BEFORE THE ADJUDICATION OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ORDER/JJ/MG/2022-2023/15830]

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

In respect of-

Anjana Devi Sharma (PAN: APHPS1524B) having address at 952, Cossipore Road, Kolkata, West Bengal- 700022.

Email : rajesh.ndcs@rediffmail.com

In the matter of **dealing in Illiquid Stock Options on the BSE**

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, **"SEBI"**) conducted an investigation into the trading activity in Illiquid Stock Options at BSE for the period between April 1, 2014 to September 30, 2015, (hereinafter referred to as the **"Investigation Period"**) after observing large scale reversal of trades in the Stock Options segment of the Bombay Stock Exchange Ltd. (hereinafter referred to as **"BSE"**).

2. Investigation revealed that during the Investigation Period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. Anjana Devi Sharma (**"hereinafter referred to as Noticee"**) was one such client whose reversal trades involved squaring off transactions with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trade allegedly resulted into

generation of artificial volumes by the aforesaid clients and counterparties, leading to allegations that the Noticee had violated Regulation 3 (a), (b), (c), (d) and Regulation 4 (1), 4(2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**).

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated Adjudication Proceedings and appointed the undersigned as Adjudicating Officer (hereinafter referred to as **"AO"**) under section 15-I of the SEBI Act, 1992 (hereinafter referred to as, **"SEBI Act")** read with Rule 3 of the SEBI (Procedure for Holing Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as, **"Adjudication Rules"**) vide order dated September 20, 2021, to inquire into, and adjudge under Section 15HA of the SEBI Act, 1992 the alleged violations of the aforesaid provisions of the PFUTP Regulations, by the Noticee. The appointment of the AO was communicated vide Order dated September 27, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice No. OIAE/IAD/JJ/PBR/30402/2021 dated October 27, 2021(hereinafter referred to as, the **"SCN"**) was served upon the Noticee under Rule 4 (1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under Section 15HA of SEBI Act, 1992 for the aforesaid alleged violations of PFUTP Regulations, 2003.

5. The allegations levelled against the Noticee in the SCN are summarized below:

   a) The Noticee was one of the entities who indulged in reversal trades which allegedly created false and misleading appearance of trading in the market, generating artificial volumes in the Stock Options Segment of BSE during the Investigation Period.

b) The Noticee is alleged to have engaged in 1 such reversal trade in 1 unique contract, which led to generation of alleged artificial volume of 80,000 units on August 3, 2015.

c) The trade entered by the Noticee was reversed on the same day with the same counterparty at a substantial price difference without any basis for significant change in the contract price which indicates that this trade was artificial and is non-genuine in nature.

d) A summary of dealings of the Noticee in the Stock Option contract in which the Noticee allegedly executed non-genuine reversal trade during the Investigation Period, provided in the SCN is reproduced below:

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (No. of Units)	%of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	%of Artificial Volume generated by Noticee in the contract to Total volume in the contract
1	DABU15AUG290.00CEW3	3.50	40,000	9.00	40,000	100%	12.74%

Note: "Unit" refers to lot size in contract multiplied by number of contracts traded.

6. From the trades executed by the Noticee in the contract of "DABU15AUG290.00CEW3", it is observed that:

    a) While dealing in the said contract on 03/08/2015, at 15:00:43:46 hrs. the Noticee entered into a buy trade with counterparty Overactive Merchants Private Limited for 40,000 units at Rs. 3.50 per unit, which was reversed by a sell trade at 15:00:53:44 hrs with the same counterparty for 40,000 units at Rs. 9.00 per unit.

    b) The Noticee's trades in the Stock Options contracts to her own total trades in the said contract was 100% and the Noticee's trades in the contract to the total volume of trades in the contract in the market was 12.74% (628,000 being total market volume in the contract) during this period. Hence, it is alleged that by two trades Noticee executed a total volume of 80000 units which was artificial and non-genuine in nature.

7. As no reply to the SCN was received from the Noticee vide letter reference number OIAE/IAD/JJ/33413/2021 dated November 23, 2021 a reminder was sent to the Noticee to reply to the SCN. The reminder letter was also emailed to her at email id: rajesh.ncds@rediffmail.com. The Noticee vide email from email id: rajesh.laxmioil@gmail.com. replied to the SCN, citing that she had replied on November 18, 2021 from another mail id :rajesh.laxmioil@gmail.com. While acknowledging the receipt of SCN, she enclosed her letter dated November 11, 2021 wherein she replied to the SCN pointwise. She also informed in her e-mail that she had authorized her Advocate Mr. Rajesh Khandelwal form Juris Link to appear and plead on her behalf during any hearing that may be held.

8. Following principle of natural justice vide letter reference number OIAE/IAD/OW/2723/1/2022 dated January 24, 2022 intimation for personal hearing to be held on February 4, 2022 was sent. Vide email from mail id:rajesh.ndcs@rediffmail.com the Noticee forwarded a letter dated February 2, 2022 authorizing her advocates Mr. Rajesh Khandelwal and Ms. Shreya Khandelwal to appear on her behalf for the personal hearing. The personal hearing was held on February 4, 2022 by video conferencing and Ms. Shreya

Khandelwal appeared on behalf of the Noticee. Ms. Shreya acknowledged the points made in the SCN and reiterated the submissions made in reply of the Noticee dated November 11, 2022. She also sought one week's time to make additional submissions in the matter. Vide email from email id: rajesh.khandelwal@jurislink.co.in additional submissions were forwarded by the authorized representative vide letter dated February 7, 2022.

9. By indulging in execution of the aforesaid non-genuine reversal trades, the Noticee is alleged to have violated Regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003 the text of which has been reproduced below:-

"*3. Prohibition of certain dealings in securities*

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a 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"

REPLY OF THE NOTICEE TO ALLEGATIONS RAISED IN SCN

(i) She stated that she had not violated any provisions of SEBI Regulations as stated in SCN.

(ii) She stated that she was an individual investor who had been investing money in a variety of investment vehicles (one of which was the stock market) with an expectation of receiving financial returns on the invested amount. She was not aware of nitty-gritties of share market and had authorized her 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. To her knowledge, the said stock broker had undertaken trades on her behalf without any ill design or ill motives.

(iii) She further stated that she had executed merely one trade and it could be a matter of chance that the buy and sell trade matched with the same counterparty. The amount of profit earned by her was not substantial to draw adverse inference. She only made a profit of Rs.2.20 lacs with her trades which was miniscule by trades of 40000 units.

(iv) Though it is alleged that she executed trades in illiquid stock options but at no time were these scrips banned at BSE. BSE allowed trades in these scrips. She was not aware that the scrips were illiquid.

(v) She further stated that the said trades were executed in the normal course of business and she was in no way related to the alleged counter party Overactive Merchant Private Limited. The SCN failed to establish any connection between her and counterparty except for matching of trades (and that two legs of same trade i.e. buy and sell) which could also be a chance without any intent and mala fide. Allegations against her were based on mere surmises and conjectures.

(vi) She stated that till date no investor complaints had been received for trading in the said illiquid scripts/stocks.

(vii) Her trades were genuine in the floor of the exchange as they were backed by appropriate pay in pay outs and as there was no bar on the scrips these were normal scrips in which trades could be undertaken.

(viii) Trades executed by her were legal and permitted by BSE and carried out on floor of exchange. No wrongful gains were made by her.

(ix) She reiterated that the impugned trades were executed through a registered share broker approved by exchange and entire trading process was a blind mechanism with respect to purchase and sale through broker by client and it was impossible to know the counterparties to the trade either by her or by her broker. She was not aware of how her broker executed trades on her behalf and her payins and payouts were regular. The system did not display all pending orders but only 5 best pending orders. There was no alert on part of stock broker or exchange for her to stop trading in the scrip. It was erroneous to conclude that she executed non-genuine trades.

(x) She undertook transactions in the F&O segment and positions taken were squared off for which she made profits. She had paid taxes on the income generated through these profits. She had no mala fide intent of any gains.

(xi) She stated that 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, her 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.

(xii) Further she reiterated that the allegations of reversal trades in 1 unique contract was misplaced because she had only one buy trade of 40,000 quanity of DABU15AUG290.00CEW3 which was sold for same quantity thus forming only 1 trade on both sides. She sold scrip because the prices had gone up and she sought to make profits out of her trades and for profit made she had accounted for in her Income Tax returns.

(xiii) The SCN did not correctly interpret her trades as she had purchased some stocks and on huge price variations she had sold them and she was issued contract notes for her trades. She was not aware of the counter party and her trades were not done with the intention to create aritificial volume.

(xiv) She had no connection with the counterparty Overactive Merchants Private Limited and SCN failed to establish a connection. She stated that in a blind trading system it was not possible to know the counterparty and matching of trades that too for a miniscule quanity on a given day was coincidental and by no stretch of imagination could the trades be termed as non-genuine or for creating artificial volume as alleged in the SCN.

(xv) She stated there was a huge time difference between the buy and sell trades. Therefore any price variation in the meantime, was a market phenomenon on which she did not have any control. Furthermore, the percentage of her trades compared to market volume and contracts may have been lower in absence of heavy trade volumes on the platform of the Exchange about which she was not aware of, nor could have the means and resources to find out thereon.

(xvi) SCN itself alleged 12.74% 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 her trades allegedly took place, were hardly any and that too was purely incidental. For such a small quantity and for sporadic days, it was too harsh to assume that she had entered into any meeting of minds with the counterparty whom she did not know. No adverse interference could be drawn for such intraday trades by her.

(xvii) On the basis of above submissions she requested that proceedings against her be withdrawn.

The Additional Submissions made by her through her Advocates Juris Link were as follows –

(i) There was an inordinate delay of more than six years in the issuance of the SCN. On this ground alone the SCN was liable to be quashed.

(ii) The case law of Ms. Neha Sethi in the matter of illiquid stock options was quoted wherein the Ld Adjudicating Officer had disposed off the proceedings against the Noticee.

(iii) She had not indulged in non-genuine or aritificial trades. She had traded in the Stock Option segment of BSE in normal course of business. The allegations were for only 2 reversal trades and merely 40,000 units were bought and sold by her for a profit of Rs 5.5 per unit thereby giving the noticee a profit of Rs 2,20,000/- which was too miniscule and from one off trade with contra positions.

(iv) Further, she placed 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 had observed that one single trade cannot lead to a conclusion that the appellant was involved in fraudulent execution of trades with a manipulative intent.

(v) 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 wherein it was impossible 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.

(vi) The trading 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.

(vii) 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.

(viii) She reiterated that to the best of her knowledge the trading in her account in stock options on the BSE was executed in a legitimate manner.

(ix) The scrips were not time banned and hence there was no bar on trading in the said scripts. Therefore, it would be too farfetched for her to assume that these stocks are so called "ill-liquid".

(x) The SCN has failed to establish any connection between the Noticee and the alleged counter party except for matching of a trade.

(xi) She submitted 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 her own trades in their own contract. Furthermore, the percentage of her trades compared to market volume and contracts may have been lower in absence of heavy trade volumes on the platform of the Exchange about which she was not aware.

(xii) She referred 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.

CONSIDERATION OF ISSUES AND FINDINGS

14. The following issues arise for consideration in the instant matter for adjudicating under Section 15HA of SEBI Act, 1992:

Issue No. I *Whether the Noticee is in violation of Regulation 3(a),(b),(c),(d) and Regulation 4(1) and 4(2)(a) of PFUTP Regulations, 2003?*

Issue No. II *If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act, 1992?*

Issue No. III *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?*

Issue No. I ***Whether the Noticee is in violation of Regulation 3(a), (b), (c), (d) and Regulation 4(1) and 4(2)(a) of PFUTP Regulations, 2003 as alleged in the SCN?***

Examination of the facts of the case

15. With regard to the preliminary contention of the Noticee on the matter being 6 years old, I note that the initial action in the matter of illiquid stock options was taken as early as 20.08.2015 when SEBI passed interim order against 59 entities. This was followed by final order on 05.04.2018 after completion of investigation, which revealed that 14,720 entities were involved in executing non-genuine trades. Pursuant to observation by the Hon'ble SAT in its Order dated 14.10.2019, an opportunity of settlement was given to all entities by way of Settlement Scheme, 2020 ("Scheme") vide Public Notice dated 27.07.2020. Owing to the actions taken as detailed and the large number of entities involved, the time period taken for issuing SCN is reasonable. I further note that the proceedings under SEBI Act are not barred by limitation. Further, all relevant and relied upon material for the purpose of crystallization of allegations in respect of the Noticee were served on the Noticee and it is not her case that her ability to defend herself has suffered due to lack of any specific information material to the charges. Also there is no period of limitation prescribed in the SEBI Act, 1992 with respect to exercising powers or adjudicating under Section J of the SEBI Act, 1992 or for the purpose of identifying trades as non-genuine. Therefore, I note that contentions of Noticee in this regard are without merits.

16. On August 3, 2015, the Noticee bought 40000 units in the contract named "DABU15AUG290.00CEW3" from Overactive Merchants Private Limited at Rs.3.50 per unit. Within 10 seconds, the Noticee had sold the said 40000 units of the contract to the same counterparty in 1 trade at average sell price of Rs. 9.00 per unit. The said reversal trade was executed within 10 seconds generating artificial volumes to the extent of 80000 units in the aforesaid contract and there was substantial price difference of Rs.5.50 between the buy trades (at Rs.3.50) and sell trades (at Rs. 9.00) executed within seconds of each other.

17. Further, I find all of the Noticee's orders were placed first and within microseconds the counterparty placed order. The Noticee's order time at 15:00:43.448630 was ahead of the counterparty's order at 15:00:43.464115 hrs by microseconds. Similarly in the reverse leg of the trade both the Noticee and the counterparty placed sell and buy orders at the same time with time difference only in microseconds i.e. the Noticee placed order first at 15:00:53.354663 and the counterparty's order was at 15:00:53.448366 with a difference of only micro-seconds.

18. I also note from order placement rates that in both the transactions the order rate placed by the Noticee and the counterparty was exactly the same. In the first leg of the trade the order rate was Rs.3.50 placed by both Noticee and counterparty and in the reverse leg of the trade the order rate was Rs. 9.00 by both Noticee and counterparty.

19. In the instance of reversal trade, the counterparty with respect to the reverse leg of the trade entered into by the Noticee was the same as the first leg. I find that the trade was reversed by executing opposite trade on the same day with the same counterparty. I also find that the trade entered into by the Noticee were reversed at a substantial price difference from the first leg without any basis for the significant change in the contract price within such a short period of time of 10 seconds.

20. Further, the Hon'ble Securities Appellate Tribunal, in its judgement dated September 14, 2020 in the matter of Global Earth Properties and Developers Pvt. Ltd. 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*."

21. Though the Noticee replied that trade reversal was done after almost 10 seconds of the first trade and in a screen based trading system it was impossible to know the counterparty, but I find that the trade was timed so as the order placement was within microseconds or same time as the counterparty. Also the price at which buy and sell orders were placed was exactly the same as the counterparty. This cannot be mere co-incidence. Further from BSE website for the market price of the underlying scrip Dabur India Ltd. the following is observed – on the day of the trade i.e. on August 3, 2015 the lowest price of Dabur India Ltd scrip was Rs.288.50 and the highest price of the scrip on that day was Rs. 294.65 a change of Rs. 6.15 and in % terms 2.13%. In the case of Noticee's trade the price differential was Rs.5.5 and in % terms was 157%. There were no spectacular changes in the price of the underlying on the day for the Noticee to first put an order to sell of Rs. 9 per unit within microseconds of placing a buy order for the same units at Rs.3.50. Hence I cannot accept the Noticee's contention that shares/stocks vary due to various components including sentiments, market conditions, economic and political development etc. and her trades cannot be held to be non-genuine on the basis of price differential in buy and sell order rates. The facts of the case point to pre-ponderance of probability of meeting of minds of the counterparties. I also cannot accept the arguments of the Noticee that no connection is established with the counterparty and she was unaware of counterparty in a blind mechanism of trade. Just by stating that her payin and payout obligations were regular she cannot wash her hands off the responsibility of having executed a non-genuine trade. The order time of the counterparty during the reverse leg of the trade i.e. sell trade shows that the order was placed after the order placed by the Noticee as detailed

above. Hence, she cannot say that she had placed the order on the basis of 5 pending orders on the screen as no pending orders at same rate were there on screen as counterparty placed order after her at same rate which matched into a trade. These all show the meeting of minds of the Noticee with the counterparty. I also rely on the judgement of Hon'ble Supreme Court in SEBI v Kishore R Ajmera (AIR 2016 SC 1079), 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 script; 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…"* Hence I cannot accept the arguments of the Noticee that it was a one off trade. I also find that the case of Narendra Vallabhji Bahuva vs SEBI wherein Hon'ble SAT had concluded that single trade cannot lead to conclusion that appellant was not involved is not applicable, as facts brought out above prove to the contrary. Though it was a one off trade as stated by the Noticee yet it was 100% of the Noticee's total volume in the contract and contributed to 12.74% of the total volume in the contract in the entire period.

22. I further note that the Noticee's orders were synchronized with those of the counterparty. While synchronized trades may occur by accident in a liquid stock, I find that execution of such synchronized trades in an illiquid market with anonymous trading can only happen if there is prior meeting of minds with a view to execute trades. The argument of the Noticee that the system of trading on BSE was a blind mechanism and that she could not have known the counterparty cannot be accepted. The placement of orders at a time difference of microseconds all goes on to show by the yardstick of pre-ponderence of probability that there was a prior meeting of minds to execute the trades. One party was making profit and other party incurring losses. Such type of transactions show non-genuineness of trades.

23. 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."

24. Further, I place my reliance on the judgment of Hon'ble Supreme Court in the matter in respect of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble Supreme Court observed that - *"the price discovery system itself was affected by synchronization and rapid reverse trade, which also had the impact of excluding other investors from participating in the market. The Supreme Court, therefore found that the traders having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of PFUTP Regulations"*. The Apex Court also observed 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….." 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.*

25. The allegation that the Noticee carried out reversal trade is directly supported by evidence from the trade log records as detailed in above paras. On August 3, 2015, the Noticee is seen to have indulged in 1 such reversal trades in 1 unique contract, and generated artificial volume of 80,000 units which was 100% of the Noticee's total volume in the contract and 12.74% of the total volume (628000 units was total market

volume in the contract during the period) traded in the contract during the period. The facts of the cases of Abhideep Global Finance Pvt. Ltd. And Ms. Neha Sethi orders passed by learned Adjudicating Officers are different from the case of the Noticee.

26. Noticee herself admits that she made a profit of Rs.220000/- from this trade and the trade was executed in her full knowledge and consent. I cannot accept the argument of the Noticee that she had placed funds with the stock broker to execute day to day trades and it was only the broker who was trading on her behalf. However, she did not question the broker how she made profits and received contract notes for her trades. She accepts that she had traded in the contract. I note that it is not the Noticee’s case that the orders were placed without her consent.

27. The Noticee stating that BSE did not bar trades in the scrip nor did BSE give any warning or estoppel and that she was not aware that the scip was illiquid does not absolve her of the responsibility of placing orders and executing non-genuine trades on the floor of the exchange.

28. 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 observed 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."*

29. Reliance is also placed upon the observations of Hon’ble Supreme Court in the matter of SEBI vs. Rakhi Trading Private Ltd. (*supra*) where the Hon’ble Apex Court stated at Para 35 and Para 41 of that said Order that - “*The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in pre-planned and rapid reverse trades, it is not genuine; it is an unfair trade practice”… “The stock market*

is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors".

30. 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…".*

31. I find that the Noticee has indulged in non-genuine 1 trade in 1 unique contract on August 3, 2015.

32. The manner of placing buy and sell orders in a synchronized manner within microseconds of each other, reversal of the trades within a short time of 10 seconds on the same day, and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, no price differential between of order rates, manner of trading indicating meeting of minds of Noticee with counterparty, contribution to volume traded on that day, all indicate that the trades executed by the Noticee were not genuine trades and being non-genuine, created an appearance of artificial trading volume in the contracts. By engaging in such trade, the Noticee thereby violated provisions of Regulation 3(a), 3(b), 4(1), 4(2)(a), of PFUTP Regulations, 2003.

33. I find it relevant to note here that in the matter of Securities and Exchange Board of India v. Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174- 3177 and 3180 of 2011 decided on February 08, 2018), which was a similar case involving execution of reversal trades in index options, the Hon'ble Supreme Court held that *"… the traders thus having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of PFUTP Regulations…"*

34. In view of the above, I find that the Noticee, by engaging in synchronized non-genuine transactions which created a misleading appearance of trading in respective contract, dealt in the stock options contract in a fraudulent manner in violation of Regulation 3(a), 3(b) and 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act.

And

Issue No. III If yes, what would be the monetary penalty that Imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

35. Since the violation of Regulation 3(a), (b), and 4(1), 4(2)(a) of PFUTP Regulations, 2003 has been established against the Noticee, as brought out in the foregoing paragraphs, the Noticee is liable for monetary penalty under Section 15HA of SEBI Act, 1992.

36. The text of Section 15HA of SEBI Act, 1992 is reproduced below:

37. *SEBI Act, 1992: Penalty for fraudulent and unfair trade practices. 15HA. "If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."*

Factors to be taken into account by the adjudicating officer

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

"15J. *While adjudging quantum of penalty under Section 15-I, the adjudicating officer shall have due regard to the following factors, namely: -*

a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default."

39. As established above, the trades by the Noticee were non-genuine in nature and created a misleading appearance of trading. I note that the trading was in illiquid stock option contracts where there was nil or negligible participation by the public. Investigation has not shown the amount of profit/loss of the counterparties to the trade as a result of the non-genuine trades. However, considering that the violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trade is such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the two counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, the actual gain made by the Noticee from these transactions was to extent of Rs.220000/-. Since these transactions are only one reversal of trade the actual gain made by the Noticee cannot be stated to have caused loss to an group of investors and is not repetitive in nature.

40. The Noticee has contributed to artificial volumes in 1 contract on 1 day during the Investigation Period. Therefore, taking into account the facts and circumstances of this matter, and the proportion of trading by the Noticee as compared to the total volume of reversal trades in the market during the Investigation Period, I am of the view that a penalty of Rs.5,00,000/- (Rupees Five Lakh only) under Section 15HA of the SEBI Act will be commensurate with the violations committed by the Noticee.

ORDER

41. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15-I of SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs.5,00,000/- (Rupees Five Lakh only) on the Noticee i.e. Anjana Devi Sharma under Section 15HA of the SEBI Act, 1992 for violation of Regulation 3(a), 3 (b) and 4(1) 4(2)(a) of PFUTP Regulations, 2003.

42. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link

ENFORCEMENT → Orders → Orders of AO → PAY NOW

43. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department – Division of Regulatory Action – I of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:

a) Name and PAN of the entity (Noticee)

b) Name of the case / matter

c) Purpose of Payment – Payment of penalty under AO proceedings

d) Bank Name and Account Number

e) Transaction Number

44. In terms of the provisions of Rule 6, a copy of this Adjudication Order is being sent to the Noticee and also to SEBI.

Date: April 8, 2022

Place: Mumbai **JENYJOHN**

AJUDICATING OFFICER