BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER Ref. No. ORDER/NH/RJ/2023-24/29954]

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

In respect of

Amit Kumar Gupta

PAN AIKPG2512M

In the matter of dealing in Illiquid Stock Options at BSE

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as '**BSE'**). SEBI observed that such large scale reversal of trades in stock options led to creation of artificial volume at BSE. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in illiquid stock options at BSE for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as '**IP'**).

2. Pursuant to investigation, it was observed that a total of 2,91,744 trades were executed by 14,720 entities in the stock options segment of BSE during the investigation period. The aforesaid trades comprised 81.40% of all the trades executed in the BSE Stock Options Segment during the said period. These trades resulted in creation of artificial volume in stock options segment of BSE during the IP. It was observed that Mr. Amit Kumar Gupta (PAN AIKPG2512M) (hereinafter referred to as the '**Noticee'**) was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the IP. Such trades were observed to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options

and therefore were alleged to be manipulative, deceptive in nature. In view of the same, it is alleged that the Noticee violated the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4 (2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations'**). Therefore, SEBI initiated adjudication proceedings against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri Suresh Menon was appointed as the Adjudicating Officer ("**AO**") in the matter vide communique dated July 27, 2021 under Section 19 of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**) read with Section 15-I of the SEBI Act and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 ("**Adjudication Rules**"), to inquire into and adjudge under the provisions of 15HA of SEBI Act, the aforesaid alleged violations by Noticee. Pursuant to the superannuation of Shri Suresh B Menon, the undersigned was appointed as AO in the instant matter vide communique dated July 27, 2022.

SHOW CAUSE NOTICE AND REPLY

4. A Show Cause Notice bearing reference no. SEBI/HO/EAD1/SBM/AK/25793/2021 dated September 27, 2021 (hereinafter referred to as "**SCN**") was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be initiated against him for the alleged violation of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of PFUTP Regulations and why penalty should not be imposed under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. Thereafter, vide letter dated August 04, 2022, Noticee was informed about the SEBI Settlement Scheme, 2022, commenced in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 and in case, the Noticee did not wish to avail the facility under the SEBI

Settlement Scheme, 2022, the Noticee was advised to file a reply to the SCN within 30 days of the receipt of the letter.

6. As the Noticee did not avail the facility of settlement under the SEBI Settlement Scheme, 2022, an opportunity of hearing was provided to the Noticee on June 22, 2023. In this regard, the service of the Hearing Noticee was undertaken through newspaper publications as well. However, Noticee did not avail the opportunity of hearing on June 22, 2023. Thereafter, vide letter dated September 27, 2023, Noticee was provided another opportunity to submit his response to the SCN.

7. In response, Mr. Deepak Kumar Gupta vide email dated October 05, 2023, *inter alia,* informed the undersigned that the Noticee had expired on October 17, 2021 and requested to drop the proceedings qua the Noticee. In this regard, Mr. Deepak Kumar Gupta was advised to provide the necessary documents.

8. Thereafter, Mr. Deepak Kumar Gupta, vide email dated December 14, 2023, submitted the following documents:

Table 1

Sl. No.	Name of Documents
1.	Scanned copy of the notarized death certificate of the Noticee issued by North Delhi Municipal Corporation bearing Registration No. MCDOLIR-0221-0911103957.
2.	Scanned copy of the PAN Card of the Noticee.
3.	Scanned copy of the Identity Card of Mr. Deepak Kumar Gupta.

9. The said death certificate of the Noticee bearing Registration No. MCDOLIR-0221-0911103957 has been verified through the URL https://mcdonline.nic.in/intrandmc/web/admin/rbd/DeathApplicationNumberSearchForCitizen and it appears to be in order.

10. In this context, based on the material on record, I note that the Noticee expired on October 17, 2021. Before proceeding further in the matter on merit, it would be in the fitness of things to first decide as to whether on the death of the Noticee,

the present adjudication proceedings against the Noticee would continue or abate.

11. In this context, I note that in the matter of **Girijanandini Devi v. Bijendra Narain Choudhary** (AIR 1967 SC 1124), the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal in **Chandravadan J. Dalal v. SEBI** (Appeal No. 35/2004 decided on June 15, 2005) wherein it was held that: *"The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates."*

12. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee, Mr. Amit Kumar Gupta are liable to be abated without going into the merits of the case qua him and the SCN dated September 27, 2021 issued against him is disposed of accordingly.

13. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to SEBI and to Mr. Deepak Kumar Gupta.

Place: Mumbai	**N HARIHARAN**
Date: December 29, 2023	**ADJUDICATING OFFICER**