BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/YJ/AR/2022-23/15949)

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

Late Mr. Hanumanmal Chhaganmal Baid

PAN: AAXPB5467H

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

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 the **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 Investigation Period.

3. It was observed that Mr. Hanumanmal Chhaganmal Baid (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 IP involving squaring off open position with a significant price difference. 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

4. SEBI initiated adjudication proceedings and 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

5. A Show Cause Notice dated January 31, 2022 having reference no. AO/YJ/AB/OW/P/3308/1/2022 (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.

6. It was *inter alia* alleged in the SCN that the Noticee was one of the various entities which indulged in execution of reversal trades with the same entity on the same day with a significant price difference 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

16 trades for 8,64,000 units executed in the contract *viz.* IIBK15MAR880.00PE, the Noticee had executed 2 non genuine trades i.e. 1 buy trade and 1 sale trade in the aforesaid contract on March 16, 2015 with the same counterparty *viz.* Kalpeshvai V Gaggor. on the same day and with significant price differential in buy and sell rate, which resulted in artificial volume of 1,14,000 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	IIBK15MAR880.00PE	9	57000	16	57000	100	16.67	100	13.19

7. From the above table, following is noted as regards to dealings of Noticee in the contract "IIBK15MAR880.00PE":

   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 16.67% of the trades happened in aforementioned contract were due to alleged non-genuine trades executed by the Noticee.

   c) A substantial 13.19% 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.

8. 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.

9. The aforesaid SCN was sent to the Noticee *via* Speed Post Acknowledgement Due (SPAD) and *via* email dated February 03, 2022 and the same was delivered to the Noticee. Vide e-mail dated February 16, 2022, the son of the Noticee replied that "*my father Hanumanmal Chhaganmal Baid passed away on May 30, 2021. I am the legal heir of Late Hanumanmal Chhaganmal Baid. With respect to the notice issued in the name of my father, I would like to state that I am not aware of any facts of the case not I have any records in this regard. Therefore, I humbly request you to drop the inquiry and penalty proceedings as the person under considertaion of the notice is dead and it is settled law that no proceedings can be initiated against dead persons* ". Also, the son of the Noticee along with the reply, forwarded a scan copy of the death certificate of the Noticee *vide* the aforesaid e-mail.

10. It is noted that the scan copy of the Death Certificate No. D202110431361 dated December 08, 2021 having Registration No. 3378 dated June 16, 2021 provided by the son of the Noticee which was issued by the Surat Municipal Corporation, Government of Gujarat, Department of Health & Family Welfare shows that the Noticee had passed away on May 30, 2021. The death certificate was also verified from the Website of Municipal Corporation, Government of Gujarat. It is observed that the Noticee expired before initiation of the present adjudication proceedings against it. Thus, the proceedings are against the acts of omission and commission of a person who is no more to face the charges.

11. In this regard, it is worth mentioning that in *Girijanandini Vs Bijendra Narain* (AIR 1967 SC 2110), 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 vs. 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*."

ORDER

12. In view of the foregoing and after taking into consideration all the facts and circumstances of the case, I am of the view that the instant adjudication proceedings against the Noticee *viz*. Late Mr. Hanumanmal Chhaganmal Baid (PAN – AAXPB5467H), do not survive and are liable to be abated without going into the merits of the case *qua* her and the SCN bearing reference no. AO/YJ/AB/OW/P/3308/1/2022 dated January 31, 2022 issued against the Noticee is disposed of accordingly.

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

Place: Mumbai **YOGITA JADHAV**

Date: April 12, 2022 **ADJUDICATING OFFICER**