BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO.: Order/VV/NK/2022-23/18767]

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

In respect of:

Late Shanti Devi Agarwal
(PAN: AFHPA2081H)

In the matter of dealings in Ill-liquid Stock Options at BSE

Facts of the Case

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") observed large scale reversal of trades in the Stock Options segment of the Bombay Stock Exchange (hereinafter referred to as "BSE") leading to the alleged creation of artificial volume in the stock options segment. In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options segment at the BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as "Investigation Period").

2. It was observed during the course of investigation that a total of 2, 91, 744 trades comprising 81.40 % of all the trades executed in the Stock Options Segment at the BSE during the investigation period were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was observed that Smt. Shanti Devi Agarwal (hereinafter referred to as "**Noticee**") was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price. The said reversal trades allegedly resulted into generation of artificial volumes, leading to allegations that the Noticee had violated the

provisions of Regulations 3 (a), (b), (c) & (d) and Regulations 4 (1) & 4 (2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**)

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and Undersigned is appointed as the Adjudicating Officer **(AO)** by SEBI 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 (1) of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**) to inquire into and adjudge, the violation alleged to have been committed by the Noticee and conduct adjudication proceedings *inter-alia* in respect of the Noticee, in the manner specified under Rule 4 of the Adjudication Rules read with Section 15-I (1) and (2) of the SEBI Act, and if satisfied that penalty is liable, to impose such penalty deemed fit in terms of Rule 5 of the Adjudication Rules and in terms of Section 15HA of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. Show Cause Notice dated August 08, 2022 (hereinafter referred to as **"SCN"**) was issued to the Noticee vide digitally signed email in terms of Rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act, to show cause as to why an inquiry should not be initiated and penalty should not be imposed under Section 15HA of the SEBI Act, on the Noticee for the alleged violation of Regulation 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) of PFUTP Regulations. In the SCN, the Noticee was informed about the SEBI Settlement Scheme, 2022, in terms of Regulation 26 of the Securities and Exchange Board of India

(Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options and in case, Noticee do not wish to avail of the facility under the SEBI Settlement Scheme, 2022, Noticee was advised to file a reply to the SCN within 30 days of the receipt of the SCN.

5. With regard to aforementioned SCN, undersigned was informed vide an email dated August 26, 2022 received from Mr. Rajendra Kumar Agarwal, Son of Smt. Shanti Devi Agarwal *inter-alia* informing that, Noticee has passed away on July 23, 2020. In this regard, a scanned copy of the death certificate of the Noticee was also submitted alongwith the said email by her legal heir.

6. I note that as per the death certificate dated August 11, 2020 issued by Department of Health & Family Welfare, Government of West Bengal, the Noticee had passed away on July 23, 2020.

7. 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 her would continue or abate.

8. I note that in the matter of **Girijandini vs. Bijendra Narain (AIR 1967 SC 2110**), the Hon'ble Supreme Court, *inter-alia*, observed that in case of personal action, 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.

9. Further, the Hon'ble Securities Appellate Tribunal has also held in **Chandravadan J Dalal Vs. SEBI (Appeal No. 35/2004)** that *"The appeal abates since the appellant during the pendency of the appeal died on 29th November, 2004. The appeal accordingly abates"*.

10. Relying, on the aforementioned Orders of Hon’ble Supreme Court and Hon’ble Securities Appellate Tribunal, I am of the view that the adjudication proceedings initiated against the deceased Noticee will not survive and is liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee, who is since deceased, and the Adjudication Proceedings against her stand abated.

11. Thus, in accordance with the law, the present Adjudication proceedings initiated against the Noticee viz. late Smt. Shanti Devi Agarwal, vide the SCN dated August 08, 2022 is disposed of without going into the merits of the case.

12. In terms of Rule 6 of the SEBI Adjudication Rules, 1995, a copy of this order is being sent to Mr. Rajendra Kumar Agarwal, Son of Smt. Shanti Devi Agarwal and also to the Securities and Exchange Board of India.

Date: August 30, 2022 **Vijayant Kumar Verma**

Place: Mumbai **Adjudicating Officer**