dated December 30, 2020 had stated that all the relied upon documents have been provided to the Noticees whereas additional documents were provided vide email dated January 22, 2021. This is an act of concealment and goes against the principles of natural justice.

10.8.2. Under Income Tax Act, 1961, under Section 36 (xv), STT paid in derivatives transactions is allowed to be adjusted and further under Section 37(1), other expenses like brokerage, stamp duty etc. and indirect expenses are allowed to be deducted. For arriving at real gain, all the allowed expenses are adjusted from gross gain to arrive at net gain. Therefore, SEBI should take this into consideration while calculating net impoundable proceeds.

10.8.3. In screen based trades, it is nearly impossible to know your counter party, leave the matching of trades.

10.8.4. Mr. Dhimant Himatlal Shah and Mr. Rajesh Shah requested to defreeze the demat accounts in which they are not a primary holder but are only a joint holder.

10.9. Ms. Archana Mukesh Parekh and Mr. Mukesh Parekh vide their common letter dated March 1, 2021 *inter alia* made the following additional submissions:

10.9.1. As per the agreement entered into between Ms. Archana Mukesh Parekh and Mr. Amar Vira, payments were to be made to him on a quarterly basis. Since his authority was revoked prior to it, no payment was made to him.

10.9.2. At no point in time they had carried out any activity which required registration from SEBI. They were investors in the market who had availed the services of Mr. Amar Vira.

10.9.3. With respect to the trades executed post revocation of authority, following is submitted:

10.9.3.1. Trades are in highly liquid NIFTY and Bank NIFTY and not with respect to any derivatives of an individual stock, which was the case when Mr. Amar Vira had authority to trade.

10.9.3.2. There is no match with the orders of the Big Client either on buy side or sell side.

10.9.3.3. Noticees have submitted discrepancies which shows that the 4 trades executed post revocation of authority, do not follow SSB or BBS pattern.

10.9.3.4. The order entry time between Noticees and the Big Client is significant compared to the trades when Mr. Amar Vira was placing the orders.

10.9.3.5. Noticees have submitted trade details showing trades executed in NIFTY and Bank NIFTY, post revocation of authority.

10.9.4. Mr. Amar Vira defrauded the Noticees and allegedly misused Noticee's trading account to commit front running. In case of

appropriation of liability in regulatory matters, it is submitted that the charge of front running is grave and therefore, when a perpetrator of the alleged front running can be identified, no liability for front running can be vested on Noticees merely because they gave such perpetrator authority to carry out legitimate trades. Without prejudice to the above, at most Ms. Archana Mukesh Parekh can be held liable for 'lending of demat account'.

10.9.5. There is a mismatch between impounded amount and profits made by the Noticees.

Findings & Considerations

11. I have considered the allegations levelled against the Noticees in the interim order, oral submissions, their replies/written submissions and other material available on record. I note that in the instant case, the directions issued against the Noticees are interim in nature and have been issued on the basis of *prima facie* findings. SEBI had issued directions vide interim order in the matter in order to protect the interests of investors and the securities market. Detailed investigation in the matter is still in progress. Thus, the issue to be considered at this stage is as follows:

11.1. *Whether in light of the findings of the interim order, the facts and circumstances of the case and the submission of the Noticees in response to the interim order, the directions issued against the Noticees vide the interim order need to be confirmed, revoked or modified in any manner, during the pendency of investigation in the matter?*

I now proceed to consider the aforesaid issue in light of the specific contentions raised by the Noticees.

Issue No. 1- *Whether in light of the findings of the interim order, the facts and circumstances of the case and the submission of the Noticees in response to the interim order, the directions issued against the Noticees vide the interim order need to be*

confirmed, revoked or modified in any manner, during the pendency of investigation in the matter?

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

PFUTP Regulations

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

...

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

13. The aforesaid provisions deal with 'fraud' in the securities market. Fraud has been defined under regulation 2 (1)(c) of PFUTP Regulations as follows:

"fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss and shall also include--

(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;

(2) a suggestion as to a fact which is not true by one who does not believe it to be true;

(3) an active concealment of a fact by a person having knowledge or belief of the fact;

(4) a promise made without any intention of performing it;

(5) a representation made in a reckless and careless manner whether it be true or false;

(6) any such act or omission as any other law specifically declares to be fraudulent;

(7) deceptive behavior by a person depriving another of informed consent or full participation;

(8) a false statement made without reasonable ground for believing it to be true;

(9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.

And "fraudulent" shall be construed accordingly;

14. As noted in the interim order, on the basis of KYC details, CDRs, social media posts and bank statements of the Noticees, the Noticees involved in the extant matter were broadly classified under two distinct groups, namely HV Group and BG Group.

HV Group

15. During the examination period, *prima facie* front running trades were executed from the trading accounts of Noticees belonging to HV Group namely, Ms. Meena Ramniklal Vira, Mr. Anish Pravin Bagadia, Anish Pravin Bagadia HUF, Pravin Durlabhji Bagadia HUF, Labdhi Enterprises and Ms. Archana Mukesh Parekh (“**FRs 1 to 6**” respectively) between December 1, 2019 to February 5, 2020.
16. The specific contentions raised by the Information Carriers (“**ICs**”) and the front runners of HV Group have been considered and dealt as follows:

16.1. FR 1- Ms. Meena Ramniklal Vira

16.1.1. With respect to her trades, she has submitted that she has been a regular trader in the market and there are trades executed from her trading account which have not front run the orders of the Big Client. Moreover, it is a mere co-incidence that some of her trades have matched with the trades of the Big Client.

16.1.1.1. I note that the claim of FR 1 that she is a regular trader has not been substantiated by documentary evidence viz., demat / trading statement. Further, as noted from the material available on record during the pre-Examination period i.e., July 1, 2019 to November 30, 2019 (period of 5 months) her intra day scrip days was zero while her Gross Traded Value (“**GTV**”) in derivative segment of the market was Rs 8.59 lakh and in the equity segment of the market her GTV was Rs. 14.97 lakh. When the aforesaid figures are compared with FR 1’s figure during the Examination Period, an astronomical jump is observed under all the parameters. For e.g., her GTV in the derivative segment of the market where the Big Client was also executing its trades, is Rs 746 crore and her intra day scrip days was 460. This significant change in her trading activity has not been explained by her. Moreover, though the Noticee was advised to submit at the time

of hearing her ITR for the last 3 years, she has submitted her ITR for FYs 2016-17, 2017-18 and 2018-19. She has not submitted the relevant ITR which is for the FY 2019-20. It is observed from the ITRs submitted by the Noticee that she had gross total income of approximately Rs 4 lakh in the FY 2016-17 while in the next 2 FYs, her gross total income was zero. It is observed that the proceeds from the impugned trades itself are Rs. 75 lakh. Also, FR 1's gross income is seen in the context of the GTV of her trades, it indicates disproportionate trading activity. Furthermore, in intra day trading (if carried out while not doing front running / any other fraudulent trades), considering the dynamics of the market, there could be a reasonable probability that when the second leg of the orders are put, they get executed at a loss. For e.g., on January 20, 2021, the gross buy value of trades executed from the trading account of FR 1 in various securities was approximately Rs 14 crore. Even if the price moves down in the said securities by 1%, it would have meant a substantial loss of approximately Rs 14 lakh, which for a person with gross annual income between 0 - Rs. 4 lakh is substantial and difficult to absorb. The very fact that the impugned trades of this quantum were executed, *prima facie* shows that FR 1 was confident that she would not make a loss.

16.1.1.2. The submission of FR 1 that there are trades executed from her trading account which have not front run the orders of the Big Client, does not answer the *prima facie* allegation of front running trades executed from her trading account. In other words, execution of non-front running trades from her account does not negate the execution of *prima facie* front running trades from her account. Further, it will be naïve to think that a trader who is

executing front running trades, all the trades executed by him during the relevant period would be front running trades. He, either in order to avoid regulatory detection and to claim that his trading behaviour is in the regular course of his trading activity, will intersperse his front running trades with other trades, or he may otherwise also be a regular trader albeit at a completely different scale.

16.1.1.3. The submission of FR 1 that it is a coincidence that her trades matched with that of the Big Client is unacceptable. It is observed from the material available on record that number of common scrip days / contract days traded with Big Client is 81.5% while number of instances of common scrip days / contract days with Big Client for intra-day trades is 94.5%. Thus, there is a significant overlap in the scrip days between FR 1 and the Big Client. In a universe of numerous securities / contracts, it is observed that FR 1 is not only on a regular basis trading on the same day as the Big Client but is also placing orders in the same securities / contracts by following either BBS pattern or SSB pattern on a consistent basis. The same, *prima facie* leads to an inference that the said act of FR 1, is by design and not a mere coincidence.

16.1.1.4. Moreover, matching of trades with the Big Client is not a relevant criterion to be considered for the determination of a trade as a front running trade. In a front running trade, the alleged front runner in anticipation of the impact of the imminent substantial buy order or sell order of the Big Client, on the securities of the company, will buy or sell prior to the impending buy or sell of the Big Client and when the price of the securities has started to be impacted by the Big Client order, the alleged front runner will exit his position. Thus, in a front running trade,

the alleged front runner utilises the non – public information of impending order of the Big Client and generates proceeds by squaring his trades. The same does not necessarily mean that the orders of his second leg has to match with the orders of the Big Client, as in the second leg of his trades, he is encashing the advantage of price movement in the securities which he has gained by placing orders prior to the Big Client in the first leg of his trades.

16.1.1.5. Furthermore, the submission of FR 1 that some of her trades were in the nature of BTST trades is not relevant to the present matter as all the impugned trades are intra day trades.

16.1.2. With respect to *prima facie* allegation of her son, Mr. Harshal Vira's access to her trading account, she has denied the same while HV has submitted that at the time of opening the demat account of his mother, she did not have a mobile no. or an email id because of which she would have given his details in the KYC form. In this regard, I note that both the Noticees have not denied that the trading account of FR 1 has mobile no. and email id which pertains to Mr. Harshal Vira. Moreover, as per FR 1's submission the trading account was opened in the year 2009 and till date the KYC of FR 1 has material details which pertains to her son, Mr. Harshal Vira. Thus, the submission of the Noticees is untenable. Furthermore, it has been *prima facie* held in the interim order that the orders placed in the trading account of FR 1, were placed in nexus with Mr. Harshal Vira, Mr. Bhavesh Gandhi and Mr. Abhijeet Jain. Thus, the aforesaid four entities had *prima facie* employed a scheme to 'front run' the order of the Big Client wherein each entity played his / her respective part in the scheme. As FR 1's trading account was used to execute the scheme, it further leads to *prima facie* inference that Mr. Harshal Vira had direct / indirect access to FR 1's trading account.

16.1.3. With respect to the fund transaction with Mr. Abhijeet Jain, FR 1 has submitted that it was a loan transaction. Mr. Abhijeet Jain has submitted that he had taken the loan to buy the plot of land for a short period. He had paid an advance of Rs 1.5 lakh out of Rs 30 lakh. Further, he was required to pay Rs 5 lakh but he paid only Rs 3 lakh. It is observed that Mr. Abhijeet Jain has submitted screenshots of his Whatsapp chat dated January 24, 2019 and January 27, 2019 which shows chat pertaining to credit of Rs. 1.5 lakh. However, Mr. Abhijeet Jain has not submitted his bank statements in support of his submission. Moreover, from the chats it cannot be discerned in what context that Rs 1.5 lakh was paid. Mr. Abhijeet Jain has not submitted any documentary evidence related to purchase of land like agreement for sale, correspondences with his sister's husband who is a real estate broker through whom he was planning to buy the said land plot etc. He has also not submitted his bank statement to show that he has paid Rs 3 lakh. Moreover, there is no documentary evidence brought on record by Mr. Abhijeet Jain to show that the land deal was cancelled and the amount paid by him was returned to him. In short, there is complete lack of documentary trail when it comes to purchase of plot of land by Mr. Abhijeet Jain. Though he has repaid the amount in May, 2020, in light of the fact that the amount was transferred from HV's mother's account and in view of the aforesaid discussion, at this juncture when the investigation is further examining the matter in detail, the submission of Mr. Abhijeet Jain at this stage without any documentary evidence is unacceptable.

16.1.4. With respect to the fund transaction with Mr. Bhavesh Gandhi, FR 1 and Mr. Harshal Vira have submitted that it was a loan given by them to Mr. Bhavesh Gandhi. Ms. Foram Gandhi on the other hand has submitted that there was a medical emergency related to her mother-in-law so the loan given by her husband, Mr. Bhavesh Gandhi to Mr. Harshal Vira was

returned to Mr. Bhavesh Gandhi. From the aforesaid, it can be seen that the entities are contradicting each other. Hence, their submissions are unacceptable. Even if the submission of FR 1 is accepted it still does not explain the need to transfer the loan amount in two instalments on the same day to mother and wife of Mr. Bhavesh Gandhi instead of transferring the loan amount directly to him in one instalment. Further, the submission of Ms. Foram Gandhi is not acceptable, at this stage on the ground that she has not submitted any documents which would support her submission of medical emergency.

16.1.5. Mr. Harshal Vira has submitted that none of the alleged trades have been executed from his terminal and therefore no correlation of trades with him can be done. The submission of Mr. Harshal Vira is devoid of merits. The correlation of the alleged trades with him is *prima facie* done on the basis of him being privy to the non-public information of the Big Client, his access to his 68 years old mother's trading account, lack of his mother's trading activity in pre-Examination Period, % of common scrip days / contract days with the Big Client, Mr. Harshal Vira being the recipient of all communication from the broker / exchanges on account of his email id and phone number being the KYC details on record and other factors as mentioned in the interim order.

16.1.6. Mr. Harshal Vira has submitted that he has not passed on any non-public information as there is no correlation of the calls with the alleged front running trades. The calls are either pre market hours or post. In this regard, it is observed that in the given matter CDRs have been relied upon to establish connection amongst the Noticees. It has not been relied upon to show that the information pertaining to non-public information was passed on in those telephone calls. In this day and age, where there are various applications for calls and messages which provide service of end-to-end encryption, where no one outside the call or chat, can listen

or read them, it would be simplistic to assume that ICs and Front Runners would have communicated with each other through telephone calls only. Moreover, in cases of fraudulent activity, admittedly, no direct evidence would be forthcoming / available. Fraudulent transactions are to be tested on the conduct of parties and abnormality of practices which defy normal logic. What is needed, is to prove that in a factual matrix, preponderance of probabilities indicates a fraud. In this regard, the findings of Hon'ble Supreme Court of India in *SEBI vs. Kishore R Ajmera et.al.* decided on February 23, 2016 wherein the Hon'ble Court while deciding the matter under SEBI Act and PFUTP Regulations where there was no direct evidence forthcoming, held as follows:

"... 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..."

In the instant matter, the interim order has apart from the trading pattern has also dealt with the circumstantial evidence which have been relied upon to *prima facie* establish the allegation that the alleged trades would not have been executed from the trading accounts of front runners had they been not in nexus with the ICs who were privy / had possession of the non-public information.

17. I, therefore, find that the submissions / explanations submitted by Ms. Meena Vira, Mr. Harshal Vira and Mr. Abhijeet Jain cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticees have *prima facie* acted in a fraudulent manner which is in contravention to the provisions of regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed.

18. Mr. Anish Pravin Bagadia, Anish Pravin Bagadia HUF and Pravin Durlabhji Bagadia HUF (FRs 2 - 4 respectively)

18.1.1. FR 2 who is also a *prima facie* IC has submitted that he is regular trader in the market and the trades executed by him on behalf of the other Noticees were not in the nature of front running. Further, had Mr. Anish Bagadia been privy to the non-public information, the volume of the trades executed by the Noticees would have been higher.

18.1.1.1. With respect to the submission of FR 2 that he is a regular trader in the market, it is observed that the same does not cast away the allegation of front running against him. A regular trader in the market can also execute front running trades. Moreover, when the trading activity of FR 2 is examined during the Examination Period vis-à-vis pre-Examination period, I note that there is 1114% jump in terms of GTV in his trading activity in the derivative segment of the market where the Big Client was also trading including a jump of 120% in his intra day scrip days / contract days. Aforesaid when seen in light of FR 2's common scrip days / contract days with Big Client (93.4%) and common scrip days / contract days with Big Client for intra-day trades (99.1%) on a preponderance of probabilities indicates that FR 2 may be a regular trader but his trading activity during the Examination period was heavily influenced by the trading activity of the Big Client. Further, the parameters as discussed above when applied to the trading activity of FR 3 and FR 4 on whose behalf FR 2 was placing orders show a similar trend of substantial jump in terms

of GTV especially as no trades in derivative segment was executed from the trading accounts of FRs 3 and 4 including them having almost zero intra day scrip days during pre-Examination period (FR 3 had 2 intra day scrip days). The aforesaid discussion also shows that factually the volume of trades executed by all the 3 Noticees is significantly higher compared to their pre-Examination period trading activity.

18.1.1.2. With respect to the submission of FR 2 that the trades executed by him on behalf of the other Noticees were not in the nature of front running, it is observed that the interim order has brought out trades which shows that the order for first leg of the intra-day trades (the front running leg) from the trading accounts of FRs 2 to 4 were placed on a regular basis / on numerous occasions, sometimes multiple times in the same day, just prior to the placement of the impending orders of the Big Client or before the last tranche of the order of the Big Client. The frequency with which the order for first leg of the intra-day trades were placed in the same securities / contracts as that of the Big Client when numerous such securities / contracts are available on the Exchange platform, *prima facie* shows that the same is by design and cannot be a mere coincidence. Thus, the submission of FR 2 is untenable at this juncture.

18.1.1.3. With respect to the submission of the Noticee that the observations on the calls between FR 2 and Mr. Harshal Vira are misplaced, it is observed that reliance has been placed on calls to establish a connection between Mr. Harshal Vira and FR 2. As observed in preceding paragraphs, CDRs have not been relied upon to show that the information pertaining to non-public information was passed on in those telephone calls. In this regard, paragraph 16.1.6 may be referred to. Thus, when seen in light of the aforesaid observations, the submission of the Noticee is unacceptable. Further, the submission of the Noticee that the connection between FRs 2 to 4 and Mr. Harshal Vira / Mr. Bhavesh Gandhi is unsubstantiated is

without any merit as the same is based on documentary evidence of CDRs and Facebook. The Noticee has neither denied his contact with Mr. Harshal Vira / Mr. Bhavesh Gandhi over phone nor has he denied his association with Mr. Harshal Vira on Facebook.

19. I, therefore, find that the submissions / explanations submitted by FRs 2 to 4 cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticees have *prima facie* acted in a fraudulent manner which is in contravention to the provisions of regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed.

20. Labdhi Enterprises (“FR 5”), Ms. Falguni Ketan Parekh and Mr. Ketan Parekh

20.1.1. The Noticees have submitted that SEBI’s case is based on two facets: KP’s access to Labdhi Enterprises Account and KP’s calls with HV. Since the email address and mobile no. associated with Labdhi Enterprises does not belong to KP and 3 calls between KP and HV cannot be correlated to the 16 days of trading done by Labdhi Enterprises, it is submitted that Noticees have not violated provisions of PFUTP Regulations.

20.1.1.1. With respect to the aforesaid submission of the Noticees, it is observed that it is incorrect to say that SEBI’s case is based on the two facets as stated above. A key basis of SEBI’s case is based on the trading pattern of FR 5 during the Examination Period which *prima facie* showed that on a regular basis trades were executed from the trading account of FR 5 on a regular basis / on numerous occasions, sometimes multiple times in the same day, just prior to the placement of the impending orders of the Big Client or before the last tranche of the order of the Big Client. This trading pattern from the trading account of FR 5 was further corroborated from the empirical data which showed a jump of 37138% in terms of GTV in the equity derivative segment of the market where the Big Client was also trading. This astronomical jump when seen in light of the ITRs of FR 5

available on record for the financial years 2018-19 and 2019-20 which shows that the gross total income of FR 5 for the financial years was zero, lends credence to the *prima facie* case that the confidence exhibited by FR 5 in its trades was stemming from the certainty of not making loss in the trades. It is noted that there is an increase by 971% in intra day scrip days of FR 5 out of which it had 71.2% of common scrip days / contract days with Big Client for intra-day trades. The aforesaid statistics shows that the trading behaviour of FR 5 is not its normal trading behaviour. Moreover, Noticees have not explained their trading behaviour as to how so many of FR 5 trades have exhibited BBS or SSB pattern of trades around the orders of the Big Client.

- 20.1.1.2. With respect to the email id and mobile no. not pertaining to KP, it is noted that at the time of account opening in the month of November, 2014, the email id and mobile no. given in the KYC, did belong to KP. Noticees have not denied the same but have submitted that the particulars were updated 3 years back. However, neither did the Noticees provide any documentary evidence to show that the said particulars were updated 3 years back nor Noticees gave an explanation as to why, the email id and mobile no. of one of the partners of FR 5 was not given at the time of account opening. Even if, FKP for some reason did not have an email id and mobile connection, the partners of FR 5 had also authorized Ms. Mansi Viren Shah, one of the other partners of the firm, to deal in securities along with FKP. Her email id and mobile no. could have been used in the KYC. Further, even if it is accepted that the particulars were updated 3 years back, it took 5 years for FR 5 to update the same when one of the primary business of the partnership is "Broker & Consultation in shares and securities". At the time of hearing FKP was advised to submit her qualification and experience with references from 2 independent people. As per her submission she has been working in the capital markets for the last 15

years and has also qualified IRDA exams for life and general insurance. Reference letters from Mr. Rupam Ketan Mehta, Insurance Agent and Mr. Rajesh V Ajmera, Proprietor of Nometa International working as Marketing Head has been submitted by her. It is noted that FKP has not substantiated in what capacity she has been working in the capital markets for the last 15 years as FR 5 trading account was opened only on November, 2014. She has neither submitted her own demat statement or correspondences with her clients, if any she was consulting with in the capital markets. Further, the reference letters submitted by her are from individuals who are not associate with the capital markets and hence are inadequate to support FKP's contention. Thus, from the aforesaid discussion, at this stage FKP on a preponderance of probability basis has not been able to establish, *prima facie*, that she was independently managing the trading activity of FR 5. More so when the order from the trading account of FR 5 was placed from the CTCL terminal of LFC, where, KP is a Director for more than 11 years and among this set of Noticees, only person who has been associated with the market for a long period. Furthermore, it has been *prima facie* held in the interim order that the orders placed in the trading account of FR 5, were placed in nexus with Mr. Harshal Vira and KP. Thus, the aforesaid three entities had *prima facie* employed a scheme to 'front run' the order of the Big Client wherein each entity played his respective part in the scheme. As FR 5's trading account was used to execute the scheme, it further leads to *prima facie* inference that KP had direct / indirect access to FR 5's trading account.

- 20.1.1.3. With respect to CDRs, as has been stated in the preceding paragraphs they have been relied upon to establish connection between Noticees. In this instance, CDRs were relied upon to show that Mr. Harshal Vira and KP are connected with each other and are not strangers. The allegation of *prima facie* front running is based on the trading pattern of the front runners

and other corroborative circumstances as brought out in the interim order. Further, the Noticees have submitted that SEBI has to show how the information, if any was passed on to the Noticees. Similar submission was also made by FR 1 and has been dealt in preceding paragraphs. In this regard, paragraph 16.1.6 may be referred to.

21. I, therefore, find that the submissions / explanations submitted by FR 5, FKP and KP cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticees have *prima facie* acted in a fraudulent manner which is in contravention to the provisions of regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed.

22. Ms. Archana Mukesh Parekh (“FR 6”) and Mr. Mukesh Parekh

22.1.1. In the interim order it was *prima facie* noted that trades executed from the trading account of FR 6 have followed a BBS or SSB pattern around the orders of the Big Client consistently during the Examination Period. Further, based on other corroborative evidences like pre-Examination trading activity, common scrip days / intra days etc., it was *prima facie* held that the trades from the trading account of FR 6 indicates that the Noticees were in possession of non-public information of the impending orders of the Big Client. To refute that aforesaid *prima facie* findings, the Noticees have submitted that the trades were executed by Mr. Amar Vira and not by them. They have submitted that Mr. Amar Vira was introduced to them by KP as they had to offset their losses and Mr. Amar Vira was adept at giving profitable calls. They had executed a letter of authority in favour of Mr. Amar Vira and they were unaware of the alleged illegal trading activity of Mr. Amar Vira. Further, when a perpetrator of the alleged front running can be identified, no liability for front running can be vested on Noticees merely because they gave such perpetrator authority to carry out legitimate trades.

22.1.1.1. The aforesaid submission of the Noticees is not acceptable in view of the following reasons:

- 22.1.1.1.1. No evidence of loss incurred by the Noticees has been submitted by the Noticees to show when the loss was incurred, how substantial was the loss etc. Rather, it is seen from the records that FR 6 has not executed any trades in the equity segment or in the derivative segment of the market during the period July 1, 2019 to Nov 30, 2019 i.e., for a period of 5 months.
- 22.1.1.1.2. It is Noticees' submission that they have never met or had any correspondence with Mr. Amar Vira. The said submission of the Noticees casts a shadow of doubt on the whole arrangement as the person who was regularly trading for the Noticees in the month of January, 2020 and was generating proceeds for them to the tune of Rs. 66 lakh, the Noticees did not have a single call or message or an email correspondence with him. Considering Mr. Mukesh Parekh was the authorized representative of FR 6 and placed orders on her behalf prior to December 1, 2019, he is aware of the dynamics of the market and generation of proceeds worth Rs 66 lakh within 13 -15 trading days, should have raised red flag for him, and led him to have some correspondence with Mr. Amar Vira. Further, it is Noticees own submission that in the normal course of trading, they receive call confirmation for trades done. However, for the trades purportedly executed by Mr. Amar Vira, they did not receive any calls. This deviation from normal practice is also a red flag and should have led to correspondences of the Noticees with Mr. Amar Vira and their broker.
- 22.1.1.1.3. Noticees have also not explained as to the reason why Mr. Amar Vira who was authorised on December 1, 2019 to trade on behalf of FR 6, started trading only from January 17, 2020. The date coincides with the commencement of alleged *prima facie* front running trades of FR 5 (January 15, 2020) where KP is *prima facie* involved. Considering, the mobile no. given in the authority letter as well as per KYC records of FR

6, pertains to Mr. Mukesh Parekh and trade confirmations would be sent at that number, shows that Mr. Mukesh Parekh was aware of the trades executed from the trading account of FR 6. So even if it is accepted that Mr. Amar Vira was involved in the trades executed from from the trading account of FR 6, it can be held that Mr. Mukesh Parekh and FR 6 were also aware of the same and cannot feign ignorance.

22.1.1.1.4. It is observed that the Noticees have submitted the authorization letter which states that Mr. Amar Vira has been authorised to transact in the trading account of FR 6. The same only evidences that he has been given the authority. However, it does not evidence that Mr. Amar Vira has actually placed the orders in the trading account of FR 6 especially in light of the contrary evidence available from the stock broker of FR 6, who has stated that Mr. Mukesh Parekh has placed the order in the trading account of FR 6.

22.1.1.1.5. Noticees' submission that when a perpetrator of the alleged front running can be identified, no liability for front running can be vested on Noticees merely because they gave such perpetrator authority to carry out legitimate trades, is untenable. As discussed in the preceding paragraphs, the Noticees have not been able to establish their claim that Mr. Amar Vira has placed orders in the trading account of FR 6. Moreover, the perpetrator has to be identified by the regulatory body after completion of the investigation and on the basis of evidence showing his complicity in the act. In the instant matter, at the interim order stage there was no material available on record to *prima facie* arrive at a finding that Mr. Amar Vira had access to the trading account of FR 6. I note that the investigation is still in progress, so to accept the submission of the Noticees that Mr. Amar Vira is the only perpetrator for the trades executed from the trading account of FR 6, will be premature at this juncture. Mr. Amar Vira's role and his relationship

with Mr. Harshal Vira, if any will be brought out by the detailed investigation in progress in the matter.

22.1.1.1.6. It will be relevant here to note that the fact of authorisation of Mr. Amar Vira to transact in the trading account of FR 6, does not preclude Mr. Mukesh Parekh to place orders from the trading account of FR 6, as he was also authorised to transact in the said trading account as evidenced by the broker's submission. Furthermore, it has been *prima facie* held in the interim order that the orders placed in the trading account of FR 6, were placed in nexus with KP and Mr. Harshal Vira. It has also been *prima facie* held that the trades executed from the trading account of FR 6 have *prima facie* front run the orders of the Big Client. Thus, as held in the interim order, if not for the scheme employed by Ms. Archana Parekh, Mr. Mukesh Parekh, KP and Mr. Harshal Vira, wherein each entity has played his / her respective role, the proceeds from the *prima facie* front running trades would not have been generated. The same makes the aforesaid entities *prima facie* responsible for the trades executed from the trading account of FR 6. Thus, even if Mr. Amar Vira was executing trades in the trading account of FR 6, the details of which will be brought out by the ongoing detailed investigation, the same will not *prima facie* absolve, Ms. Archana Parekh and Mr. Mukesh Parekh of their responsibility for the *prima facie* front run trades executed from the trading account of Ms. Archana Parekh.

22.1.2. Noticees have submitted that the submission of LFC that Mr. Mukesh Parekh had placed orders is incorrect. It was submitted that SEBI has placed no evidence on record to substantiate the same. In this regard, it is noted that the basis for stating that Mr. Mukesh Parekh was placing orders on behalf of FR 6 was the authority letter given by FR 6 to Mr. Mukesh Parekh which was submitted to SEBI by the stock broker of FR 6. Further, in response to the query raised by SEBI to the stock

broker of FR 6 regarding the person placing the order in the trading account of FR 6, the stock broker had replied that the order was placed in person by Mr. Mukesh Parekh. At the interim order stage, the same was adequate. A detailed investigation is in progress in the matter which will examine in depth, the particulars of order placement in the trading account of FR 6 during the Examination Period. At this stage, even if it is accepted that Mr. Amar Vira was placing orders, the same does not absolve Mr. Mukesh Parekh from his liability for the alleged *prima facie* front running trades as Mr. Amar Vira was, as per the authority letter dated December 1, 2019, acting as the agent of both the registered owner of the trading account and also the authorised representative of the registered owner of the trading account.

22.1.3. Noticees have made similar submissions as other previous Noticees with respect to CDRs. The same has been dealt in the preceding paragraphs. In this regard, paragraph 16.1.6 may be referred to.

22.1.4. The submission of the Noticees that there is nothing on record to show that the alleged trades are front running trades is incorrect. As explained in the interim order, trades where all the tranches of the order of the first leg placed by the alleged front runner, have been placed on or before the time of last tranche of the order placed by the Big Client, will qualify as front running trades. In the given matter, the trades falling in the above described pattern, executed from the trading account of FR 6 has been brought out. The instances of the alleged *prima facie* front running trades are not stray instances but has taken place on a regular basis during the month of January, 2020 sometimes on multiple occasions on the same trading day. The aforesaid when seen in terms of % of common scrip days / contract days with Big Client which is 82.8% and instances of common scrip days / contract days with Big Client for intra-day trades which is 93.9% indicates that the matching of trades is not a coincidence but is by design. More so when the jump in terms of GTV in the trading activity of FR 6 during Examination

Period in equity derivative segment is 56350% compared to its pre-Examination Period trading activity.

22.1.5. With respect to FR 6's trades post revocation of authority, it has been submitted by the Noticees that there is no matching with the orders of the Big Client either on buy side or sell side. In this regard it is observed that matching of trades with the Big Client is not a parameter to qualify as a front running trade. As noted in the interim order, to qualify as a front running trade, one has to see whether the tranches of the order placed by the alleged Front Runner have been placed on or before the time of last tranche of the order placed by the Big Client. In this regard paragraph 16.1.1.4 may be referred to.

22.1.6. With respect to discrepancies brought out by FR 6 for the 4 impugned trades executed in the month March 2020, the following is noted:

22.1.6.1. For the trade executed on March 2, 2020, the submission of the Noticees that it is not a front running trade is acceptable as the Big client sell order start time is at 9:15:20 hrs whereas sell order start time for FR 6 is at 9:25:39 hrs. Thus, the sell order of FR 6 came post the sell order of the Big Client, hence the said trade does not qualify as front running trade in liquid contracts / scrips.

22.1.6.2. For the trade executed on March 3, 2020, Noticees have submitted that it does not follow BBS pattern of front running as the sell order of FR 6 is post the sell order of the Big Client. The submission of the Noticee is devoid of merit as to qualify as front running trade only the placement of the order of the first leg of the trade of the alleged front runner vis-à-vis the timing of the last tranche of the order placed by the Big client is relevant. The second leg of the order does not qualify as front running but is the leg where the alleged front runner enchases the advantage that has accrued to him by front running the order(s) of the Big Client(s). Further, the second leg of trades may or may not match with the trades of the Big Client but that has no bearing on the front running leg of the alleged front

runner. In this particular trade the buy order from the trading account of FR 6 was placed at 10:26:12 hours while the buy order of the Big Client was placed between 12:20:45 hours to 13:52:52 hours. Thus, the submission of the Noticees is not accepted. Similar submissions have been made by the Noticees for the trades executed on March 5 and 11, 2020 and accordingly, are also not accepted.

22.1.7. Noticees have submitted that post revocation of authority, the order entry time between Noticees and the Big Client is significant compared to the trades when Mr. Amar Vira was placing the orders and have further submitted that trades are in highly liquid NIFTY and Bank NIFTY and not with respect to any derivatives of an individual stock, which was the case when Mr. Amar Vira had authority to trade. In support of their submission the Noticees have submitted their trading details in NIFTY and Bank Nifty post March 11, 2020. It is observed that though the time difference / gap between placement of orders of the alleged front runner and the Big Client, *per se* is not a relevant parameter to determine whether a trade is a front running trade but factually the time difference has increased when compared to the trades executed from the trading account of FR 6 in the months of January and February, 2020. This when seen along with the trades executed from the trading account of FR 6 in Nifty and Bank Nifty during the period March-May, 2020, leads to an inference that at this stage a benefit of doubt may be given to the Noticees for the alleged trades executed from the trading account on March, 3, 5 and 11, 2020. The ongoing detailed examination may examine all the trades executed from the trading account of FR 6 during the relevant period before arriving at the finding of front running trades.

22.1.8. Noticees have submitted that there is a mismatch between impounded amount and profits made by the Noticees on the basis of the ledger provided to them by LFC and the proceeds of trades carried out in March, 2020 have also been included which as per the Noticees are not front running trades. On a perusal of the ledger, it is observed that the profit figures as provided by LFC to the Noticees

is the net position i.e., the figure arrived at is after taking into account the loss incurred by FR 6 while the interim order for the purpose of calculation of proceeds has as per the law, taken into account scrip days / contract days where FR 6 has day traded and commonly traded with the Big Client and has earned a positive square off of Re. 1 or more, i.e., loss incurred by FR 6 has not been considered. It is relevant to note here that the in general, the alleged front runner expects to make a profit from his trades by using the non-public information regarding an impending buy or sell order of the Big Client. In other words, he profits from the impact which the order of the Big Client has on the price of the securities. However, in certain situations the alleged front runner would incur loss for e.g., when the alleged front runner has not squared off his position at the right time i.e., the impact of the Big Client order has diminished or he is not able to close his position because of less liquidity / absence of counter party in the market and there can also be situations where the alleged front runner in order to camouflage his trades would incur loss on purpose. Therefore, the second leg of the intra day trade executed by the front runner is not considered relevant while classifying trades as front run trades. Thus, there is no reason to give benefit of the loss making trades to the alleged front runner as it does not take away the fact that the entire proceeds generated by profit making trades are illegal.

22.1.9. Further, as held in preceding paragraphs that the alleged trade executed from the trading account of FR 6 on March 2, 2020 is not a front running trade and for the remaining alleged *prima facie* front running trades executed in the month of March, 2020, a benefit of doubt has been given to the Noticees. Therefore, the aforesaid has to be taken into consideration while arriving at a figure for the impounding of *prima facie* proceeds. However, the computation of proceeds generated from the *prima facie* front running activity from the trading account of FR 6 stands modified to Rs. 61,73,519/-.

23. I, therefore, find that the submissions / explanations submitted by FR 6 and Mr. Mukesh Parekh cannot be accepted because of the reasons as discussed in preceding paragraphs, except for the alleged trades executed from the trading account of FR 6 in the month of March, 2020. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticees have *prima facie* acted in a fraudulent manner which is in contravention to the provisions of regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed.

BG Group

24. During the examination period, *prima facie* front running trades were executed from the trading accounts of Noticees belonging to BG Group namely, Mr. Dhimant Himatlal Shah, Mr. Rajesh Himmatlal Shah, Mr. Sanket Rajeshkumar Shah and Across Broking Pvt. Ltd. (“**FRs 7 to 10**” respectively) between February 1, 2020 to April 15, 2020. The specific contentions raised by the Information Carriers (“**ICs**”) and the front runners of BG Group have been considered and dealt as follows:

25. FR 7 - Mr. Dhimant Himatlal Shah

25.1.1. The Noticee has submitted that SEBI has to provide all the documents in its possession and not only the documents that has been relied upon. Further, additional documents were provided post inspection which is in violation of principles of natural justice. Here it will be relevant to quote the findings of Hon’ble Securities Appellate Tribunal in the matter of *Shruti Vora vs. SEBI* decided on February 12, 2020 wherein the Hon’ble Tribunal has held as follows:

“... A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO...

... In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon...”

In light of the aforesaid findings of Hon'ble Tribunal, the contention of the Noticee that all the documents have to been provided to him, is devoid of any merit. Further, the additional documents that were provided subsequently, were provided to the Noticee on his specific request. On a perusal of the said documents, it is noted that the same pertains to the Big Client, details of phone number pertaining to his relatives and bank statement of Mukesh Jain HUF. Noticee has not submitted how the initial absence of aforesaid documents hampered him to submit an efficacious reply in his defence. In any case, the Noticee was provided the aforesaid documents a week prior to his scheduled hearing on January 22, 2021. Thus, giving him ample time to incorporate the information from the aforesaid documents in his submissions.

25.1.2. The Noticee has submitted that he has no business relationship or professional relationship with Mr. Bhavesh Gandhi or Ms. Forum Gandhi and sharing common address with family could never be a basis to allege a connection. The submission of the Noticee is untenable as when it comes to establishing connection amongst various entities, the same can be done either through commercial route or through family route or through any other method, which could establish such connection.

25.1.3. The submission of the Noticee that no real time red flags were issued at the time of his trading, is devoid of any merit. Any trading pattern which may not have been thrown up as surveillance alert based on surveillance parameters, does not mean such a trade is not fraudulent. Whether there is any concern with respect to trading pattern in scrip(s) is a subject matter of examination / investigation in that scrip(s) and its outcome. Any direction or measure, if warranted, based on the outcome of such examination / investigation, is a post facto action taken to safeguard the interest of investors in securities market and protect the market from further damage, as done in the instant case. Thus, the time taken to arrive at such decision / action depends on the complexity of the matter, its scale and modus operandi involved. Thus, there is no substance in the contention of the

Noticee that no real time red flags were issued at the time of his trading. Further, the responsibility that front running trades are not executed from a trading account, lies with the registered owner of the said trading account.

25.1.4. The Noticee has submitted that he has traded in the contracts based on his in-house jobbing strategy. Further, he relies on multiple sources of information including open interest data, previous day's volume, price etc., information available in print and electronic media etc. For the trade in CHOLAFIN on February 5, 2020 which has been given as illustration in the interim order, he has traded in that derivative contract as open interest and volume in it was continuously rising. With respect to the submission of the Noticee, it is observed that investors are free to adopt / employ any strategy which suits their interests. However, the same has to be within the confines of law. For the trades in CHOLAFIN, the Noticee has stated that he was drawn to trade in that derivative contract as open interest was rising. On the same day i.e., on February 5, 2020, Noticee has traded in other derivative contracts viz., TATACHEM, MIDTREE, SIEMENS where the open interest was not rising but had fallen from the previous day(s). For the trades executed in the aforesaid 3 derivative contracts, Noticee will no doubt have a different explanation. But the Noticee has not explained his trading pattern wherein the orders for the first leg of his intra day trades have been placed prior to the last tranche of the order of the Big Client on a regular basis repeatedly during the period February 1, 2020 to April 15, 2020. This when seen in light of 1548% jump in terms of GTV in his trading activity in the equity derivative segment compared to his pre Examination trading activity (December 1, 2019 to January 31, 2020) where the Big Client was trading along with 88.2% instances of common scrip days / contract days with Big Client and 97% instances of common scrip days / contract days with Big Client for intra-day trades, *prima facie* demonstrates that the strategy of the Noticee was not based on technical analysis or news articles rather *prima facie* he was privy / had access to the non-public information of the trades of the Big Client. In other words, in a

universe of thousands of securities / contracts, the Noticee has not only on a regular basis traded on the same day as the Big Client but also has placed orders in the same securities / contracts by following either BBS pattern or SSB pattern on a consistent basis. The same, *prima facie* leads to an inference that the said trading pattern of the Noticee, is by design and not a mere coincidence.

25.1.5. The Noticee has submitted that the email id given in his KYC though resembles his name but was created by his brother in 2005 and is accessed by him and his brother. His daughter has a separate gmail account. Noticee has submitted particulars of the email ids from yahoo and gmail. The same shows that Noticee's daughter has a separate email id than her father and uncle.

25.1.6. Noticee has also made similar submissions with respect to CDRs and that communication of non-public information has to be established, like other Noticees. The same have been dealt in preceding paragraphs. In this regard, paragraph 16.1.6 may be referred to.

25.1.7. Noticee has relied on the KYC document from the telecom operator to substantiate his claim that the mobile no. 99871116XX belongs to Mr. Rutul Shah. It is observed from the records maintained by NSE that the aforesaid mobile no. was associated with the PAN of Mr. Rutul Shah as on May 12, 2017 which was subsequently updated to different mobile nos. However, the interim order has not relied upon CDRs pertaining to the aforesaid mobile no. to make a *prima facie* case that Mr. Rutul Shah was talking to the Noticee as a dealer through that mobile no. CDRs with respect to the aforesaid mobile no. was relied upon to establish one additional way of connecting both the Noticees apart from family connection. The Noticee has not denied that Mr. Rutul Shah was his dealer when the alleged trades were executed from his trading account. Consequently, Noticee and Mr. Rutul Shah would be in communication with each other for the purpose of execution of trades from the trading account of the Noticee, albeit from a different mobile no.

25.1.8. With respect to the fund transaction between his wife and Mukesh Jain HUF, the Noticee has submitted that it is a loan transaction which is normally availed by them from time to time. It is observed that the fact that it was repaid does not substantiate the claim of the Noticee that it was a loan transaction especially when on that very day (April 9, 2020), the same amount (Rs 5 lakh) was transferred to his brother's wife also, by Mukesh Jain HUF. Noticee has not submitted any other instance along with the relevant bank statements when such kind of transaction has taken place in the past. Further, irrespective of the aforesaid fund transaction, as has been noted in the interim order that *prima facie* the trades executed from the trading account of FR 7 have *prima facie* front run the orders of the Big Client. Thus, as held in the interim order, if not for the scheme employed by FR 7, Mr. Rutul Shah and Mr. Bhavesh Gandhi, wherein each entity has played his respective role, the proceeds from the *prima facie* front running trades would not have been generated. The same makes the aforesaid entities *prima facie* responsible for the trades executed from the trading account of FR 7. Thus, irrespective of the aforesaid fund transaction, FR 7 is responsible for the *prima facie* front run trades executed from his trading account.

25.1.9. Noticee's submission that his trades were screen based so it is nearly impossible to know the counter party, is without any merit as the same is not relevant at all since matching of trades is not a relevant criterion to classify a trade as a front running trade. In this regard, paragraph 16.1.1.4 may be referred to. Further, in the extant matter, the interim order has *prima facie* brought on record based on preponderance of probabilities that the trades from the trading account of the front runners would not have been placed but for their nexus with the ICs. The interim order has not only relied upon the trading pattern of the front runners to support the *prima facie* allegation of front running but has also brought on record corroborative evidence to *prima facie* strengthen its findings against the Noticees.

25.1.10. With respect to calculation for impounding of proceeds, Noticee has submitted as follows:

25.1.10.1. It should not be limited to only profit generating trades.

In this regard, it is noted that proceeds which have been impounded at this stage are for the *prima facie* fraudulent trades which have earned a positive square off Re. 1 or more. The whole proceeds in absolute terms have been impounded without offsetting it against *prima facie* fraudulent trades which have not earned a positive square off. If the *prima facie* proceeds of the fraudulent trades which have earned a positive square off have to be balanced with *prima facie* fraudulent trades which have not earned a positive square off i.e., net value is taken into account, it will tantamount to advancing Noticee's interest as some of the proceeds from *prima facie* fraudulent trades which have earned a positive square off would go in offsetting proceeds from the *prima facie* fraudulent trades which have not earned a positive square off. Thus, the Noticee would get the advantage of his *prima facie* fraudulent trades. To illustrate, 'X' by executing *prima facie* fraudulent trades which have earned a positive square off Re. 1 or more, gets a credit of Rs. 10. He has also executed *prima facie* fraudulent trades which did not earn him a positive square off i.e., (- Rs. 4). So as per Noticee's submission, only Rs. 6 has to be impounded. However, in doing so, 'X' is getting advantage to the tune of Rs. 4, which he should not be given as he has perpetrated a fraud. Therefore, the absolute value of proceeds has to be taken which have earned a positive square off Re. 1 or more without netting it. In this regard paragraph 22.1.8 may be referred to. It is noted that in the instant matter, only the *prima facie* proceeds are impounded. The amount of disgorgement of wrongful gain, if any, would be arrived at subsequent to the completion of fact finding and after granting an

opportunity of hearing subsequent to the completion of fact finding / investigation, in this regard.

25.1.10.2. Out of 440 instances which were used for the purpose of calculation of proceeds generation, in 54 instances trades were not matching either in the buy side or sale side with the trades of the Big Client.

It is observed that for the purpose of calculation of proceeds of *prima facie* front running trades, matching of trades with Big Client is not a relevant parameter. In the facts of this case, relevant parameters are acquisition cost and actual sale proceeds which have earned a positive square off Re. 1.

25.1.10.3. The amount directed to be paid fails to take into account charges such as brokerage, transaction charges, securities transaction tax etc.

With respect to the aforesaid submission of the Noticee, I note that at the interim order stage, direction has been given to impound the proceeds of *prima facie* fraudulent trades which have earned a positive square off Re. 1 or more. The same cannot be construed to mean that the impounded proceeds would be equivalent to disgorgement amount, which would be arrived at after the final determination of allegations against the Noticee. Therefore, at this stage of this proceedings, the question of entertaining his submission does not arise.

25.2. Mr. Rajesh Himmatlal Shah (“FR 8”), Mr. Sanket Rajeshkumar Shah (“FR 9”), Mr. Rutul Shah, Ms. Forum Gandhi and Mr. Bhavesh Gandhi have made similar submissions as made by FR 7 and therefore the said submissions have not been dealt separately. Few submissions which are specific to the aforesaid Noticees are dealt herein below:

25.2.1. Mr. Sanket Shah has submitted that his alleged involvement is only for 2 days whereas the Big Client has traded for 53 days. If he was in possession of non-public information, he would have traded for all 53 days and not for just 2 days. The said submission of the Noticee is not acceptable for the following reasons:

25.2.1.1. The said 2 days when the Noticee was directly involved in the alleged *prima facie* front running trades, his trading activity was at variance from his normal trading behaviour. It is observed from the records that there was a jump of 2574% in terms of GTV in his trading activity in the equity derivative segment of the market along with 24% increase in his intra day scrip days from his pre-Examination trading activity (December 1, 2019 to January 31, 2020). Further, he had 100% instances of common scrip days / contract days with Big Client and 100% instances of common scrip days / contract days with Big Client for intra-day trades. The aforesaid leads to a *prima facie* inference that Noticee's trades were executed by no accident but it was by design.

25.2.1.2. The reason that the Noticee did not trade on all days could be non-availability of funds for margin etc.

25.2.1.3. Noticee is part of the BG Group. The group members mostly involved his family members (father, uncle, brother, brother-in-law) where some members of the group were ICs while some were executing alleged *prima facie* front running trades. Thus, *prima facie* BG Group was acting as a whole / as one unit. Therefore, in such group scenario, some members of the group traded more than others or on more days while others did only on few instances, does not become a circumstance negating the violations. Here, it would be apt to refer to the order of Hon'ble SAT in the matter of *Hemant Sheth and Ors. vs. SEBI* decided on March 4, 2020 wherein the Hon'ble SAT has held as follows:

"...all these entities were found to be connected and manipulating the market by various means. In a scheme of manipulative and unfair trading it is not necessary that every participant should be indulging in every type of trading violation or even in the same / similar magnitude..."

25.2.2. Mr. Rajesh Shah has submitted that his wife, Ms. Ketana Shah had received Rs 5 Lakh on April 8, 2020 and on April 9, 2020 from Mukesh Jain HUF. Mukesh Jain

HUF had received Rs 10 lakh from ABPL on April 9, 2020. Thus, the allegation that Mukesh Jain HUF had transferred Rs 5 lakh on April 8, 2020 from the funds received from ABPL, cannot be sustained. The aforesaid submission of the Noticee is factually incorrect. As noted from the bank statement of Mukesh Jain HUF, there was a deposit of Rs 5 lakh made from the joint a/c of Mr. Mukesh Kumar Jain and Ms. Anita Mukesh Jain, just prior to the transfer of Rs 5 lakh to Ms. Ketana Shah on April 8, 2020. Similarly, Rs 10 lakh was deposited in two instalments of Rs 5 lakh each from the joint a/c of Mr. Mukesh Kumar Jain and Ms. Anita Mukesh Jain which were transferred to wife of the Noticee and wife of FR 7. Further, the Noticee had submitted that the bank statement of Mukesh Jain HUF was not provided to him. The same has been provided to him vide email dated January 22, 2021. Moreover, irrespective of the aforesaid fund transactions, as has been noted in the interim order that *prima facie* the trades executed from the trading account of FR 8 have *prima facie* front run the orders of the Big Client. Thus, as held in the interim order, if not for the scheme employed by FR 8, Mr. Rutul Shah and Mr. Bhavesh Gandhi, wherein each entity has played his respective role, the proceeds from the *prima facie* front running trades would not have been generated. The same makes the aforesaid entities *prima facie* responsible for the trades executed from the trading account of FR 8. Thus, irrespective of the aforesaid fund transactions, FR 8 is responsible for the *prima facie* front run trades executed from his trading account.

25.2.3. Ms. Foram Gandhi has submitted that her connection with the alleged trades has been established on the basis of her email id and the fund transfer. Considering the email id in question is not operated / accessed by her and the explanation furnished for the fund transfer, she has submitted that the directions issued against her should be revoked. In this regard, I note that in the preceding paragraphs, it has been observed that her explanation for fund transfer cannot be accepted as she has not submitted any medical records stating the medical emergency of her mother-in-law and further, her explanation is in contradiction

with the explanation given by the transferor. However, Mr. Rajesh Shah has admitted that the email id foram2478@yahoo.co.in, pertains to him and he uses the said email id. Further, Mr. Rajesh Shah has a firm named Foram Investment & Finance and has a certificate of registration as a sub-broker from SEBI in the name of Foram Investment & Finance. Thus, as no alleged trades have been executed from her trading account and at this stage, apart from her family connection with the BG Group, although she is the recipient of funds from Mr. Harshal Vira, a benefit of doubt may be given to her from the *prima facie* findings. Her role, if any can be brought out in the detailed investigation which is in progress.

26. I, therefore, find that the submissions / explanations submitted by FRs 7 to 9, Mr. Rutul Shah and Mr. Bhavesh Gandhi cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticees have *prima facie* acted in a fraudulent manner which is in contravention to the provisions of regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed. Further, in light of the submissions made by Ms. Foram Gandhi, directions issued against her by the interim order, requires modification.

ABPL and Mr. Mukesh Jain

27. The submissions made by the Noticees have been considered herein below:

27.1.1. Noticees have submitted that turnover of the alleged trades was a small portion of their overall turnover. The said submission of the Noticees does not answer on merits the *prima facie* case brought out against them in the interim order wherein it has been alleged that trades were front running trades and were executed from the trading account of ABPL repeatedly at regular interval over a period of one month from March 16, 2020 to April 15, 2020 in a SSB or BBS pattern around the orders of the Big Client, by design and could not be a coincidence. Further, a trader whose turnover is in crores can also execute trades which are front running trades. Moreover, when the turnover figures of ABPL's

trading in equity derivative segment during pre-Examination period (January 1, 2020 to March 15, 2020) vis-à-vis intra day profit is compared to its turnover figures during March 16, 2020 to April 15, 2020 vis-à-vis intra day profit, there is a significant increase during March 16, 2020 to April 15, 2020. In 10 weeks during the pre-Examination period, ABPL's had suffered a loss of Rs. 24.47 lakh in intra day trade while only in 4 weeks during Examination Period, its intra day profit was Rs111 lakh.

27.1.2. With respect to the trades executed from the trading account of ABPL, the Noticees have submitted that the same has been executed by Mr. Rajesh Shah who had approached ABPL claiming that he had experience and knowledge regarding jobbing. Further, he also had a technical analysis software that gives accurate short term transaction calls based on which the jobbing activity would be carried out. Moreover, Noticees have no knowledge that Mr. Rajesh Shah was generating calls through unlawful means as due to lockdown, Noticees had no way or manner of knowing about it.

The aforesaid submissions of the Noticees are untenable for the following reasons:

27.1.2.1. The Noticees have not been able to substantiate their claim that Mr. Rajesh Shah was employed as jobber at ABPL. No physical or electronic correspondences has been submitted by the Noticees which would demonstrate that Mr. Rajesh Shah was employed at ABPL. No jobbing agreement has been signed by Mr. Rajesh Shah. Noticees have not submitted any correspondences which would show that reminder(s) was sent to Mr. Rajesh Shah to sign any jobbing agreement. In the absence of any supporting evidence, the submission of the Noticees that Mr. Rajesh Shah was employed at ABPL, is untenable.

27.1.2.2. Even assuming that Mr. Rajesh Shah was employed by ABPL as a jobber so as an employer, the Noticees cannot escape from the liability for the *prima facie* unlawful activities of its employee which the employee has

carried out in the course of his employment. If Mr. Rajesh Shah was employed by ABPL to carry out jobbing activity and in the course of jobbing, Mr. Rajesh Shah *prima facie* executed the alleged trades, ABPL as an employer should have put appropriate systems in place which could have alerted ABPL, of the possible *prima facie* malpractice especially when Mr. Rajesh Shah was generating proceeds hand over fist, for ABPL, of more than Rs 100 lakh in a month. Noticees are not novices in the market and are associated with the market since 2014. Considering the market dynamics, a consistent generation of positive proceeds, ought to have made Mr. Mukesh Jain to make meaningful inquiries with Mr. Rajesh Shah, which he failed to do. Thus, the Noticees submission that they had no knowledge of the trading activity of Mr. Rajesh Shah is untenable as Mr. Mukesh Jain has failed to exercise due skill, care and diligence.

27.1.3. Noticees have made similar submissions like other Noticees with respect to CDRs. The same have been considered in preceding paragraphs. In this regard, paragraph 16.1.6 may be referred to.

27.1.4. With respect to the fund transactions with Mr. Rahul Doshi, Ms. Ketana Shah and Ms. Jyoti Shah, Mr. Mukesh Jain has submitted that they were loan transactions. In support of his submission, he has submitted bank statements and copy of ledger maintained by him. It is observed that ledger not being an independent third party document cannot be accepted at face value. Other documentary evidence have to be brought on record viz., bank statements, loan agreement etc. The bank statement submitted by Mr. Mukesh Jain for the fund transfer to Mr. Rahul Doshi is only for the debit of Rs 19.5 lakh from his account. Bank statements showing the credit of loan amount from Mr. Rahul Doshi to the account of Mr. Mukesh Jain, has not been submitted. Neither any the particulars about the loan has been submitted by him viz, the amount of loan, reason for the loan etc. with respect to the loan transaction with Ms. Ketana Shah and Ms. Jyoti Shah, it is observed that Noticees have neither submitted the reason for which

the loan was extended by them nor have submitted any instance other than this where they have extended loans not only to their employees but also to employee's extended family members. Further, the Noticees have also not submitted or explained the reason which gave the Noticees the confidence to extend a loan of Rs. 15 lakh to its employee without any collateral, who had been with ABPL for approximately only for 15 - 20 days. Thus, the submission of Mr. Mukesh Jain that fund transactions with Mr. Rahul Doshi, Ms. Ketana Shah and Ms. Jyoti Shah, were loan transaction is not acceptable.

27.1.5. With respect to loan transactions, it is observed that the relevant question that needs to be answered is whether the existence of a loan transaction, absolves the Noticee from the *prima facie* allegation of execution of front running trades. Existence of a loan transaction between entities, establishes a connection between them. Once a connection has been established, then the various facts and circumstances of the case have to be examined to see whether the combined effect of the attending circumstances viz. frequency of trades, timing of the order placement, increased trading activity etc. outweigh the existence of a fund transfer / loan transaction. Therefore, a loan transaction cannot on a standalone basis support a conclusion that the trades executed are not front running trades. Moreover, when it comes to establishing genuineness of a loan transaction, the fact that the amount was credited back to the Noticees does not lead to an inference that initially when the amount was transferred, it was a loan. One of the parameters to establish genuineness can be the credit of the amount in the account of the creditor but that cannot be the sole criteria. As noted above, existence of a loan agreement, collateral, previous such instances etc. are also relevant criterion to establish the genuineness of a loan transaction.

27.1.6. At the time of the hearing the Noticees have submitted that intra day trades executed by Mr. Rajesh Shah were not alarming as the kind of scrips, positions taken and profits generated were similar to the other trades executed by ABPL. Noticees were advised to submit trading pattern of ABPL showing commonality

/ identical behaviour vis-à-vis intra day trades executed by Mr. Rajesh Shah. However, it is observed from the records that the Noticees have not substantiated their claim by showing instances of ABPL's trading pattern prior to the Examination Period which is similar / identical to its trading pattern during the Examination Period. As noted in the preceding paragraphs, there was increase in the trading activity of ABPL in the one month during the Examination Period compared to previous 10 weeks and there was turnaround in the fortune of the company from a loss of Rs 24.47 lakh in intra day trading activity to generation of proceeds to the tune of Rs 111 lakh in intra day trading activity in one month and mostly the proceeds were generated by one jobber. The aforesaid should have rung some alarm bells for a reasonable investor in the market. Therefore, the submission of the Noticees that intra day trades executed by Mr. Rajesh Shah were not alarming and profits generated were similar to the other trades executed by ABPL, is untenable. Anyway, for the fraudulent trades executed from the trading account of FR 10, Noticees are liable for the same.

28. I, therefore, find that the submissions / explanations submitted by ABPL and Mr. Mukesh Jain cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticees have *prima facie* acted in a fraudulent manner which is in contravention to the provisions of regulations 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed.

Mr. Rahul Doshi

29. Mr. Rahul Doshi's submission have been considered herein below:

29.1.1. He has submitted that the reason that he did not raise any concern regarding increase in volume in the trading in F&O segment as Mr. Mukesh Jain was in charge of proprietary trading and he being a Chartered Accountant was managing the back office of ABPL including managing accounts and compliance function. The submission of the Noticee is not acceptable. As per his own submission, ABPL, prior to Examination Period had sold half of its investment

due to falling market sentiments. Thus, even if it is accepted that he was not in charge of ABPL's proprietary trades, he was aware of the trading activity of ABPL. Further, his role in back office where he had access to accounts of ABPL and was responsible for the compliance of regulatory requirements, will also give him access to the trading activity of ABPL. Thus, a significant material change in the earnings of ABPL, from a loss of Rs. 24.47 lakh to generation of proceeds to the tune of Rs 111 lakh, would certainly not go unnoticed, if the Noticee being a Director would have exercised his independent judgment and acted with due care, skill and diligence, he would have noticed the red flags, which in the instant matter, Noticee failed to do. Therefore, the submission of the Noticee that there was no reason to raise any concern regarding increase in volume in the trading in F&O segment, is not acceptable.

29.1.2. With respect to the fund transaction with Mr. Mukesh Jain, the Noticee has submitted that the same was in respect to the loan that he had given to Mr. Mukesh Jain. In support of his submission he has submitted ledger, bank statements and his ITR. As an evidence, the adequacy of a ledger has been discussed in the preceding paragraph. With respect to the loan, if any, bank statements and ITRs, following is noted:

29.1.2.1. Noticee has not specified how much amount was loaned by him to Mr. Mukesh Jain and when was it loaned. Whether, the loan amount was transferred as a single transaction or it was given in instalments?

29.1.2.2. What was the reason for which the loan was availed by his employer?

29.1.2.3. As per Noticee's submission, Rs. 19.5 lakh which was credited to his account by Mr. Mukesh Jain was part of loan transaction. Further, Rs 26 lakh is still to be repaid by him. Even if it is assumed that Rs 19.5 lakh was the first time the loan amount was repaid by Mr. Mukesh Jain, it takes the total amount of loan money to Rs 45.5 lakh. The aforesaid leads to the following two circumstances:

- 29.1.2.3.1. Why no collateral was taken for such a big loan amount and how long was Noticee associated with ABPL that it gave him the confidence to lend Rs. 45 lakh to Mr. Mukesh Jain without any collateral.
- 29.1.2.3.2. Though as per Noticee's submission he is working for a decade, he has submitted, ITR for only 3 years, beginning from the financial year 2017-18. It is seen that his gross income during the said financial years was between Rs. 8 lakh to Rs. 12 lakh. Thus, in the absence of ITR for previous financial years and other independent source of income, the submission of the Noticee that he gave a loan of over Rs 45 lakh from his savings, cannot be accepted.
- 29.1.2.4. With respect to the bank statement submitted by the Noticee, the following is noted:
- 29.1.2.4.1. Majority of the transactions in the said bank account (A/c no.: 316002010070537; Union Bank of India) involves Ms. Pankhudi Rahul Doshi, ABPL and Mr. Mukesh Jain. There are hardly any third party payments e.g., payments for electricity, telephone bills, credit cards etc., normally expected in the operative accounts of people.
- 29.1.2.4.2. For the deposit of Rs 34 lakh made by Mr. Mukesh Jain in the said bank account, there are no corresponding transaction which show that Rs 34 lakh was transferred by the Noticee to Mr. Mukesh Jain.
- 29.1.2.4.3. A repeated pattern is seen in the bank statements for the period, April, 2019 to June, 2020 submitted by the Noticee that whenever a substantial deposit is made, the same is withdrawn the same day. For instance, a deposit is made by the Noticee or by Ms. Pankhudi Rahul Doshi, the same will be withdrawn on the same day either by ABPL or by Mr. Mukesh Jain. Similarly, if a deposit is made by ABPL, the same will be withdrawn by the Noticee or Mr. Mukesh Jain, on the same day. This pattern happens on multiple instances in every month for the aforementioned period.

- 29.1.2.4.4. It is also further noted that an individual like Noticee whose gross income is between Rs 10 lakh to Rs 12 lakh, deposits in its account in one month, money which is more than his gross annual income. For, e.g., in May, 2019, he had deposited around Rs 40 lakh between May 3, 2019 to May 17, 2019. Next month also i.e., in June, 2019, he has deposited around Rs 18 lakh in his account. Substantial deposits have been made by the Noticee almost in every month during the period April, 2019 to June, 2020.
- 29.1.2.5. In light of the aforesaid discussion, it is noted that the frequency of banking transaction between the Noticee and ABPL / Mr. Mukesh Jain is extremely high for an employee – employer relationship. Further, as opposed to a loan transaction where the loan is transferred either at one go or at regular interval, in instant matter, the money transactions between the claimed creditor and debtor, are on numerous occasions in every month during the period April, 2019 to June, 2020. Thus, from the particulars of the banking transactions, as noted above, *prima facie* does not evidence a loan transaction rather it *prima facie* leads to an inference that the aforesaid Union Bank of India account of Noticee, is intrinsically linked to operations of ABPL.
- 29.1.2.6. The submission of the Noticee that the parameters of Section 27 (2) of SEBI Act have not been satisfied in the instant matter, is also incorrect. It has been noted in preceding paragraph that he was aware of the increased trading activity of the ABPL and astronomical increase in the proceeds generated by ABPL. Further, during the Examination Period, a sum of Rs 28.5 lakh was deposited by Mr. Mukesh Jain / Ms. Anita Mukesh Jain. The same as noted above is *prima facie* do not, on a preponderance of probability basis, pertain to a loan transaction. They are, as noted in the interim order, *prima facie* linked to the proceeds of the alleged trades. Thus, Noticee neglected to make meaningful inquiries for the trades

executed by ABPL during the Examination Period and hence, *prima facie* one of the parameters of Section 27 (2) of SEBI Act, is satisfied in the instant matter.

30. I, therefore, find that the submissions / explanations submitted by Mr. Mukesh Rahul Doshi cannot be accepted because of the reasons as discussed in preceding paragraphs. Thus, the *prima facie* findings mentioned in the interim order dated August 7, 2020, that the Noticee has *prima facie* acted in a fraudulent manner which is in contravention to the provisions of 3 (a), 3 (b), 3 (c), 3(d), 4(1) and 4(2)(q) of PFUTP Regulations stand confirmed.

31. SEBI had been in receipt of representations from certain entities regarding the relaxation to be given in respect of the freezing of the demat accounts on the ground that some demat accounts are jointly held by the Noticee along with other entities. In this regard, I note that adequate and relevant documentary evidence (bank statements, evidence for independent source of income, details of trading activity etc.). Thus, at this juncture in the absence of adequate and relevant material documents to adjudicate on the claims, the request of those entities cannot be determined at this stage. Therefore, SEBI shall, on receipt of the relevant and adequate documents from the said entities expeditiously would communicate the decision in this regard on the representations.

Order

32. Considering the material on record, reply of the Noticees and findings thereupon mentioned in the preceding paragraphs, pending investigation, I in exercise of the power conferred upon me under Sections 11(1), 11(4) and 11B(1) read with Section 19 of the Securities and Exchange Board of India Act, 1992 and in the facts and circumstances of the case, hereby confirm the following directions of the interim order dated August 7, 2020 with effect from the date of this order:

32.1. Mr. Harshal Vira, Mr. Bhavesh Gandhi, Mr. Abhijeet Jain, Mr. Ketan Parekh, Mr. Anish Bagadia, Mr. Mukesh Parekh, Mr. Rutul Shah, Mr. Mukesh Jain,

Ms. Meena Ramniklal Vira, Anish Pravin Bagadia HUF, Pravin Durlabhji Bagadia HUF, Ms. Falguni Ketan Parekh, Mr. Dhimant Himatlal Shah, Mr. Rajesh Himmatlal Shah, Mr. Sanket Rajeshkumar Shah, Ms. Archana Mukesh Parekh, Mr. Rahul Doshi, Labdhi Enterprises and Across Broking Pvt. Ltd. are restrained from buying, selling or dealing in the securities market or associating themselves with securities market, either directly or indirectly, in any manner whatsoever till further directions.

32.2. Mr. Harshal Vira, Mr. Bhavesh Gandhi, Mr. Abhijeet Jain, Mr. Ketan Parekh, Mr. Anish Bagadia, Mr. Mukesh Parekh, Mr. Rutul Shah, Mr. Mukesh Jain, Ms. Meena Ramniklal Vira, Anish Pravin Bagadia HUF, Pravin Durlabhji Bagadia HUF, Ms. Falguni Ketan Parekh, Mr. Dhimant Himatlal Shah, Mr. Rajesh Himmatlal Shah, Mr. Sanket Rajeshkumar Shah, Ms. Archana Mukesh Parekh, Mr. Rahul Doshi, Labdhi Enterprises and Across Broking Pvt. Ltd. are directed to cease and desist from undertaking any activity in the securities market, directly or indirectly, in any manner whatsoever till further directions.

32.3. Needless to say that in view of the prohibition on sale of securities, during the period of restraint, the existing holding, including units of mutual funds, of the Noticees shall remain frozen including the demat accounts held by the Noticees, individually or jointly and severally.

32.4. Mr. Dhimant Himatlal Shah, Mr. Rutul Shah and Mr. Bhavesh Gandhi are directed to deposit the remaining proceeds in the escrow account immediately in compliance of the payment towards the total amount mentioned at Table 29 read with para 43.7 of the interim order. The directions at paragraph 43.7 of the interim order issued to the Banks will continue against Mr. Dhimant Himatlal Shah, Mr. Rutul Shah and Mr. Bhavesh Gandhi till the receipt of communication by SEBI in this regard.

33. Further, I, in exercise of the power conferred upon me under Sections 11(1), 11(4) and 11B (1) read with Section 19 of the Securities and Exchange Board of India Act,

1992 and in the facts and circumstances of the case, hereby revoke the directions issued against Ms. Foram Gandhi in the interim order as applicable to her. Further, SEBI is hereby directed to release Rs. 4,26,481/- from the escrow account which has been opened for the alleged trades executed from the trading account of Ms. Archana Mukesh Parekh.

34. I note that a detailed investigation in the matter is in progress which may bring out additional roles of omission or commission, of the Noticees, if any, in detail, depending on the material and after considering the facts and veracity of their submissions. The findings in the extant order are *prima facie* findings in a matter under investigation.

35. A copy of this order shall be served on all recognized stock exchanges, banks, depositories and registrar and share transfer agents to ensure compliance with the above directions.

-Sd-

DATE: June 30, 2021

PLACE: MUMBAI

MADHABI PURI BUCH

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA