BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO.: Order/PR/PC/2022-23/16004]

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) RULES, 1995

In respect of:

Bina Kedia
(PAN: CMXPK7333M)
In the matter of dealings in Illiquid Stock Options at the Bombay Stock Exchange.

BACKGROUND OF THE CASE

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 lead 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 comprising a substantial 81.40% of all the trades executed in stock options segment of BSE during the IP were non-genuine trades. The aforesaid non-genuine trades resulted in the creation of artificial volume to the tune of 826.21 crore units or 54.68% of the total market volume in stock options segment of BSE during the IP. It was observed that **Bina Kedia** (PAN-CMXPK7333M) (hereinafter referred to as the "**Noticee**") was one among 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, SEBI initiated adjudication proceedings against the Noticee for violation of 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, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. I was appointed as the Adjudicating Officer in the matter, conveyed vide communique dated July 06, 2021, under section 19 read with section 15 I(1) of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under rule 4 of Adjudication Rules read with section 15 I(1) and (2) of SEBI Act, 1992, and if satisfied

that penalty is leviable, impose such penalty as deemed fit in terms of rule 5 of Adjudication Rules and section 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. SEBI/HO/16790/1 dated August 03, 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 enquiry proceedings should not be initiated against her and penalty be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by her.

5. It was, *inter-alia,* alleged in the SCN that the Noticee had executed two non-genuine trades in one Stock Option contract which resulted in artificial volume of total 1,00,000 units. The summary of dealings of the Noticee in the Stock Option contract, in which the Noticee allegedly executed trades that were not genuine during the IP is as follows:

S. No.	**Contract Name**	**Avg. Buy Rate(Rs.)**	**Total Buy Volume (no. of Units)**	**Avg. sell rate (Rs.)**	**Total Sell Volume (no. of units)**	**% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract**	**% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract**
1	NTPC15JUN145.00PEW1	4.5	50000	6.5	50000	100	31.25

6. From the above table, the following is noted as regard to the dealings of the Noticee:
   a. The Noticee had executed non-genuine trades in one unique contract, wherein all the trades of Noticee in the said contract were non-genuine trades.

b. The non-genuine trades executed by the Noticee in the above contract had noticeable difference in the buy and sell rates considering that the trades were reversed on same day within three seconds without any significant change in the price of the underlying which indicates that these trades were non-genuine in nature.
c. The entire volume generated by the Noticee in the above contract was artificial and also contributed to 31.25% of the total volume in the market in said contracts.

7. The SCN vide reference no. SEBI/HO/16790/1 dated August 03, 2021 was served on the Noticee via Speed Post Acknowledgement Due (SPAD). As per the track consignment report downloaded from website of India Post, item delivery was confirmed on August 30, 2021. It is noted that no reply was received from the Noticee within the time stipulated in the SCN for submission of reply viz. 14 days from the receipt of the SCN. Since no reply was received, in the interest of natural justice, a reminder letter vide ref no. SEBI/DDHS-1/AO/PR/2021/24101/1 dated September 15, 2021 (hereinafter referred to as "**Reminder letter**") was served to the Noticee via Speed Post Acknowledgement Due (SPAD). The same was received by Noticee and the acknowledgement receipt is on record. I note that even after sending the reminder letter, no reply was received from the Noticee within the time stipulated in the reminder letter for submission of reply viz. 7 days from the receipt of the reminder letter.

8. Vide the aforementioned SCN and reminder letter, in the interest of natural justice, an opportunity of personal hearing was also provided to the Noticee in the matter.

However, the Noticee has chosen not to avail the same. Since the Noticee has neither responded to the SCN nor the reminder letter, I am constrained to proceed on the basis of material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have perused the charges levelled against the Noticee and the documents / material available on record. The issues that arise for consideration in the present case are:
   a. *Whether the Noticee has violated provisions of regulations 3(a), (b), (c), (d), 4 (1) and 4(2) (a) of PFUTP Regulations, 2003?*
   b. *Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?*
   c. *If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?*

10. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003 as below:

"PFUTP Regulations,2003

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.*

[Explanation.– For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.]

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

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

11. The allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, she had executed reversal trades on the same day within three seconds, which were allegedly non-genuine trades and had resulted in generation of artificial volume in stock option contracts at BSE. Reversal trades are those trades in which an entity places its buy or sell positions in a contract with subsequent sell or buy

positions with the same counterparty during the same day. These reversal trades are alleged to be non-genuine trades as they:

- lack basic trading rationale,
- lead to false or misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive and manipulative.

12. I note from the trade log of the Noticee that she had traded in one unique contract in the stock options segment of BSE during the IP. The Noticee had executed two non-genuine trades in this one contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of a total of 1,00,000 units in the said contract. A summary of the non-genuine trades of the Noticee is as follows:

S. No.	Contract Name	Avg. Buy Rate(Rs.)	Total Buy Volume (no. of Units)	Avg. sell rate (Rs.)	Total Sell Volume (no. of units)	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1	NTPC15JUN145.00PEW1	4.5	50000	6.5	50000	100	31.25

13. I note that the Noticee had executed non-genuine trades in one contract, wherein the percentage of non-genuine trades of the Noticee in stock options contracts to total trades in the contracts was 31.25%. Non-genuine trades executed by the Noticee in the above contract had a noticeable difference in the buy rate and sell rate considering that the trades were reversed on the same day, in a matter of just three seconds.

14. I note from the trade log that the trades executed by the Noticee in a contract was squared up within a short span of time with the same counter-party. To illustrate, the Noticee, at 14:40:06 hours on June 03, 2015, entered into a buy trade with the counter-party viz. Yochana Vyapaar Private Limited for 50,000 units at the rate of Rs.4.5 per unit in the contract NTPC15JUN145.00PEW1. Thereafter, on the same day, the Noticee, at 14:40:09 hours entered into a sell trade with same counterparty for 50,000 units at the rate of Rs. 6.5 per unit in the same contract. Thus, while dealing in the said contract during the IP, the Noticee executed the reversal trade with same counterparty viz. Yochana Vyapaar Private Limited on the same day with noticeable price difference in buy and sell price without any significant change in the price of the underlying which indicates that these trades were non-genuine in nature. Thus, the Noticee, through her dealing in the contract viz. "NTPC15JUN145.00PEW1" during the IP, executed non-genuine trades which is 31.25% of the total trades from the market in the said contract during the IP, and thereby generating an artificial volume of 1,00,000 units.

15. The fact that the transactions executed by the Noticee are not genuine is evident from the fact that the trade log of the Noticee reveals that within a short span of time of only around three seconds, the Noticee reversed the position with the counterparty with a noticeable price difference. Such a short span of time taken for reversing the trades in an illiquid stock option contract advocates the fact that these trades executed by the Noticee were not genuine. The fact that there was a wide variation in prices of the said contracts and the transaction in a particular contract was reversed with the same counterparty in a few seconds only indicates a prior meeting of minds with a *mala fide*

intent to execute the reversal trades at a pre-determined price. Since, these trades were executed in illiquid option contracts, there was no trading in the said contract and hence, there was no price discovery in the strictest terms; this can only lead to a conclusion that the Noticee had indulged in reversal trades with the counterparty in the stock options segment of BSE and the same were not genuine.

16. Further, I observe that it cannot only be a coincidence that the Noticee could match her trades with the same counterparty with whom she had undertaken the first leg of the respective trade. This can only be an outcome of a meeting of minds and a deliberate attempt to deal in such a fashion.

17. In this context, I deem it appropriate to refer to the Hon'ble SAT order dated July 14, 2006, in the case of **Ketan Parekh vs. SEBI (Appeal no. 2/2004),** wherein the Hon'ble SAT has held that - *"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."*

18. I also place reliance on the judgment of Hon'ble Supreme Court in the matter in respect of **SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018),** in which the Hon'ble Supreme Court

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

19. Further, the Hon’ble Securities Appellate Tribunal, in its judgment dated September 14, 2020 in the matter of **Global Earth Properties and Developers Pvt. Ltd.** relied upon the aforesaid judgement of Hon’ble Supreme Court and held that, *“It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade. In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price.”*

20. I note that while direct evidence may not be forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entity, there is guidance from the aforesaid order of the Hon’ble Supreme Court where it lays

emphasis on the 'preponderance of probabilities' in each case to arrive at a decision considering the following:

- the isolated trade and reversal in the same option contract,
- the same counter party being involved in both the trades,
- the gap between the trade and the reversal being just three seconds,
- the noticeable difference in the buy and sell rate within same day and
- the high volume of trade in turn creating an artificial volume of 1,00,000 units,

I cannot but conclude the trades have been executed with an ulterior motive to create artificial volume and are not genuine.

21. My conclusion, hence is that, considering the aforesaid factors, the trading behaviour of the Noticee has resulted in creating an appearance of artificial trading volumes in the contract. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established. The Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund** [2006] 68 SCL 216(SC) held that - "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…".*

22. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act, 1992 which read as under:

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 which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

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

Factors to be taken into account by the adjudicating officer.

15J. 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.

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

24. Therefore, I note that the Noticee has indulged in execution of reversal trades in stock options contracts in the IP which were non-genuine and created false and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of regulation 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

ORDER

Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 15J of the SEBI Act, 1992 and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under section 15HA of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Violation provisions	Penalty
Bina Kedia **(PAN: CMXPK7333M)**	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	Rs. 5,00,000/- (Rupees Five Lakh only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

25. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of *“SEBI - Penalties Remittable to Government of India”,* payable at Mumbai, OR through online payment facility available

on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

26. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "Securities and Exchange Board of India", SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051". The Noticee shall also provide the following details while forwarding DD / payment information:
    - Name and PAN of the Noticee
    - Name of the case / matter
    - Purpose of Payment – Payment of penalty under AO proceedings
    - Bank Name and Account Number
    - Transaction Number

27. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter-alia*, by attachment and sale of movable and immovable properties.

28. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to Securities and Exchange Board of India.

Date: April 13, 2022. **PRADEEP RAMAKRISHNAN**

Place: Mumbai **ADJUDICATING OFFICER**