BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. -SRP/DL/AO: 207/2011]

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

In respect of:

Galaxy Broking Ltd.

Member Broker - BSE

(SEBI Registration No. INB – 010882739)

(PAN: AABCG5457B)

In the matter of Parsoli Corporation Limited

FACTS OF THE CASE IN BRIEF

1. The Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) conducted investigations into the buying, selling and dealings in the scrip of M/s. Parsoli Corporation Limited (hereinafter referred to as '**Company/PCL**') whose shares witnessed abnormal increase in the price and volumes traded during the period from March 11, 2005 to July 18, 2005 at the Bombay Stock Exchange Limited (hereinafter referred to as **'BSE'**).

2. On investigation, it was, inter alia, observed by SEBI that Galaxy Broking Ltd., member BSE (hereinafter referred to as "**the Noticee**"), was prima facie, involved in circular/synchronized trades in the shares of PCL in collusion with other stock brokers, namely, M/s. Vijay Bhagwandas Shah, Joindre Capital Services Ltd., S. P. Jain Securities Pvt. Ltd., S.P. J. Stock Brokers Pvt. Ltd., Samruddhi Stock Brokers Ltd., VSE Stock Services Ltd., Insight Share Brokers Pvt. Ltd. and M/s. Harikishan Hiralal. These stock brokers had dealt in the scrip either on behalf of their clients or in their own accounts. As alleged such synchronized and circular

trades led to creation of artificial volumes in the scrip and it were designed to create a false market leading to significant price movement in the scrip.

3. In view of the above, it was alleged that the Noticee has violated the provisions of regulations 3(a), 4(1), 4(2)(a), 4(2)(b), 4(2)(g) and 4(2)(n) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practice relating to Securities Markets) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**) and clauses A(1), A(2), A(3), A(4) and A(5) of the code of conduct for stock brokers as specified under schedule II read with regulation 7 of the SEBI (Stock Brokers and Sub-brokers) Regulations, 1992 (hereinafter referred to as **"Brokers Regulations"**). The alleged violation/contravention of the provisions of the PFUTP Regulations and the Brokers Regulations, if established, make the Noticee liable for monetary penalty under sections 15HA and/or 15HB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**').

APPOINTMENT OF ADJUDICATING OFFICER

4. In the matter, earlier Shri V. S. Sundaresan was appointed as Adjudicating Officer under section 15 I of the SEBI Act read with rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as '**Rules'**) vide order dated August 14, 2009 to inquire into and adjudge under sections 15HA and 15HB of the SEBI Act, the alleged violation of the aforesaid provisions of the PFUTP Regulations and the Brokers Regulations.

5. Consequent to transfer of Shri V. S. Sundaresan, the undersigned has been appointed as Adjudicating Officer vide Order dated November 18, 2009.

SHOW CAUSE NOTICE, HEARING AND REPLY

6. Show Cause Notice No. EAD-1/SRP/DSL/185647/2009 dated December 01, 2009 (hereinafter referred to as **'SCN'**) was issued to the Noticee under rule 4(1) of the Rules to show cause as to why an inquiry be not held against it and penalty be not imposed under sections 15HA and 15HB of the SEBI Act for the alleged violation of the provisions of the regulations 3(a), 4(1), 4(2) (a), (b), (g) and (n) of the PFUTP Regulations and clauses A(1) to A(5) of the code of conduct for Stock Brokers read with regulation 7 of the Brokers Regulations.

7. It has been observed from the postal acknowledgement card that the SCN was delivered to the Noticee on December 02, 2009, however, it did not respond to the same within the specified time. The undersigned subsequently received a letter dated December 23, 2009 from the Noticee, wherein it was, *inter alia*, stated that in the matter of the instant proceedings it has filed consent application before SEBI. The filing of the aforesaid consent application by the Noticee was confirmed by SEBI on January 05, 2010. Thereafter, the undersigned received further intimation from SEBI on February 14, 2011 to the effect that the consent terms as offered by the Noticee have been rejected. On receiving of such information the undersigned once again advised the Noticee vide letter No. EAD-1/SRP/DL/5362/2011 dated February 15, 2011 to file its reply to the SCN within 14 days. In response to the same the Noticee vide its letter dated February 21, 2011 requested to provide the copy of the aforesaid SCN along with the relevant annexures. The undersigned noted with concern that the SCN was duly delivered and acknowledged at the Noticee's end on December 02, 2009, despite that it had not submitted its reply to the allegations and after lapse of more than 15-months time it asked for a copy of the same. However, in the interest of natural justice, as desired by the Noticee, a copy of the SCN alongwith all the relevant enclosures were once again forwarded to it vide letter dated February 25, 2011. Despite that, no reply was received from the Noticee, therefore, based on the available facts of the case and the material on record it was decided to conduct inquiry in the matter and for the purpose an opportunity of hearing was granted to the Noticee on April 07, 2011 vide notice dated March 31, 2011. Vide its email dated Apriil 06, 2011 (sent from e-mail ID glaxybroking@yahoo.co.in) the Noticee confirmed its attendance on the said date. Hearing was attended by Ms. Vasanti Nagda, the authorized representative of the Noticee.

8. At the time of hearing, written reply of the Noticee dated April 04, 2011 was also submitted. The oral submissions made by the Noticee were recorded. The Noticee, *inter alia*, stated at the time of the hearing that in the matter, it had asked for certain documents vide letter dated April 02, 2011, which may be provided to them. Thereafter, on receipt of the said letter of the Noticee, it was found that it had asked for copy of investigation report, complete order/trade log details, statements of all stock brokers and constituents recorded buy SEBI in the matter,

material to show that its trades had influenced the price and volumes of the scrip and also the material that it had acted together with the said 9 stock brokers with a common intention. The Noticee was provided with complete details of order/trade logs vide letter dated April 20, 2011 and also intimated that all the relevant details relied upon in respect of allegations against it have already been provided in the SCN and the Annexures I to V attached with the SCN. Thereafter, the Noticee made its further written submissions vide letter dated May 06, 2011. In consideration of the same the Noticee was granted another opportunity of personal hearing on May 25, 2011 vide notice dated May 11, 2011. The Noticee confirmed his attendance for the hearing vide e-mail dated May 23, 2011 but did not turn up for the hearing. It subsequently, informed vide e-mail sent on May 25, 2011 that its authorized representative, who was supposed to attend the hearing, has met with some accident and hence, to postpone the hearing to some other date. Considering the said request hearing was rescheduled to May 30, 2011 and the Noticee was informed about the same vide e-mail as well as letter dated May 25, 2011. The hearing on May 30, 2011 was attended by the Noticee's Authorized representative, Ms. Vasanti Nagda.

9. The written and oral submissions made by the Noticee are mainly to the following effect:

- *That during the investigation period it had traded as per the instructions given by its client Santosh Gade and that Mr. Gade traded in several scrips in the manner of a jobber/day trader, avoiding delivery based trades.*

- *It had no knowledge of any connection/relation that Mr. Gade may had with other brokers/clients who traded in the shares of PCL during the Investigation Period and denied that it was connected to or acted together with other brokers/clients who traded in the shares of the Company during the Investigation Period.*

- *It had placed orders on the automated and anonymous trading system of the Stock Exchange and it was not and could not have been aware of the identity of the counter party broker or client. Any matching of orders is therefore, only a coincidence and not the result of the any malafide action as falsely alleged or otherwise.*

- *It had never traded in its own/proprietary account in the said scrip.*

- *The allegations and findings in the said Show Cause Notice are mere conjectures and surmises, which cannot be the basis to impose any penalty on it.*

- *There was some technical problem in its computer system and the data required by them could not be retrieved therefore, they could not file reply to the SCN.*

- *It had not been provided with the documents sought vide their letter dated April 02, 2011.*

- *The details provided with the SCN do not indicate that it had traded in its own account. It traded in the scrip only on behalf of its 17 clients and not on own account.*

CONSIDERATION OF ISSUES AND FINDINGS

10. I have carefully examined the allegations against the Noticee, written and oral submissions made by the Noticee and the documents available on record. The issues that arise for consideration in the present case are:
    a) Whether the Noticee was indulged in the circular/synchronized trades as aforesaid and thereby violated regulations 3(a), 4(1), 4(2) (a), (b), (g) and (n) of the PFUTP Regulations and/or clauses A (1), (2), (3), (4) and (5) of the code of conduct for stock brokers as specified under schedule II read with regulation 7 of the Brokers Regulations?
    b) Does the contravention/violation of the aforesaid provisions of the PFUTP Regulations and the Brokers Regulations, if any, committed by the Noticee attract monetary penalty under section 15HA and/or 15HB of the SEBI Act?
    c) If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in section 15 J of the SEBI Act?

11. Before moving forward, it would be pertinent to refer to the provisions of the PFUTP Regulations and the Brokers Regulations alleged to have been violated by the Noticee:

<u>PFUTP Regulations</u>

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

4. Prohibition of manipulative, fraudulent and unfair trade practices
(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.
(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:-

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

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

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

(n) circular transactions in respect of a security entered into between intermediaries in order to increase commission to provide a false appearance of trading in such security or to inflate, depress or cause fluctuations in the price of such security;

<u>Brokers Regulations</u>
"Stock-Brokers to abide by Code of Conduct

7. The stock-broker holding a certificate shall at all times abide by the Code of Conduct as specified at Schedule II.

SCHEDULE II

Code of Conduct for Stock Brokers

A. GENERAL

(1) INTEGRITY: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.
(2) EXERCISE OF DUE SKILL AND CARE: A stock-broker, shall act with due skill, care and diligence in the conduct of all his business.
(3)MANIPULATION: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.
(4) MALPRACTICES: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stock-broker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.
(5) COMPLIANCE WITH STATUTORY REQUIREMENTS: A stock-broker shall abide by all the provisions of the Act and the rules, regulations issued by the Government, the Board and the stock exchange from time to time as may be applicable to him."

12. It would also be appropriate to recapitulate the relevant facts of the case. From the price-volume data of PCL on BSE it was observed that there was a wide fluctuation in the volume of the shares traded on the exchange during the period from March 11, 2005 to July 18, 2005 (**investigation period**). The daily traded volume went up from 1, 93,606 shares at the beginning of the period of investigation to 7, 52,616 shares towards its end. During the investigation period the lowest traded volume of 2,880 shares was witnessed on April 28, 2005 and the highest of 13, 92,988 shares on June 13, 2005. The total traded volume during this period was 2,53,83,030 shares and the average daily volume traded was 2,78,934 shares. It was also observed that price of the scrip opened at ₹. 14.51 on March 11, 2005, touched its period low of ₹. 12.30 on May 2, 2005 and period high of ₹. 36.50 on July 18, 2005. The price rise in the scrip was to the extent of 151% in 91-trading days.

13. It is alleged that the Noticee had traded in the scrip on behalf of its client Santosh Gade and also on its own account and purchased 2, 94,248 shares and sold 2,95,146 shares during the period from March 11, 2005 to June 28, 2005, which were in the nature of circular /synchronized trades.

14. For the alleged circular/synchronized trades of the Noticee in the scrip of PCL on BSE, the relevant details of the counterparty stock brokers and clients are as follows:

Counterparty buy and sell members/clients of the Noticee

Name of Counterparty Stock Broker	Broker's Code/ Clg. No.	Corresponding Client's name	Number of shares bought by the Noticee	Number of shares sold by the Noticee
Vijay Bhagwandas Shah	77	Sunil Purohit	1,18,335 15,000 (own account)	53,990
Joinder Capital Services Limited.	89	Vinod Khetan	48,000	9,499
Peninsular Capital Ltd.	156	Haresh Posnak Own	33,000	7,500 39,622
VSE Stock Services Ltd.	253	Mehul Arunbhai Shah	10,000	
Harkishan Hiralal	267	Perk Investments Pvt. Ltd.	13,240	
S P Jain Securities Pvt. Ltd.	620	Sunil Kuril Own	23,673 15,000 (own account)	35,800
SPJ Stock Brokers Pvt. Ltd.	646	Own		80,660 14,525 (own account)
Insight Share Broker	946	Santosh Gade	10,000	26,150
Samruddhi Stock Brokers Ltd.	935	Sunil Kuril	8,000	12,400 15,000 (own account)
Total			**2,94,248**	**2,95,146**

15. It is also observed that that during the period of investigation these stock brokers executed trades amongst themselves, where they bought 31,34,232 shares and also sold exactly the same number of shares (i.e. 31,34,232 shares) of PCL. The relevant details are given in the table below:

Name of the broker	Name of the client	No. of shares purchased	% to total circular trades	No. of shares sold	% to total circular trades
S.P. J. Stock Brokers Pvt. Ltd. (M/s SPJ Stock)	Own Account	756156	24.13	714158	22.79
Vijay Bhagwandas Shah	Sunil Purohit	568572	18.14	587275	18.74
Joindre Capital Services Ltd. (M/s Joindre)	Vinod Khetan	387289	12.36	385400	12.30
S.P. Jain Securities Pvt. Ltd. (M/s S. P. Jain)	Sunil Kuril	365050	11.65	392142	12.51
Peninsular Capital Market Ltd. (M/s Peninsular)	Haresh Posnak	353726	11.29	376029	12.00
Galaxy Broking Ltd. (M/s Galaxy)	Santosh Gade and Own Account	294248	9.39	295146	9.42
Samruddhi Stock Brokers Ltd. (M/s Samruddhi)	Sunil Kuril and Mahendra Jaiswal	156915	5.01	135899	4.34
VSE Stock Services Ltd. (M/s VSSL)	Mehul Shah	108276	3.45	112500	3.59
Insight Share Brokers Pvt. Ltd. (M/s Insight)	Santosh Gade	102200	3.26	92543	2.95
M/s Harikishan Hiralal	Perk Investment	41800	1.33	43140	1.38
Total		**3134232**	**100.00**	**3134232**	**100.00**

16. The analysis of the trades of the Noticee and its counterparty brokers in the scrip of PCL during the period March 11, 2005 to June 28, 2005, prima facie, indicate their indulgence in circular trades. The following table list out details of such trades.

Date	First trade time	Seller*	Buyer & Seller	Buyer & Seller	Buyer & Seller	Buyer & Seller	Buyer	Quantity
11/03/05	12:19:51	646	77	513	620		646	3000
15/03/05	11:17:10	646	89	513	620		646	3000
	13:18:20	646	77	513	620		646	2500
16/03/05	12:28:59	646	77	513	620		646	5000
	15:04:51	646	89	513	77	620	646	5000
17/03/05	09:58:31	646	156	513	620		646	2500
	15:06:56	646	156	935	89	77 ↓		
						513	646	4000
18/03/05	11:13:11	646	89	513	156		646	4000
	12:12:22	646	89	513	620		646	3500
	15:16:15	646	620	156	89	513	646	4000
21/03/05	13:19:22	646	89	513	156		646	3500

	14:18:39	646	620	89	77	513	646	5000
	13:24:23	646	620	513	89		646	5000
24/03/05	12:16:28	646	89	513	77		646	5000
29/03/05	11:15:51	646	89	156	513		646	5000
30/03/05	11:18:25	646	89	513	620		646	5000
31/03/05	12:20:29	646	89	513	77		646	5000
1/04/05	10:37:57	646	89	620	513		646	5000
4/04/05	11:24:22	646	89	77	513		646	5000
	14:20:20	646	89	513	77		646	5000
5/04/05	09:58:07	646	89	267	513		646	5000
	11:16:33	646	89	513	156		646	5000
6/04/05	11:23:01	646	89	77	513		646	5000
7/04/05	14:15:51	646	267	513	89		646	4500
8/04/05	11:19:18	646	156	77	513		646	5000
11/04/05	12:20:28	646	253	513	77		646	5000
	14:14:39	646	267	513	77		646	3700
13/06/05	13:30:22	646	77	513	620		646	7000
15/06/05	12:23:13	646	620	513	946		646	8000
	13:25:10	646	620	935	513		646	8000
17/06/05	12:32:49	156	935	946	620	77 ↓		
						513	156	15000
20/06/05	14:37:07	156	77	620	646	620 ↓		
						77 ↓		
						513	156	10000
	15:07:34	646	620	77	513		646	10000
21/06/05								
	15:21:19	646	77	513	156		646	9500
22/06/05	11:52:38	646	77	156	620	513	646	15000
	13:51:27	646	620	77	513	935	646	15000
28/06/05	12:23:30	646	77	513	620		646	2500
	13:30:22	646	77	513	620		646	2500
	14:17:33	646	77	513	935		646	2500

*Numbers in the columns “seller”, “seller & buyer” and “buyer” is the Broker Code/ Clg. No. of the respective stock brokers.

** The symbol “↓” indicates that the next buyer and seller is the broker whose code is mentioned below.

17. The findings, upon analysis of the circular trading amongst the Group, are as under:-

a) The Noticee along with other stock brokers has followed a particular pattern of trading. On a given day, one broker starts selling a particular quantity of shares to second broker, who in turn sells it to the third broker. The shares keep changing hands and finally come back to the first broker. In other words, A > B > C > … > … > A.

b) For example, on March 15, 2005, SPJ Stock Brokers (Clg. No.646) started the trade at 12:28:59 hrs. by selling 5,000 shares to Vijay Bhagwandas Shah (Clg. No. 77), who in turn sold it to the Noticee (Clg. No.513). Thereafter, the Noticee sold the shares to S. P. Jain Securities Pvt. Ltd. (Clg. No.620), who sold it back to SPJ Stock Brokers (Clg. No.646). The trades were executed in the price range of ₹.16.85 to ₹.16.95 Such circular pattern of trading in which the Noticee was involved was observed on two occasions on March 16, 2005. The time when the first sell trade took place is given in the table above. The second manipulative game of circular trade was stated with the sell trade of M/s. SPJ Stock Broker (Clg. No. 646) at 15:04:51 hrs. by selling 5,000 shares to M/s. Joinder Capital (Clg. No. 89), who in turn sold it to the Noticee, thereafter, the Noticee sold the shares to M/s. SP Jain Securities (Clg No. 620), who sold it back to SPJ Stock Broker (Clg. No. 646). The trades were done in the price range of ₹. 16.85 to ₹. 16.95.

c) On March 17, 2005, SPJ Stock Brokers (Clg. No.646) again started the circular trade at 09:58:31 hrs. by selling 2,500 shares to Peninsular Capital (Clg. No.156), who further sold the shares to the Noticee (Clg. No.513), who thereafter, sold the shares to SP Jain Securities (Clg. No.620), who sold it back to M/s. SPJ Stock Brokers (Clg. No. 646). The trades were executed in the price range of ₹. 17.00 to ₹. 17.10. Such circular pattern of trading in which the Noticee was involved were observed on three occasions on March 17, 2005. The time when the first sell trade took place is given in the table above. The second manipulative game of circular trade was started by M/s. SPJ Stock brokers (Clg. No. 646) at 15:06:56 hrs. by selling 4,000 shares to Peninsular Capital (Clg. No. 156), who in turn sold it to Samridhi Stock Broker (Clg. No. 935), who further sold it to Joinder Capital (Clg. No. 89), who then sold it to Vijay Bhagwandas, who further sold it to the Noticee. The Noticee sold the shares back to M/s. SPJ Stock Brokers (Clg. No. 646). The trades were done in the price range of ₹ 16.60 to ₹. 16.70.

d) Similarly, on March 18, 2005, SPJ Stock Brokers (Clg. No.646) again started the trade at 11:13:11 hrs. by selling 4,000 shares to M/s.Joindre Capital (Clg. No. 89), who in turn sold it to the Noticee (Clg. No. 156). The Noticee further sold the shares to Peninsular Capital (Clg. No. 156), who then sold it back to M/s. SPJ Stock brokers (Clg. No. 646). The trades were executed in the price range of ₹.16.20 to ₹.16.25. Such pattern of circular trading in which the Noticee was involved, were observed on three occasions on March 28, 2005. The time when the first sell trade took place is given in the table above. The second manipulative game of circular trade on the day started with the sell trade of SPJ Stock Brokers (Clg. No. 646) at 12:12:22 hrs. by selling 3,500 shares to M/s.Joindre Capital (Clg. No. 89), who in turn sold it to the Noticee (Clg. No. 513), who further sold it to SP Jain Securities (Clg. No. 620), who sold it back to SPJ Stock Brokers (Clg. No. 646). The trades were done in the price range of ₹ 15.80 to ₹16.85. The third manipulative game of circular trade on the day started with the sell trade of SPJ Stock Brokers (Clg. No. 646) at 15:16:15 hrs. by selling 4,000 shares to SP Jain Securities (Clg. No.620), who in turn sold it to Peninsular Capital (Clg. No. 156), who further sold it to Joinder Capital (Clg. No. 89), Joinder Capital sold it to the Noticee (Clg. No. 513), who sold it back to SPJ Stock Brokers (Clg. No. 646). The trades were done in the price range of ₹ 16.00 to ₹ 16.10.

e) Similar circular trading pattern with the same set of stock brokers were observed on 26- trading days details of which have been given above. During those 26-trading days, 39 instances of circular trades were observed wherein; the Noticee was involved both as buyer and seller. It is also observed that after the completion of a particular series of trades the position of the stock brokers with respect to delivery of shares was 'nil' in almost all cases.

18. A perusal of the details in the aforesaid table indicate that the trades executed between the Noticee and a set of stock brokers on BSE in the scrip of PCL during the relevant period were not genuine trades but were designed to generate artificial volumes and to disturb the market equilibrium.

19. It is noted from the investigation report that the circular trades were observed amongst the aforesaid entities on 30 trading days between March 11, 2005 and June 28, 2005. On those 30 trading days, the total number of shares traded on BSE was 91,99,531, out of which approximately 34% (i.e. 31,34,232 shares) was on account of the circular trades of the aforesaid stock brokers including the Noticee. Day wise details of the contribution in volume by the circular trades of the Noticee and its counterparty brokers, in the scrip of PCL on BSE on the days when circular trades were observed, are tabulated below:

Date	Total Circular Traded Volume	Total Traded Volume on BSE	% of Circular Traded Volume to Day's Volume on BSE
11-Mar-05	43500	193605	22.47
15-Mar-05	52400	159450	32.86
16-Mar-05	102000	174251	58.54
17-Mar-05	106000	189350	55.98
18-Mar-05	104000	168400	61.76

21-Mar-05	91000	103450	87.97
22-Mar-05	148000	171300	86.40
23-Mar-05	100000	118000	84.75
24-Mar-05	98000	112335	87.24
28-Mar-05	90000	105875	85.01
29-Mar-05	95000	105400	90.13
30-Mar-05	100000	133550	74.88
31-Mar-05	100000	142583	70.13
1-Apr-05	95300	117075	81.40
4-Apr-05	75000	91021	82.40
5-Apr-05	99900	140350	71.18
6-Apr-05	100000	114699	87.18
7-Apr-05	96799	122769	78.85
8-Apr-05	78700	109360	71.96
11-Apr-05	95230	105190	90.53
12-Apr-05	9050	46040	19.66
13-Apr-05	10000	102929	9.72
13-Jun-05	191300	1392988	13.73
15-Jun-05	130654	309237	42.25
17-Jun-05	173492	915571	18.95
20-Jun-05	239331	1119925	21.37
21-Jun-05	154813	1014981	15.25
22-Jun-05	248045	1093642	22.68
23-Jun-05	57368	344789	16.64
28-Jun-05	49350	181416	27.20
Total	**3134232**	**9199531**	**34.07**

20. It may be seen from the above details that out of the 30 trading days on which such circular trades have been executed, on all the days the contribution of such trades to the market volumes are quite significant. Out of these 30-days the Noticee has traded on 26 days and on a number of days such trades have contributed to more than 80 % of the day's market volumes and on at least two days the contribution is even more than 90 %.

21. It is observed that the total circular traded quantity by the group of aforesaid brokers was 31, 34,232 shares (purchase) and 31, 34,232 shares (sale) and the Noticee's contribution in this circular traded quantity is 2, 94,248 shares (purchase) and 2, 95,146 shares (sale). This constituted approximately 9.39 % of the total circular traded purchase quantity and 9.42% of the total circular traded sale quantity respectively. Further, during the period when the Noticee has indulged in circular trades, the price of the scrip has gradually increased from ₹ 14.51 per share on March 11, 2005 to ₹ 29.35 per share on June 28, 2005.

22. The phenomenal regularity with which these stock brokers were counter-parties, leads one to conclude, that these transactions were effectively meant to be circular. It is my considered belief that frequency of such trades ensured consistent matching of the orders purely for the purpose of projection of the volumes of the shares of PCL in a way that was not the market determined volumes, possibly to induce other persons to invest in the said scrip. I find that the daily traded volume of the scrip went up from 1, 93,606 shares at the beginning of the period of investigation to 7, 52,616 shares towards its end, and there was also wide fluctuations in the traded volume of the scrip. It witnessed a low of 2,880 shares (on April 28, 2005) and a high of 13,92,988 shares (on June 13, 2005). Noticees contribution in this circular traded quantity is of 5, 89,394 shares (purchase of 2, 94,248 shares and sale of 2, 95,146 shares). Thus, the increase in the trading volume in the scrip can be attributed to the trades done by the Noticee and its counter party brokers. Also, such type of circular transactions, which contribute to major portion of market volume on most of the days, do impact price movement and volatility in stock markets. Others in the market get the impression that these are genuine prices and volumes of the scrip whereas, this is not the fact. This is what has transpired in the present case. I have also noted the fact that a total of 31, 34,232 shares were purchased and the exact same number of shares sold collectively by all the participants of the circular trading during the period of investigation and this cannot be just a matter of coincidence.

23. Further, the pattern of trading and matching of these trades with the same set of BSE stock brokers cannot be attributed to coincidence, as this trend was not noted in a solitary incident or two. Instead, this pattern was observed on 39 instances in 26 trading days during the period from March 11, 2005 to June 28, 2005. I have noted that the said trades of the Noticee, which were mostly executed on behalf of Santosh Gade, got matched regularly with the same set of stock brokers. I am of the view that no unknown persons can trade continuously with each other by putting orders in such pattern contributing significantly to total volumes in the market. This indicates that the said stock brokers were trading in the scrip in connivance with each other.

24. The fact is that had the aforesaid discussed trades been executed in the normal course of business, the possibility of such perfect matching of trades would not

have been possible. The transactions were definitely done with some inbuilt component of ‘intent’ involved. Greater the number of circular trades, the larger is the chance of trades not being genuine in nature. Hon’ble SAT had observed in the case of *Ketan Parekh* v. *SEBI* (Appeal No. 2 of 2004 Order dated July 14, 2006) *“Whether a transaction has been executed with the intention to manipulate the market or defeat its mechanism will depend upon the intention of the parties which could be inferred from the attending circumstances because direct evidence in such cases may not be available.”* In the instant case, the very act of circular trades in the scrip of PCL on the part of the Noticee revealed in its acting in tandem with other entities indicates the inherent intention of manipulating the said scrip.

25. From the above, it is evident that circular trades were effected in the scrip of PCL and the Noticee was one of the stock brokers from whose terminals the trades as aforesaid were executed. The Noticee has, inter alia, contended that it was not a party to the abovementioned fraudulent game of circular trades; it only executed the trades on receiving instructions from its client Santosh Gade and that it is not related in any way with either Santosh Gade or other stock brokers or promoters of the Company. In this regard, it has already been stated that the pattern of trading and matching of these trades with the same set of brokers and that too on so many occasions cannot be attributed to coincidence. During the period the Noticee transacted in the scrip for its client Santosh Gade. Almost all of the Noticee’s transactions in the scrip of PCL executed on behalf of the client Santosh Gade got matched regularly and that too with the same set of stock brokers. This trend was not noted in a solitary instance or two. Instead, this pattern was observed on 39 instances in 26 trading days. I am of the view that such matching of the trades of the Noticee, executed on behalf of its client Santosh Gade , with the same set of stock brokers and that too on so many occasions cannot take place without the knowledge or involvement of the Noticee. My view is strengthened on further scrutiny of the details of circular trades mentioned in the table at Point No. 16 above. I find that on as many as 12 occasions for the trades of the Noticee (referred therein as Clg. No. 513), the counter party broker is SPJ Stock Brokers (Clg. No. 646). Which means that on these occasions when the Noticee is buying on behalf of Santosh Gade the selling member is SPJ Stock Brokers and when the Noticee is selling on behalf of Santosh Gade the buying member is SPJ Stock

Brokers. In rest of the transactions executed during the investigation period the trades of the Noticee have matched with the other stock brokers of the group involved in circular trades. I am therefore, of firm belief that as has been stated above circular trades have taken place and also that aforesaid buy and sale trades respectively involving 2,94,248 and 2,95,146 shares executed by the Noticee on behalf of its client Santosh Gade and on its own account was a part of the game plan of circular trades.

26. The Noticee has not denied the fact that the said trades (purchase of 2, 94,248 shares and sale of 2, 95,146 shares) were executed from its terminals. However, it has submitted that it had no knowledge of any connection/relation that its client Santosh Gade had with other clients/brokers who had traded in the scrip of PCL. In this regard, I am of the view that as far as its above referred trades in the scrip of PCL are concerned, the pattern of trades; the time gap between the buy and sale orders; same set of brokers being the counter party to the trades over a long period of time; the total number of PCL shares bought by these stock brokers matching exactly with the total number of the shares sold during the relevant period; rotation of shares among select few entities without change in beneficial ownership most of the time, etc. are a few of the many instances that indicate Noticee's involvement in such transactions and that these transactions were for creation of artificial volumes and false market in the scrip of PCL. The Noticee has contended that during the period it had traded in the scrip on behalf of 17 other clients also. This fact also confirms its collusion with its client Santosh Gade as the available details suggest that either its own trades or the trades executed on behalf of Santosh Gade only were circular in nature and had matched with the said stock brokers. Thus, the execution of circular trades repeatedly for several days by the entities as a group reveals that Noticee was having nexus with its client, Santosh Gade and the counter party brokers/clients with whom the trades had taken place. In this regard, it is pertinent to refer to the decision of the Hon'ble SAT in the matter of *Triumph International Finance Ltd. Vs Securities and Exchange Board of India,* (Appeal No. 35 of 2002, Order dated May 4, 2007). Hon'ble SAT observed as follows: - "*The question that arises for consideration is – could it be said that the appellant was innocent and whether such large number of trades could have matched on the screen without the knowledge and active involvement of the appellant as a broker. The answer has to be in the negative. It is the broker*

who plays a pivotal role in synchronizing the trades with the counter broker and matches the same through the exchange mechanism by punching the buy and sell orders simultaneously. It is true that the brokers act on the advice of their clients but it is they who actually implement the game plan. …. It is inconceivable that such large number of trades could have matched on the screen without the appellant as the buyer's broker being a party to the game plan. Since the buy and sell orders were punched into the system simultaneously in such large numbers and they all matched, we cannot believe that it was a coincidence and the only inference that can be drawn is that there was a prior meeting of the minds before the trades were executed and this disturbs the true price discovery mechanism of the exchange. The appellant is only feigning innocence which plea in the circumstances cannot be accepted."

27. In the present case the Noticee along with its client and counter party brokers executed circular trades with pre-determined plan to create artificial volumes in the scrip. In absence of any cogent explanation for these trades the contentions of the Noticee cannot be accepted. I am of the view that the Noticee through the said artificial trades, interfered with the market equilibrium. Such trades executed by the Noticee were not the real trades as is evident from the fact that among the select few entities exactly the same number of 31, 34,232 shares were purchased and sold without any change in beneficial ownership of those shares. When the trades were inherently non genuine, I do not feel that it is necessary to prove that investors had, in fact, got induced and bought and/ or sold on the basis of these trades.

28. The Noticee has contended that as has been alleged in the SCN, it had never traded in PCL shares in its own/proprietary account and that the details provided along with the SCN also do not indicate any trading in PCL shares in its own/proprietary account. I have noted that contradicting its own submissions and contentions the Noticee has subsequently stated in its reply dated May 06, 2011 that, *"Our proprietary trades were done on only one day out of the 30 trading days under consideration and for an insignificant quantity."* Further, I observe that the relevant details were provided to the Noticee in Annexures III and IV to the SCN, which clearly indicate that it had traded in its own account on June 22, 2005 and had purchased and sold 30,000 and 29,525 shares respectively. Therefore, the

said contentions of the Noticee are not acceptable and I am of the view that such contradictory statements /submissions were made by the Noticee only to misguide the undersigned. The Noticee has further stated that it has not been provided with various details viz. the investigation report, copy of statements recorded etc. In this regard, it is clarified that all the relevant documents which have been relied upon for the proceedings against the Noticee were provided to it in the SCN and the Annexures I to V attached to the SCN. It may be mentioned that the allegations have been made against he Noticee based on the trading pattern and trades of the Noticee and counterparty to its trades as is evident from the order/trade log details and not on the basis of statements made by any entity or stock broker. Further, apart from the specific details of the transactions/trades taken into consideration for the allegations against the Noticee, which were provided alongwith the SCN, in consideration of the request of the Noticee the complete Order/Trade log details were provided to it on April 20, 2011.

29. I have further noted that the Noticee had made reply to the SCN after more than 15 months of its issuance. Its insincerity towards the proceedings is also reflected from the fact that it did not even care to retain the original SCN and the undersigned had to once again provide to it a copy of the SCN and the enclosures on April 20, 2011. Though the facts suggest that it had not retained a copy of the original SCN, when specifically asked at the time of personal hearing on April 07, 2011about the reasons for not making reply to the SCN, the Noticee again tried to misguide the undersigned by stating that that there was some technical problem in its computer and the data required could not be retrieved, therefore, they could not file reply to the SCN. The Noticee could not explain that why the said technical problem was not brought to notice of the undersigned earlier and the position was explained after 15-months, when specifically asked for. I am of the opinion that such excuses, which are not supported by any other detail/document, have no merit.

30. In order to establish the fraudulent nature of trades indulged in by the Noticee, reference may also be made to the definition of "fraud" laid down in regulation 2 (1) (c) of the PFUTP Regulations, which reads as follows:

> *"2 (1)(c) "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 to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, … …"*

31. Regulation 3(a) of the PFUTP Regulations prohibits any person from dealing directly or indirectly in securities in a fraudulent manner. Regulation 4(1) of the PFUTP Regulations prohibits any person from indulging in fraudulent or unfair trade practices in securities. Regulation 4(2)(a) of the PFUTP Regulations prohibits a person from indulging in an act which creates false or misleading appearance of trading in the securities market. Regulation 4(2)(b) of the PFUTP Regulations prohibits dealings in a security intended to operate as a device to inflate, depress or cause fluctuations in the price of such security for wrongful gains. Further, regulation 4(2)(g) of the PFUTP Regulations prohibits from entering into a transaction in securities without intention of performing it or without intention of change of ownership of such security. Regulation 4(2)(n) of the PFUTP Regulations prohibits circular transactions in securities between intermediaries in order to increase commission or inflate/depress or cause fluctuations in the price of such security. As detailed above, the acts of the Noticee clearly created false and misleading appearance of trading in the shares of PCL which was designed to induce investors to deal in the shares of PCL. The facts of the case highlight the Noticee's involvement, by executing continuous circular trades in a substantial manner, in the manipulation of price/volume of the shares of PCL which led to creation of artificial volumes and misleading appearance of trading in the said shares on account of collusive activities with the entities as discussed in the preceding paragraphs.

32. In terms of Clauses A1 to A5 of the code of conduct specified under the provisions of Brokers Regulations, a stock broker shall not, inter alia, create false market or indulge in any act detrimental to the investors' interest or which leads to the interference with the fair and smooth functioning of the securities market. The stock broker shall also maintain high standards of integrity, promptitude and fairness and shall act with due skill, care and diligence in the conduct of his business. It also mandates that the stock broker shall not, inter alia, indulge in manipulative transactions with a view to distort the market equilibrium. The circular trades of the Noticee as explained hereinabove in detail establish that the Noticee has shown total disregard for the law and conduct expected from it as a market intermediary. It executed circular trades on behalf of its client which created a

misleading appearance of trading, artificial volume and price in the shares of PCL. It further shows that the Noticee had failed to exercise due skill, care and diligence and not maintained high standards of integrity, promptitude, fairness in the conduct of business as a stock broker.

33. In view of the foregoing, I am of the opinion that the submissions of the Noticee are not convincing and the same do not hold good. I am of the view that the facts of the present case clearly bring out an element of fraud and unfair trade practices indulged in by the Noticee as far as the aforesaid trades in the scrip of PCL is concerned. Therefore, I hold the Noticee guilty of violating the provisions of regulations 3(a), 4(1), 4(2) (a), (b), (g) and (n) of PFUTP Regulations and clauses A (1) to A (5) of the code of conduct for Stock Brokers as stipulated in schedule II read with regulation 7 of the Brokers Regulations.

34. The aforesaid violations by the Noticee make it liable for penalty under Section 15HA and Section 15HB of SEBI Act, 1992 which read as follows:

> ***"Penalty for fraudulent and unfair trade practices***
> *15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.*
>
> ***Penalty for contravention where no separate penalty has been provided***
> *15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which may extend to one crore rupees.]".*

35. While determining the quantum of penalty under section 15HA and 15HB, it is important to consider the factors stipulated in section 15J of SEBI Act, which reads as under:-

> ***"15J - Factors to be taken into account by the adjudicating officer***
> *While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*
> *(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
> *(b) the amount of loss caused to an investor or group of investors as a result of the default;*
> *(c) the repetitive nature of the default."*

36. It is difficult, in cases of such nature, to quantify exactly the disproportionate gains or unfair advantage enjoyed by an entity and the consequent losses suffered by

the investors. I have noted that the investigation report also does not dwell on the extent of specific gains made by the brokers. Suffice to state that keeping in mind the practices indulged in by the Noticee, gains *per se* were made by the Noticee in that it traded in the scrip of PCL in a manner meant to create artificial volumes and liquidity which is an important criterion, apart from price, capable of misleading the investors while making an investment decision. In fact, liquidity/volumes in particular scrip raise the issue of 'demand' in the securities market. The greater the liquidity, the higher is the investors' attraction towards investing in that scrip. Hence, anyone could have been carried away by the unusual fluctuations in the volumes and been induced into investing in the said scrip. Besides, this kind of activity seriously affects the normal price discovery mechanism of the securities market. I am of the strong opinion that people who indulge in manipulative, fraudulent and deceptive transactions, or abet the carrying out of such transactions which are fraudulent and deceptive, should be suitably penalized for the said acts of omissions and commissions. There is nothing on record to show that the default committed by the Noticee was repetitive.

37. In this regard, it is also noted that the Noticee has participated the manipulative game of circular trading on almost 26–days out of the above referred 30-days and its trades constituted 9.39% and 9.42 % of the total shares purchased and sold respectively by way of such circular trades. Therefore, considering the facts and circumstances of the case, I am of the view that a consolidated penalty of ₹ 2, 50,000/- on the Noticee shall be commensurate with the violations committed by it.

ORDER

38. In exercise of the powers conferred upon me under Section15 I of the Act and rule 5 of the Rules, I impose penalty of ₹ 2,00,000/- (Rupees two lakh only) on the Noticee in terms of the provisions of Section 15 HA of the Act for the violation of the provisions of Regulations 3(a), 4(1), 4(2) (a), (b), (g) and (n) of PFUTP Regulations and ₹ 50,000/- (Rupees fifty thousand only) in terms of the provisions of Section 15HB of the Act for the violation of the provisions of clauses A(1) to (5) of the code of conduct for stock brokers as specified under Schedule II read with regulation 7 of the Brokers Regulations (i.e. a total penalty of ₹ 2,50,000/-). In the

facts and circumstances of the case, I am of the view that the said penalty is commensurate with the violations committed by the Noticee.

39. The Noticee shall pay the said amount of penalty by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, within 45 days of receipt of this order. The said demand draft should be forwarded to The Chief General Manager, IVD – ID7, Securities and Exchange Board of India, SEBI Bhavan, Plot No.C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai–400 051.

40. In terms of Rule 6 of the Rules, copies of this order are sent to the Noticee and also to the Securities and Exchange Board of India.

Date: June 20, 2011
Place: Mumbai

Satya Ranjan Prasad
ADJUDICATING OFFICER