BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/AS/YK/2024-25/31316]

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

In respect of:

Pitamber Sharan Patwari

(PAN: AFPPP9517B)

In the matter of dealing in Illiquid Stocks Options at BSE

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), observed large scale reversal of trades in the Illiquid Stock Options (hereinafter referred to as "**ISO**") segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**") leading to creation of artificial volume. Reversal trades are the trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy position with the same counter party. The said reversal trades are alleged to be non-genuine trades as they lack basic trading rationale and allegedly lead to false or misleading appearance of trading leading to generation of artificial volume. In view of the same, such reversal trades are alleged to be deceptive and manipulative in nature. On account 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 "**Investigation Period/IP**").

2. Pursuant to investigation by SEBI, it was observed that during IP, a total of 2,91,744 trades comprising substantial 81.41% of all the trades executed in Stock Options of BSE were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's Stock Options segment during the investigation period. It was observed that Pitamber Sharan Patwari (PAN – AFPPP9517B) (hereinafter referred to as the **"Noticee"**) was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the IP. Such trades were alleged 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 and deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for alleged 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**").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed Shri Sugadev Chinnakkannu as Adjudicating Officer in the matter vide communique dated July 06, 2021, under Section 19 read with Section 15-I of SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to inquire and adjudge under section 15HA of SEBI Act. Pursuant to transfer of cases, the undersigned was appointed as Adjudicating Officer in the matter vide communique dated September 06, 2024.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Based on the findings by SEBI, Show Cause Notice dated December 14, 2021 (hereinafter referred to as "**SCN**") was served upon the Noticee under Rule 4(1) of Adjudication Rules to show cause as to why an inquiry should not be held and

penalty should not be imposed on him for the alleged violations of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations.

5. It was alleged in the SCN that the Noticee had executed 2 non genuine trades in 1 Stock Option Contract creating artificial volume of 1,00,000 units. Summary of dealings of the Noticee in the said Options contracts, in which the Noticee allegedly executed non-genuine trades during the I.P, is as follows:

Table No. 1

Trade Date	Client PAN	Client Name	CP Client PAN	CP Client Name	Trade Time	Trade Rate	Trade Qty	Scrip Name
23/03/2015	AAFCA5667D	Xion Gems & Jewellers Private Limited	AFPPP9517B	Pitamber Sharn Patwari	12:22:06	19	50,000	BAJT15APR1890.00PE
23/03/2015	AFPPP9517B	Pitamber Sharn Patwari	AAFCA5667D	Xion Gems & Jewellers Private Limited	12:22:10	9	50,000	BAJT15APR1890.00PE

6. The entire buy quantity had been sold and these trades were with the same counterparty at different buy and sell prices. The Noticee's two trades while dealing in the above said contract during the investigation period allegedly generated artificial volume of 1,00,000 units i.e. 8.54% of total market volume in the said contract during the investigation period.

7. The trade entered by the Noticee on March 23, 2015 under the contract "BAJT15APR1890.00PE" were reversed within few minutes on the same day with same counterparty at a substantial price difference without any basis for significant

change in the contract price which indicates that these trades are artificial and are non- genuine in nature.

8. Noticee vide letter dated December 28, 2021, submitted his response to the SCN which, *inter alia*, states as under:

"At the outset, it is vehemently submitted that NO SUCH TRANSACTIONS were entered into by the Noticee. It may be verified by the broker in question that no trade was entered into by the Noticee (neither a buy order for 50,000 units @ Rs.9/- per unit nor a sell order for 50,000 units @ Rs. 19/- per unit, subsequently) as has been alleged by your goodself in the SCN. After intensively going through our records, the Noticee firmly states that no such artificial and non-genuine reversal trade has been undertaken by itself on the said date (23.03.2015) or on any other date.

It is also vehemently submitted that Your Honour may kindly provide us with the relevant documents in your record (such as the relevant contract note or record of any payment made by the broker to the Noticee in lieu of the alleged profit booked through the alleged reversal trade) - as we are outright sure, post perusal of our records, that no such reversal trade was undertaken by us nor was any derivative profit booked through any such artificial and non-genuine reversal trade. As can be seen from our audited books during the relevant financial year and the respective bank statements, no reflection of any derivative profit through the alleged· reversal trade can be noticed/ found. Hence, it is kindly stated that the said adjudication proceedings be dropped, as NO dealings in Illiquid Stock Options at BSE has been undertaken by the Notice (Pitamber Sharan Patwari) for the Show Cause Notice to be issued against us under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995.

Kindly, take this into account whilst adjudicating the error in generating the SCN against the Noticee for transactions not undertaken by it.

Without prejudice to the above, it is also submitted that there is considerable delay in the issuance of notice (14.12.21) and the date of alleged transaction(s) (23.03.2015) i.e., there is a delay of more than six years in the initiation of the proceedings under the SEBI Act r.w. Rules issued thereunder.

The Noticee further submits that in the facts and circumstances alleged in the SCN, courts have adjudicated rulings in favour of the citizens / noticee(s). Some of the court decisions are referred to hereinunder-

a) Labhu Gohil vs Securities and Exchange Board of India [2020]

b) Nishith M. Shah HUF v. SEBI (Appeal No. 97 of 2019 dated 16-1-2020)

c) Jagruti Securities Ltd v. Securities and Exchange Board of India [Appeal No. 102 of 2006 decided on October 27, 2008] and in Vikas Ganeshmal Begani v. Whole Time Member, SEBI [Appeal No. 225 of 2009 decided on February 25, 2010]

d) Ramod Kumar Agrawal (HUF) vs Adjudicating Officer [2009] 95 SCL 274 (SAT)

e) Kishor V Gandhi vs Sebi on 14 July, 2021, Appeal No. 516 of 2019

f) Subhkam Securities Private Limited vs Securities and Exchange Board of India (Appeal No. 73 of 2012 decided on July 25, 2012)

g) Dhvani Darshan Kothari & Anr. vs Securities and Exchange Board of India (Appeal No. 276 of 2020 decided on January 21, 2021)

h) Ashok Shivlal Rupani vs. SEBI, Appeal No. 440 of 2018

i) Rakesh Kathotia & Ors. Vs. SEBI (Appeal No. 07 of 2016)

j) Hon'ble Adjudicating Officer in the case of Usha Kothari & Others (Adjudication Order: Order/MC/VS/2021-22/12785-12794 dtd 29.07.21)"

9. In the interest of natural justice, vide hearing notice dated January 10, 2022, Noticee was granted an opportunity of being heard on February 07, 2022. The Noticee vide letter dated January 15, 2022, confirmed his presence for the hearing through his authorized representative (AR) and also submitted his additional reply in response to the SCN which, *inter alia*, states as under:

"Further, we would like to state certain clarification / objection against issue of your show cause notice for imposing penalty in my name as narrated below: -

I am working with a BSE Listed Company, as Executive Director and paid Income Tax of Rs. 37.50 Lakhs during the F.Y. 2014-15. I had not entered into any Illiquid Stock Options purchase & sale transactions during the F.Y. 2014-15 under my PAN No- AFPPP9517B. Whereas you have mentioned certain shares transaction details with Broker's name *wrongly into the Show Cause Notice dt. 14/12/2021. In support of all these, I am enclosing my Profit & Loss A/c and Balance Sheet, ITR, Bank statement copies, Demat account copies which proves that there is no transaction taken place relating to Illiquid Stock Options transactions during this said period.*

Hence again I request you to investigate the source of data obtained by you wrongly which relates to some other person. Under my name & Pan No. there is NIL Illiquid Stock Options transaction during FY 2014-15 & 2015-16."

10. As per records, the AR of the Noticee appeared for the hearing on February 07, 2022 and submitted that the Noticee did not executed the trades mentioned in the SCN.

11. Vide Post SCN Intimation (PSI) dated August 16, 2022, Noticee was informed that SEBI introduced a Settlement Scheme i.e. SEBI Settlement Scheme, 2022 (hereinafter referred to as "Settlement Scheme 2022") in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as "Settlement Regulations"). It was further informed that the Settlement Scheme, 2022 provided a one time opportunity to the entities against whom proceedings had been initiated and appeals against the said proceedings are pending before any forum or authority. The scheme commenced from August 22, 2022 and closed on November 21, 2022. The PSI was issued through SPAD and email.

12. Pursuant to that, vide public notice dated November 21, 2022, it was advertised/informed that "*Considering the interest of entities in availing the Scheme, the competent authority has extended the period of the Scheme till January 21, 2023*".

13. It was observed that Noticee did not avail the Settlement Scheme 2022, in view of which, the adjudication proceeding against the Noticee was resumed.

14. In the interest of natural justice, vide hearing notice dated January 23, 2023, Noticee was granted an opportunity of being heard on February 02, 2023. The Noticee vide letter dated January 25, 2023, reiterated the earlier submissions made by the Noticee in the present proceedings.

15. It is noted that the hearing was rescheduled to February 09, 2023. The AR of the Noticee appeared for the hearing on February 09, 2023. Additional time of 15 days to the Noticee to make further submissions in the matter, if any. As per records, no further submissions were made.

16. Subsequent to a change in the AO, in the interest of natural justice, vide hearing notice dated June 06, 2023, Noticee was granted one more opportunity of being heard on June 20, 2023. The Noticee vide e-mail dated June 19, 2023, confirmed his presence for the hearing through his AR and also submitted his additional reply in response to the SCN which, *inter alia*, states as under:

    "…the charge levelled against me is that I have made dealings in illiquid Options at BSE through Share Broker M/s Giriraj Stock Broking Pvt. Ltd. So, after the personal hearing on 09.02.2023, I approached them and asked them to reply as to from where my name has come when I have not done a single trade. Their reply letter dated 14.02.2023, which is self-explanatory, was also enclosed in my last submission for his kind perusal. I would like to make the following submission.

    In addendum to the submissions, documents and oral arguments put on record for your kind perusal, I hereby further submit with this reply a letter (Marked As Annexure 'A') obtained from the broker M/s Giriraj Stock Broking Pvt. Limited who is a party to the concerned transaction against which your goodself has issued a Show-Cause Notice to me. The letter categorically states that "NO SUCH TRANSCTION" (reversal trade as alleged) was entered into by me. At point 4 & point 5 of the said letter from the broker, the broker admits that the said order (for *the reversal trade) was to be placed for another client named ****[1] having ****[1] and due to a "fat finger error", the order was accidentally executed in my Client Code i.e. ****[1]. However, on observing the error, the broker rectified it in its back office and the impugned trade was then rightfully executed and transferred to the account of ****[1]. The broker further states that the trade has been settled in ****[1] account and even the pay-out has been paid to ****[1].*

*…this conclusively proves my innocence and establishes that never ever, I made this alleged transaction. It is trade of ****[1] and the person who got payout and benefits from this transaction is ****[1] and not me.*

*Your goodselves would appreciate that under facts and circumstances narrated above, to charge me for something which I have never done is very much unjustified, bad in law, as well as far from truth. I once again reiterate that I have never dealt in any illiquid stock option at BSE as alleged in the show cause notice. Sir, It is a mistake on part of SEBI to issue the illegal show-cause notice and ask me to pay the penalty under SEBI Settlement Scheme BECAUSE it is not me but ****[1] who has made this alleged transaction and got the proceeds of the same as is categorically clear form the letter dated 14.02.2023 of Share Broker M/s Giriraj Stock Broking Pvt. Ltd."*

17. The AR of the Noticee appeared for the hearing on June 20, 2023 and reiterated the submissions made vide e-mail dated June 19, 2023.

18. Subsequently, a second PSI dated March 06, 2024, was issued to the Noticee wherein it was informed to the Noticee that SEBI introduced another Settlement Scheme i.e. SEBI Settlement Scheme, 2024 (hereinafter referred to as "**Settlement Scheme 2024**") in terms of Regulation 26 of Settlement Regulations. It was informed that the Settlement Scheme, 2024 provided opportunity to the

[1] Excised for the sake of confidentiality.

entities against whom proceedings had been initiated and appeals against the said proceedings are pending before any forum or authority. The scheme commenced from March 11, 2024 to May 10, 2024.

19. Further, vide Public Notice dated May 08, 2024, the Settlement Scheme 2024 was extended till June 10, 2024 by SEBI.

20. It is observed that Noticee did not avail the Settlement Scheme 2024 and accordingly, the adjudication proceeding against the Noticee was resumed. Vide hearing notice dated October 10, 2024, another opportunity of hearing in the matter was provided to the Noticee on November 04, 2024. The AR of the Noticee appeared for the hearing on November 04, 2024, and reiterated the submissions made earlier in the present proceedings.

CONSIDERATION OF ISSUES AND EVIDENCE

21. I have carefully perused the charges levelled against the Noticee in the SCN, his reply and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

I. **Whether the Noticee has violated Regulations 3(a), (b), (c), (d) and 4(1) and 4(2)(a) of PFUTP Regulations?**

II. **Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15HA of SEBI Act?**

III. **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?**

22. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations:

<u>Relevant provisions of PFUTP Regulations</u>

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 recognised 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 recognised 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 recognised stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.

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 and 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;

Issue No. 1: Whether the Noticee has violated provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1) and 4(2)(a) of PFUTP Regulations?

23. I note that it is alleged that the Noticee, while dealing in the stock option contract at BSE during the IP, had executed reversal trades which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in stock option contract at BSE.

24. It is alleged that the Noticee was one of the entities who had indulged in creating artificial volume of 1,00,000 units through 2 non genuine reversal trades in 1 stock options contract during IP. The summary of trades is given below:

Table No. 2

Contract name	Avg. buy rate (₹)	Total buy volume (no. of units)	Avg. sell rate (₹)	Total sell volume (no. of units)	% of Artificial volume generated by the Noticee in the contract to Noticee's Total volume in the contract	% of Artificial volume generated by the Noticee in the contract to Total volume in the contract
A	**B**	**C**	**D**	**E**	**F**	**G**
BAJT15APR1890.00PE	9	50,000	19	50,000	100	8.54

25. In response, the Noticee in his various replies, *inter alia*, submitted that the aforesaid transactions have not been executed by him. To support his contention, the Noticee has submitted a copy of his bank statement of Kotak Mahindra Bank for the period from January 01, 2015 to March 31, 2016, copy of his demat account statement (Depository Participant – Ortem Securities Limited) for the FY. 2014-15, Copy of ITR for FY. 2014-15, and a letter dated February 14, 2023, received from the broker M/s. Giriraj Stock Broking Pvt. Ltd. through whom the aforesaid transactions were alleged to have been executed.

26. From the perusal of the broker's letter dated February 14, 2023, addressed to the Noticee, it is noted that the letter, *inter alia*, states as under:

"We would like to draw your attention to the fact that the impugned trade was on account of inadvertent error by our dealer whilst placing order; generally termed as a "fat finger error". Please be advised that the order was to be placed in the account of one of our

*client ****[2] having ****[2]. However, due to order placing requirement for numerous clients, the dealer accidentally executed the order in your code i.e. ****[2].*

*However, on observing the error it was rectified at the back office. Accordingly, the impugned trade was executed rightfully transferred in the account of ****[2]. Please be informed that the trade has been settled in ****[2] account and the respective accounting entries have been passed in the account and even the pay-out has also been paid to ****[2].*

*Therefore, please be informed that although the order was accidentally punched in your account, the resultant final trade was actually reflected in ****[2]account only, which is apparent from the ledger statement and contract note issued to him.*

In view of the aforesaid clarification, please be assured that no trade has been carried out in your account as the trade erroneously placed was promptly rectified at the back office and did not translate into any trade in your account which would result in any contractual obligation of pay-in and pay-out."

27. From the aforesaid, it is noted that the broker, Giriraj Stock Broking Pvt. Ltd. through whom the abovementioned transactions was alleged to have taken place has acknowledged that the transaction in question was not done by the Noticee but by another individual. However, due to an error by the dealer executing the order, the transaction was mistakenly executed in the Noticee's account. The broker further clarified that the mistake was rectified at the back office, ensuring that no contractual obligation for pay-in or pay-out arose for the Noticee.

28. Considering the broker's letter dated February 14, 2023, submitted by the Noticee, I am inclined to give benefit of doubt to the Noticee. Consequently, it is concluded that the aforesaid transactions which is in question in the present proceedings were not executed by the Noticee and the Noticee cannot be held liable for the alleged violations.

[2] *Excised for the sake of confidentiality.*

29. Therefore, in view of the abovementioned observations and findings, I note that the other issues and submissions of the Noticee do not merit consideration and accordingly, I held that the allegation made against the Noticee for violation of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations, does not stand established.

ORDER

30. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15J of the SEBI Act, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, conclude that the adjudication proceedings initiated against the Noticee (Pitamber Sharan Patwari) vide SCN dated December 14, 2021, is disposed of without imposition of any monetary penalty.

31. 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 SEBI.

ASHA SHETTY

Digitally signed by ASHA SHETTY
Date: 2025.03.25 17:16:03 +05'30'

Place: Mumbai **ASHA SHETTY**

Date: March 25, 2025 **ADJUDICATING OFFICER**