BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/RG/NM/2022-23/15799/11)

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

Ankita Khandelwal

PAN: AYNPK8701H

In the matter of dealings in Illiquid Stock Options at the BSE

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **SEBI**) conducted investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter referred to as **BSE**) for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as **Investigation Period/IP**) after observing large scale reversal of trades in the Stock Options segment of the BSE.

2. Pursuant to investigation, it was observed that during the Investigation period total of 2,91,744 trades comprising substantial 81.41% of all the trades executed in stock options segment of BSE were non genuine trades. The aforesaid non genuine trades resulted into 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 Ankita Khandelwal (hereinafter referred to as **Noticee**) was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the investigation period. Such trades were observed to be non-genuine in nature and created false and misleading appearance of trading in terms of artificial volumes in stock options segment 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 relating to Securities Markets) Regulations, 2003 (hereinafter referred to as **PFUTP Regulations, 2003**).

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed the undersigned as Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **SEBI Act, 1992**) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **Adjudication Rules, 1995**) *vide* order dated July 02, 2021 to inquire into and adjudge under Section 15HA of the SEBI Act, 1992 against the Noticee for the alleged violation of aforesaid provisions of PFUTP Regulations, 2003. The appointment of the AO was communicated *vide* communique dated July 06, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated September 17, 2021 having reference no. AO/RG/NKM/OW/P/24472/1/2021 (hereinafter referred to as **SCN**) was served upon the Noticee under rule 4(1) of the Adjudication Rules, 1995 to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticee under Section 15HA of the SEBI Act, 1992 for the alleged violation of the provisions of Regulation 3(a), (b), (c), (d) and 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

5. It was *inter alia* alleged in the SCN that the Noticee was one of the various entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in Stock Options segment of the BSE during the Investigation Period. Out of the total 10 trades for 1,36,000 units executed in the contract *viz.* ZEEL15MAY380.00PE, the Noticee had executed 3 non genuine trades i.e. 2 buy trades and 1 sell trade in the aforesaid contract on May 26, 2015 with

same counterparty *viz.* Umesh Hemnani on the same day and with significant price differential in buy and sell rate, which resulted in artificial volume of 22,000 units. Summary of dealings of the Noticee in the Stock Option contract, in which the Noticee allegedly executed non genuine trades during the IP are 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 Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% 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	ZEEL15MAY380.00PE	43.55	11,000	61.70	11,000	100%	30%	100%	16.18%

6. From the above table, following is noted as regards to dealings of Noticee in the contract "ZEEL15MAY380.00PE":

   a) Noticee had executed alleged non-genuine trades in the above contract, wherein 100% trades were non-genuine trades.

   b) No. of non-genuine trades of Noticee has significantly contributed to the total no. of trades from the market in the above contract, as a substantial 30% of the trades happened in aforementioned contract were due to alleged non-genuine trades executed by the Noticee.

   c) A substantial 16.18% of volume generated by the Noticee in the above contract was artificial volume.

   d) Alleged non-genuine trades executed by Noticee in above contracts had significant differential in buy rates and sell rates considering that the trades were reversed on same day.

7. By indulging in execution of aforesaid non-genuine reversal trades, the Noticee was alleged to have violated the provisions of Regulation 3(a), (b), (c), (d) and 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

8. The SCN was served to the Noticee *via* Speed Post Acknowledgement Due (SPAD) on September 24, 2021 and *via* email dated September 17, 2021. *Vide* letter dated October 12, 2021, Noticee replied to the SCN denying the allegations and made submissions.

9. In this context, *vide* a hearing notice dated March 09, 2022, an opportunity of personal hearing was granted to the Noticee on March 24, 2022 at 03.00 pm. through video conferencing due to Covid-19 pandemic. The said hearing notice was duly delivered to the Noticee by email on March 09, 2022 and by SPAD and the delivery proof is on record. Due to official exigencies, the scheduled time of hearing was postponed to 4.00 pm on the scheduled date of hearing i.e. on March 24, 2022 and the same was intimated to the Noticee.

10. On the scheduled date of hearing i.e. March 24, 2022, the Authorized Representative (AR) on behalf of the Noticee attended the hearing and reiterated the submissions made earlier by the Noticee *vide* its letter dated October 12, 2021 and requested for additional time of one week to make additional submissions which was acceded to and time accorded till March 30, 2022 to make additional submissions. The personal hearing in the matter was completed and hearing minutes are on record. Noticee *vide* its letter dated March 28, 2021 submitted its reply.

11. Reply dated October 12, 2021 and March 28, 2022 of the Noticee is as follows:

"3. Without prejudice to all the above. I wish to make the following submissions on each and every aspect with regard to the findings / observations / allegations highlighted in the said notice. I further submit that I am an individual investor and have been investing money in a variety of investment vehicles (one of which is the stock market) with an expectation of receiving financial returns on the invested amount. I am not aware of nitty gritties of share market and had authorized my stock broker to manage my funds and in that manner the said stock broker had undertaken trades in the share market with a view to make some profits for me. To my knowledge, the said stock broker had undertaken trades on my behalf without any ill design or ill motives.

4. I respectfully state that matching of merely one trade (includes buy and sett position of one same trade) may not be considered as artificial and fraudulent in any manner. It could be just a matter of chance that one trade gets matched on either side of buy and sell with same party. Neither the amount of profit is so substantial to attract any adverse inference. Merely 11,000 units were bought and sold by me for a profit of Rs 18.15 per unit thereby giving me profit of Rs 1,99,650/- which is too miniscule and from one off trade with contra positions. Therefore no adverse inference be drawn for the same qua me.

5. Without prejudice to all that is stated above, I submit that it is alleged that the trades I executed were in illiquid Stock Options at Bombay Stock Exchange Limited. However, I submit that these scripts, in which I traded, were at no time banned and hence there was no bar on trading in the said scripts. Therefore it would be too farfetched for me to assume that these stocks are so catted "ill-liquid". The mere fact that BSE allowed trading in these stocks renders my bonafide in trading in these stocks. Moreover, in absence of any warnings, estoppels from BSE, I am at a loss to understand how I could gather the awareness of the stocks being illiquid.

6. I respectfully state that matching of merely one trade (includes buy and sell position of one same trade) purported to be 3 trades (2 buy and one sell) in the said SCN may not be considered as artificial and fraudulent in any manner. It could be just a matter of chance that one trade gets matched on either side of buy and sell with same party. Therefore no adverse inference be drawn for the same qua me.

7. I further submit that the said trades were executed in the normal course of business and I was in no way related to the alleged counter party Umesh Hemnani. Also, the said SCN has failed to establish any connection between us and the alleged counter party except for matching of 2 trades (and that too two legs of same trade i.e. buy and sell) purported to be 3 trades (i.e. 2 buy and one sell) in the para 7 of said SCN which could also be a chance without any intent and much less malafide. Hence, allegations against me are based on mere surmises and conjectures.

8. I submit that till date no investor complaints have been received for trading in the said illiquid scripts/stocks.

9. I submit that there was no bar on trading in the said illiquid scripts /stocks and therefore I continued to trade in this scrip in the normal course of business. I have been trading in various scrips and the purported "illiquid" scrips for me were normal scrips in which I could undertake trades. All my trades have been backed up with appropriate pay in payouts which *establishes my bonafides in carrying out genuine trades on the floor of the Exchange.*

10. I further submit all the trades executed by me are well recognised, legal and permitted by SSE and carried out on the floor of exchange. There were no wrongful gains made by me out of the alleged trades even for sake of assumptions. Therefore no motive is established qua me for the presumptions of non-genuine trades by me.

11. I submit that the impugned trades were executed on the floor of exchange through a registered share broker who has the requisite software as approved by the Exchange. The entire trading process is like blind mechanism as far as buying and/or selling of stocks by a client through a broker is concerned. I had authorized my broker to manage my funds by trading in stocks and I was not aware of the day to day trades as it was only the broker who had been trading on my behalf. It is impossible for me to know who is/are the counter parties to my trades. To the best of my knowledge, even a broker is not aware of the counter party to any trade carried out. Neither I execute trades through my terminal nor am I aware of the mechanism by which a share broker trades in the market for its clients. My payin payout obligations have been regular without any defaults. I submit that the said trading system prevents a member who places any orders from identifying the counter-party member or client and thus ensures anonymity of trades. The system does not even display details of all pending orders; rather it only displays the 5 best pending orders. Therefore, at any given point of time, it is impossible for me to even verify the party & counter party of these transactions. I further state that there was no alert from the broker or the Exchange which would prompt me to take any caution or create an alarm in me to estop trading. Under these circumstances, it is erroneous to come to a conclusion that I had executed non-genuine trades which resulted in artificial volume.

12. I further state that my trades were in the FNO segment. On the positions taken and squared off by me, I had accrued profits. Importantly, I have captured these profits in my Income Tax returns and have duly accounted for the same by paying appropriate taxes. Therefore by no stretch of imagination can I be thrust with any malafide intent of any gains to say the least…….

…… Moreover, I am an individual investor and have been investing money in a variety of investment vehicles (one of which is the stock market) with an expectation of receiving financial returns on the invested amount. In no manner would I indulge into any trade wherein losses are incurred to me. The mode and mechanism of Stock market is such that loss and profit cannot be definitely determined. The prices of any shares/stocks vary due to various

components including sentiments, market conditions, economic and political development etc. Therefore only for reasons of huge price variations, my trades cannot be classified as non-genuine. Hence any matching of trades by a particular counter party could be a matter of chance and not a pre determined activity for any purpose. Further it is reiterated that the allegations of 3 reversal trades in 1 unique contract is misplaced because I had only one buy trade of 1,000 quantity and one buy trade of 10,000 quantity of ZEEL 15MAY380.00PE which was sold for the quantity of 11,000 units thus forming only 1 trade on both sides. I sold the scrip because the prices had gone up and I sought to make profits out of my trades. I have duly accounted for these profits in my Income Tax returns.

I have no connections with the alleged counter party Umesh Hemnani. Also the SCN has failed to establish any connections between us and the alleged counter party apart from the presumption that the trades between us are matching trades. I submit the trades were executed on the floor of the exchange which is a blind mechanism wherein the trading system prevents a member who places any orders from identifying the counter-party member or client and thus ensures anonymity of trades. Hence, it is highly unlikely that I was aware about the counter party and matching of 2 trades (purported to be 3 trades i.e. 2 buy and one sell in the said para of the SCN) that too for a miniscule quantity on a given day is coincidental and by no stretch of imagination can the trades be termed as non-genuine or for creating artificial volume as alleged in the SCN. It is pertinent to note that there is a huge time difference between the buy and sell trades. Therefore any price variation in the meantime, is a market phenomenon on which I do not have any control. The allegation in the SCN about 100% of total trades being non genuine has been interpreted in an erroneous manner which is compared to my own trades in my own contract. Furthermore, the percentage of my trades compared to market volume and contracts may have lower in absence of heavy trade volumes on the platform of the Exchange about which I am not aware of nor have the means and resources to find out thereon. It is also submitted that on the sell side the SCN itself alleges 16.18% as non genuine trades on the sell side when the trades on this leg would have been higher in the market. If the number of days in which my trades are alleged are taken, they are hardly any and that too is purely incidental. For such a small quantity and for the sporadic days, it is too harsh to assume that I had entered into any meeting of minds with the counter party whom I don't even know. I had purchased shares and when the prices started going up, I decided to sell the shares in a bid to gain some profits. No adverse inference be drawn for such intraday trades by me….

…… my trades were at most intraday trades wherein I had purchased some stocks and on huge price variations, I have sold them. For each of such trades there are contract notes generated by the broker for me. The SCN has taken each contract note as if the total volume of trades in that instance and have indicated percentages of non genuine trades in comparison to each of my contract note. I am not even aware who would be the counter party in the blind mechanism. I once again submit that under the given conditions, it was not possible to even assume that the trades entered by me were non genuine or done with the intention to create artificial volume. Further, I reiterate that it is alleged that the trades I executed were in illiquid Stock Options at Bombay Stock Exchange Limited. However, I submit that these scripts, in which I traded, were at no time banned and hence there was no bar on trading in the said scripts. Therefore it would be too far-fetched for me to assume that these stocks are so called "ill-liquid". The mere fact that BSE allowed trading in these stocks renders my bonafide in trading in these stocks. Moreover, in absence of any warnings, estoppels from BSE, I am at a loss to understand how I could gather the awareness of the stocks being ill liquid. I further submit all the trades executed by me are well recognised, legal and permitted by BSE and carried out on the floor of exchange. There were no wrongful gains made by me out of the alleged trades even for sake of assumptions. Therefore no motive is established qua me for the presumptions of non-genuine trades by me…….

……I humbly request that the present proceedings against me may not be continued and I may be exonerated from all the charges and no penalty be imposed against me under section 15HA of SEBI ACT, 1992, as mentioned in the captioned show cause notice."

Reply dated March 28, 2022

………………

b) *The Noticee respectfully submits that there has been an inordinate delay of more than six years in issuing the said Show Cause Notice. On this ground alone the said SCN is liable to be quashed and set aside.*

c) *The Noticee requests your kind attention to the observation of the Ld. Adjudicating Officer Mr. Pradip Bhowmick in case of Ms. Neha Sethi in the matter of dealings in illiquid stock options wherein in para 16 of the order, the Ld. Adjudicating Officer has disposed off the Adjudicating Proceedings initiated against the Noticee (where the facts and circumstances were similar). ……*

d) *The Noticee respectfully submits that she has at no point indulged into any artificial trades and that she has never indulged in the execution of any non-genuine trades as alleged in the said SCN. The Noticee submits that she has traded in the Stock Option segment of BSE in normal course of business. The Noticee further submits that the allegations of 2 reversal trades (purported to be 3 trades in the said SCN) is misplaced as merely 11,000 units were bought and sold by her for a profit of Rs. 18.15 /- per unit thereby giving the noticee a profit of Rs 1,99,650/- which is too miniscule and from one off trade with contra positions. Therefore, no adverse inference be drawn for the same qua the Noticee.*

e) *Further, the Noticee places reliance on the observation of the Hon'ble Securities Appellate Tribunal (SAT) in case of Narendra Vallabhji Bahuva Vs. SEBI (Appeal no. 516 of 2019 decided on 14.07.2021). Wherein in para 9 of the order, Hon'ble SAT has observed that one single trade cannot lead to a conclusion that the appellant was involved in fraudulent execution of trades with a manipulative intent……..*

f) *The impugned trades were executed on the floor of exchange through a registered stock broker who has the requisite software as approved by the Exchange. The entire trading process is like a blind mechanism as far as buying and/or selling of stocks by a client through a broker is concerned. As a client, the Noticee had only instructed broker to buy or sell stocks specifying the quantity and the name of the scrip. Thereafter, it was impossible for the Noticee to know who is/are the counter parties to trades. Even a broker is not aware of the counter party to any trade carried out.*

g) *The trading system prevents a member who places any orders from identifying the counterparty member or client and thus ensures anonymity of trades. The system does not even display details of all the pending orders; rather it only displays the 5 best pending orders. Therefore, at any given point of time, it is impossible to even verify the party & counter party of these transactions. The Noticee further states that there was no alert from the broker or the Exchange which would prompt her to take any caution or create an alarm to stop trading. Under these circumstances, it is erroneous to come to a conclusion that the Noticee had executed non-genuine trades which resulted in artificial volume.*

h) *The trades entered into by the Noticee were through her stock broker and that she had a bonafide belief that her stock broker would act within the prescribed parameters of law as applicable.*

i) *The Noticee submits that the stock broker was in a much better and strategic position to understand the technicalities of the stock market and the scrips. Admittedly the stock broker never alerted/estopped the Noticee from trading in the alleged illiquid scrips. Hence, by any stretch of imagination it was beyond the knowledge of the Noticee about the said scrips being ill-liquid.*

j) *The Noticee further states that to the best of her knowledge the trading in her account in stock options on the BSE were executed in a legitimate manner.*

k) *The Noticee submits that these scripts, in which she traded, were at no time banned and hence there was no bar on trading in the said scripts. Therefore, it would be too farfetched for the Noticee to assume that these stocks are so called "ill-liquid".*

l) *The Noticee submits that the BSE allowing trading in these stocks renders her bona fide in trading in these stocks. No alert or embargo was set by BSE to even give the Noticee an iota of doubt about the said scrips being illiquid.*

m) *The Noticee submits there was no meeting of mind with the alleged counter party Umesh Hemnani and that matching of trades is a matter of coincidence.*

n) *The Noticee further submits that the said trades were executed in the normal course of business and she was in no way related to the alleged counter party. Also, the said SCN has failed to establish any connection between the Noticee and the alleged counter party except for matching of a trade, forming only 1 trade on both the sides (purported to be 3 trades in the said SCN), which could also be a chance without any intent and much less malafide. Hence, allegations against the Noticee are based on mere surmises and conjectures. Thus, the Noticee was merely a trader/consumer and that she has been made a victim of the trading mechanism.*

o) *The Noticee submits that the allegation in the SCN about 100% of total trades being non genuine has been interpreted in an erroneous manner which is compared to the Noticee's own trades in her own contract. Furthermore, the percentage of Noticee's trades compared to market volume and contracts may have lower in absence of heavy trade volumes on the platform of the Exchange about which the Noticee is not aware of nor does she have the means and resources to find out thereon. If the number of days in which the Noticee's trades are alleged are taken, they are hardly any and that too is purely incidental. For such a small quantity and for the sporadic days, it is too harsh to assume that the Noticee had entered into any meeting of minds with the counter party whom the Noticee doesn't even know. The Noticee had only* *one buy trade of 11,000 quantity of ZEEL15MAY380.00PE which was sold for same quantity thus forming only 1 trade on both sides. She had sold the scrip because the prices had gone up and she sought to make profits out of her trades. She has duly accounted for these profits in her Income Tax returns. Thus, the Noticee submits that the Noticee had acted like any prudent and rational investor. No adverse inference be drawn for such intraday trades by the Noticee.*

p) *Even for sake of assumption trades are very miniscule to attract any adverse inference.*

q) *Without prejudice to whatever has been stated above, the Noticee requests your kind attention to the observation of the Ld. Adjudicating Officer Mr. Suresh Menon in case of Abhideep Global Finance Private Limited in the matter of Dealings in illiquid stock options wherein in para 29 of the order, the Ld. Adjudicating Officer has imposed a penalty of Rs. 3,00,000/- (Rupees Three Lakhs Only) on the Noticee viz. Abhideep Global Finance Private Limited under the erstwhile provisions of section 15HA of the SEBI Act for the violation of regulation 3(a), 4(1) and 4(2) (a) of the PFUTP Regulations…….*

Therefore, the Noticee humbly requests that a lenient view be taken and the present proceedings qua the Noticee may be dropped and the Noticee may be exonerated from all the charges and no penalty be imposed against the Noticee under section 15HA of SEBI ACT, 1992, as mentioned in the captioned show cause notice.

CONSIDERATION OF ISSUES AND FINDINGS:

12. I have taken into consideration the facts and circumstances of the case, replies of the Noticee and the material available on record. The issues that arise for consideration in the present case are:

Issue (a): Whether the reversal trades in illiquid Stock Options carried out by the Noticee during the Investigation Period were in violation of Provisions of Regulation 3(a), (b), (c), (d) and 4(1) & 4(2)(a) of the PFUTP Regulations, 2003?

Issue (b): If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act, 1992?

Issue (c): If yes, what would be the quantum of monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act, 1992, read with rule 5(2) of the Adjudication Rules, 1995?

13. 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 thereunder;

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud or 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; …..”

14. Before advancing into the merits of the case, I would like to deal with the contention of the Noticee pertaining to the delay in issuance of SCN in the instant matter.

15. With regard to the delay in issuance of SCN, it is noted that pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 which was confirmed *vide* Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to stock options segment of BSE which was completed in the year 2018. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock option segment during the investigation period. The proceedings initiated *vide* the aforementioned Interim Order were disposed of *vide* final order dated April 05, 2018 also considering that appropriate action was initiated against the said 14,720 entities in a phased manner.

16. During the course of hearing in the case of *R. S. Ispat Ltd Vs SEBI*, the Hon'ble Securities Appellate Tribunal (SAT), *vide* its Order dated October 14, 2019, *inter alia* observed that "*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options".*

17. A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided one-time opportunity for settlement of proceedings in the Illiquid Stock Options matter. The said scheme was kept open from August 01, 2020 till December 31, 2020. Adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement.

18. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on July 06, 2021, SCN was issued on September 17, 2021. In compliance with principles of natural justice, after receipt of reply, an opportunity of personal hearing was scheduled on March 24, 2022 and upon conclusion of hearing, additional written submissions were received from the Noticee *vide* letter dated March 28, 2022.

19. Further, I note that there is no provision under SEBI Act, 1992, which prescribes a time limit for taking cognizance of a breach of the provision of

the SEBI Act, 1992 and Rules and Regulations made thereunder. Further, as per Section 11C of SEBI Act, 1992, SEBI can initiate investigation at any point of time, for any period of alleged violation or any period of alleged transactions. I also note that the investigations relating to the PFUTP Regulations, 2003 are complex (considering the volume of transactions, connections and examination of trading of shares, etc.) and time consuming. In this regard, I feel it is pertinent to note that, in the matter of SEBI vs Bhavesh Pabari (2019) SCC Online SC 294, the Hon'ble Supreme Court of India has, *inter alia*, held that: "*There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc*." Further, I note that the Hon'ble SAT in the matter of Pooja Vinay Jain vs SEBI (Appeal No. 152 of 2019, Date of Decision – 17.03.2020) held that, "*The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same*".

20. I also note that the Hon'ble SAT in the matter of Bipin R Vora vs SEBI held that, *"As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market".* In view of the aforesaid and considering the facts of the aforesaid matter, I do not find any merit in the contentions of the Noticee.

21. I, now deal with the issues on merit in the instant matter. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, she had executed reversal trade which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in stock option contracts at BSE. Reversal trades are considered to be those trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversal trades are alleged to be non-genuine trades as they are not executed in the normal course of trading, 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. Artificial volume is considered to be the volume (no. of units) reversed in both legs of said reversal trades while keeping out the volume, if any, which is not reversed.

22. The Noticee stated that she has not violated the PFUTP Regulations and that she was not aware of the nittiy gritties of share market and had authorized stock broker to manage her funds and in that manner the said stock broker had undertaken trades in the share market with a view to make some profits for her. I note that Noticee was owner of the trading account through which impugned trades were carried out and therefore, the obligation to ensure genuineness of impugned trades lay with the Noticee In this regard, I note that it is an established principle of law that ignorance of law is no excuse. Therefore, I am not inclined to accept the contention of the Noticee that it was not aware of the nitty grities of the share market and that the stock broker managed her trade.

23. I note from the trade log that the Noticee had traded in one contract in the stock options segment of BSE during the investigation period namely ZEEL15MAY380.00PE. It is observed that the Noticee had executed three non genuine trades in the aforesaid contract i.e. two buy trades and one sell trade. I further note that the above mentioned trades of the Noticee had resulted in the creation of alleged artificial volume of 22,000 units in the

aforesaid contract. The summary of the non-genuine trades of the Noticee are 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 Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% 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	ZEEL15MAY380.00PE	43.55	11000	61.7	11000	100	30	100	16.18

24. I further note that the Noticee had executed non-genuine trades in the aforesaid contract, wherein the percentage of non-genuine trades of the Noticee in stock option contract to total trades in the said contract was 100%. Further, artificial volume generated by the Noticee in the said contract to Noticee's total volume amounted to 100% of total volume traded in the said contract. Non-genuine trades executed by the Noticee in the aforesaid contract had significant difference in buy rate and sell rate considering that the trades were reversed on the same day i.e. May 26, 2015 within a span of few minutes.

25. The Noticee contended that there is no connections with the alleged counterparty in this matter and that the trades were executed on the floor of the exchange in normal course of business.

26. With regard to the above contentions of the Noticee, I note from the trade log that the trades executed by the Noticee in the aforesaid contract were squared up within a short span of time of few minutes with the same counterparty. To illustrate, the Noticee on May 26, 2015, at 13:02:46 (Order time of the Noticee: 13:02:44 hrs and Counterparty order time: 13:02:46 hrs) entered into a buy trade with counter party viz. Umesh Hemnani for 10,000 units at a rate of Rs. 42.00 per unit; and at 13:02:46 hrs (Order time of the Noticee: 13:02:44 hrs and Counterparty order time: 13:02:46 hrs) entered into another buy trade with the same counter party *viz*. Umesh Hemnani for 1,000 units at a rate of Rs.59.00 per unit. Thereafter, on the same day within a gap of few minutes,

Noticee, at 13:15:36 hrs (Order time of the Noticee: 13:15:35 hrs and Counterparty order time: 13:15:36 hrs) entered into one sell trade with the same counterparty for 11,000 units at a rate of Rs. 61.70 per unit. It is noted that while dealing in the said contract during the investigation period, the Noticee executed reversal trades with same counterparty i.e. Umesh Hemnani on the same day within a gap of few minutes and with a significant price difference in buy and sell rates. Thus, the Noticee, through her dealings in the contract *viz.* “ZEEL15MAY380.00PE”, executed non genuine trades and thereby, generated artificial volume traded in the said contract. I note that the charges against the Noticee for the aforesaid trades and the provisions of PFUTP Regulations, 2003 alleged to have been violated as stated above have been cogently spelt out in the SCN dated September 17, 2021 which has been served on the Noticee.

27. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time of few minutes, the Noticee reversed the position with the same counterparty with a significant price difference. I note from the trade log of the Noticee that the Noticee reversed the non-genuine trades within few minutes. Reversing the trades in an illiquid stock option contract within a short span of time of few minutes suggests the non-genuineness of these trades executed by the Noticee. The fact that the transactions in a particular contract were reversed with the same counterparty within a few minutes indicates a prior meeting of minds with a view to execute the reversal trades at a predetermined price.

28. Noticee contended that she was unaware of the shares being ill-liquid in which she traded, there was no bar on trading in the said scripts, no warnings, estoppels from BSE. I note that the allegation against the Noticee is that it had traded in illiquid stock options segment of BSE and artificial volume generated by Noticee amounted to 100% of the volume generated by the Noticee in the said contract. Moreover, I note that Noticee’s trades in the contract contributed to 16.18% to the total market volume generated during

the relevant period. Also, it is noted that during the investigation period, total three trades for 22,000 units were executed in the said contract, which was executed by the Noticee on May 26, 2015. I note from the above that the concerned contract was thinly traded and that Noticee contributed substantially to artificial volume in the aforesaid contract. Therefore, Noticee's contentions in this regard are without merits. Since these trades were done in illiquid option contracts, there was no trading in the said contract and hence, there was no price discovery in the strictest terms. The wide variation in prices of the said contracts, within a short span of time, pattern of order placement in such close proximity to each other and also order price is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Thus, it is observed that Noticee had indulged in reversal trades with the counterparty in the stock options segment of BSE and the same were non-genuine trades.

29. Noticee contended that all the trades executed by her are well recognized, legal and permitted by BSE and carried out on the floor of exchange. I note, stock exchanges merely provide a platform for carrying out the trades and the clearing corporation affiliated with exchange handle the confirmation, settlement and delivery of transactions, however, the obligation to ensure genuineness of trades as regards instant considerations lies squarely on the Noticee. I note that instant SCN levies the impugned allegations against Noticee, and that permitting of trading by stock exchanges cannot be a ground to absolve Noticee from its obligation to ensure genuineness of trades executed on exchange platform. Thus, the contention of the Noticee in this regards is not tenable.

30. Further, the Noticee contended that the impugned trades were executed on the floor of exchange through a registered share broker and that the entire trading process is like blind mechanism as far as buying and/or selling of shares by a client through a broker is concerned. As a client, she had only instructed her broker to buy or sell shares specifying the quantity and the

name of the scrip. Thereafter it is impossible for her to know who is/ are the counter parties to her trades.

31. In this regards, I note that in the screen based trading, which is virtually anonymous, it may not be ordinarily possible for anyone to enter into such reversal trades. However, considering the precision at which the reversal transactions have taken place i.e. synchronisation of the quantity, order price and order time and sale with significant price variations as observed in the instant matter, the same couldn't have been possible without prior meeting of minds.

32. It is very pertinent to state that the said trades were matched with one entity only. I note that it is not mere coincidence that Noticee could match his trades with the same counterparty with whom she had undertaken first leg of the respective trade. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a fashion. Here I would like to rely on the judgment of Hon'ble Supreme Court in SEBI v Kishore R Ajmera (AIR 2016 SC 1079) decided on February 23, 2016, wherein it was held that - *"…in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*

33. The Hon'ble Supreme Court further held in the same matter that – "*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."

34. I note that though direct evidence is not forthcoming in the present matter regarding meeting of minds or collusion of the Noticee with other entities, the trading behaviour of the Noticee makes it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level. 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."*

35. I place my reliance on the judgment of the Hon'ble Supreme Court in the matter of SEBI vs 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….."*

36. Further, the Hon'ble SAT in its judgement 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."* The Hon'ble SAT reaffirmed its stand taken in Global Earth Properties and Developers Pvt. Ltd. vs SEBI (Appeal No. 212 of 2020), in its judgment dated November 24, 2021 in the matter of Radha Malani vs. SEBI (appeal no. 698 of 2021), has held the that *"Having heard the learned counsel for the appellant, in our view the controversy involved in the present appeal is squarely covered by a decision of this Tribunal in Global Earth Properties and Developers Pvt. Ltd. vs. SEBI (Appeal No. 212 of 2020 decided on September 14, 2020). In view of the aforesaid, the appeal is dismissed with no order as to costs."*

37. Further, I would like to rely on the judgement of Hon'ble Supreme Court passed in the case of SEBI vs. Rakhi Trading Private Ltd. (supra), wherein the Apex Court held that "*the entities were engaged in a fraudulent and unfair trade practice while dealing in Options and hence were liable for violation of SEBI (PFUTP) Regulations".* The Hon'ble Apex Court has also held that in the absence of direct proof of meeting of minds, the test should be one of preponderance of probability and also stated that the conclusion has to be gathered from various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time between the two and such other relevant factors. Thus, the submission of the Noticee cannot be accepted.

38. I note that the impugned reversal trades, which were carried out with prior meeting of minds as inferred from the case facts, affected the price discovery and execution of trades as per market mechanism on the stock options segment of BSE. In this regard, I rely on the judgement of the Hon'ble SC in the matter of SEBI vs Rakhi Trading Pvt Ltd, wherein the Apex Court held that: *"…..According to SAT, only if there is market impact on account of sham transactions, could there be violation of the PFUTP Regulations. We find it extremely difficult to agree with the proposition. As already noted above, SAT has missed the crucial factors affecting the market integrity, which may be direct or indirect. The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery system itself is affected. Except the parties who have pre-fixed the price nobody is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market."*

39. Noticee has contended that no investor complaints have been received for trading in the said illiquid scripts/stocks. I note that the SCN issued to the Noticee did not allege that on account of the trading of the Noticee in the options, there was any investor complaints. Instead the SCN alleged the execution of non-genuine/ reversal trades in the illiquid stock options at BSE, which has already been detailed above. Therefore, I do not find any merit in the contentions of the Noticee in this regard.

40. In line with the aforesaid judgements of the Hon'ble Supreme Court and Hon'ble SAT, I note from the foregoing findings that the trading pattern of the Noticee in terms of volume of reversal trades, proximity of buy/sell and subsequent reversal evidences the indulgence of the Noticee beyond a reasonable doubt of the manipulative intent in creation of artificial volume. Further, the dealings by Noticee only in such options contracts which was illiquid clearly demonstrates the manipulative intent to use stock exchange platform to carry out non-genuine trades with the aim to execute such trades for manipulative purposes.

41. I note that dealing in Illiquid stock options not only displays an unreal picture of market activity to other investors but also defeats the basic premise of screen based electronic trading system and price discovery mechanism by execution of pre-decided reversal trades at irrational/arbitrary prices. Such activity deliberately or otherwise damages market integrity apart from presenting wrong picture of liquidity to gullible investors which could affect their trading/investment decisions. Options as financial instruments, ordinarily, provide hedging avenues to investors. The trading of the Noticee in the instant matter was abnormal and was clearly designed to create artificial volumes in the illiquid stock option contracts, fail to justify any of the normal strategies of hedging/ arbitrage. In my view, the abuse of such financial instruments, which are made available to the investors for the purpose of protection of their investment portfolios from the risks of adverse price movement, needs to be dealt with strictly. I also note that while the stock exchange provides a platform for carrying out the trades, the obligation to ensure genuineness of the trades executed on the exchange platform primarily lies on the Noticee.

42. In view of the above, the trading behaviour of the Noticee confirms that such trades were not normal and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not genuine trades and being non-genuine, created an appearance of artificial trading volumes in the contract i.e. ZEEL15MAY380.00PE. In view of the above, I find that the allegation of violation of provisions of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established.

43. 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..*"

44. In view of the aforesaid judgment of the Hon'ble Supreme Court, I am convinced that, in the instant matter, the Noticee is liable for monetary penalty under the provisions of Section 15HA of the SEBI Act, 1992 which reads as follows:

15HA. Penalty for fraudulent and unfair trade practices.

> *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.*

45. *While determining the quantum of penalty under Section 15HA of the SEBI Act, 1992, the following factors stipulated in Section 15J of the SEBI Act, 1992*, have to be given due regard:

(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.

46. I observe that the material / documents made available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on part of the said Noticee. However, Noticee has entered into three non-genuine trades in one stock option contract during the investigation period. Therefore, I note that the Noticee indulged in execution of reversal trades in stock options on BSE during the Investigation Period which were non-genuine and created false and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of provisions of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFTUP Regulations, 2003.

ORDER

47. After taking into consideration 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 powers conferred upon me under Section 15-I(2) of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, I hereby impose a penalty of ₹5,00,000/- (Rupees Five Lakh only) upon the Noticee i.e. Ankita Khandelwal (PAN: AYNPK8701H), under Section 15HA of the SEBI Act, 1992 for violation of provisions of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations, 2003.

48. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order through Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or the 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. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

49. The Noticee shall forward the aforesaid Demand Draft / payment confirmation details to the Division Chief, Enforcement Department-I (EFD), Division of Regulatory Action - I [EFD1-DRA-1] SEBI Bhavan, Plot No.C4-A,' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai –400 051 and also send an email to tad@sebi.gov.in with the following details:

1	Case Name	
2	Name of the 'Payer / Noticee' along with PAN of Noticee	
3	Date of Payment	
4	Amount Paid	
5	Transaction No.	
6	Bank Name and Account No.	
7	Purpose of payment	

50. In the event of failure to pay the aforesaid amount of penalty within 45 days of receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act, 1992 for realization of the said penalty amount along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

51. In terms of the provision of Rule 6 of the Adjudication Rules, 1995, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Place: Mumbai	**RAJESH GUJJAR**
Date: April 01, 2022	**ADJUDICATING OFFICER**