BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO.: Order/AP/SS/2021-22/14698

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:

Radha Mohan Construction Private Limited (Now **Radha Mohan Construction LLP**)

PAN: AAXFR1477R

In the matter of dealings in Illiquid Stock Options at BSE

BACKGROUND

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 BSE Limited (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 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 Radha Mohan Construction Private Limited (Now known as Radha Mohan Construction LLP; 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 aforesaid 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 Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. 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**") read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") vide order dated July 02, 2021 to inquire into and adjudge under section 15HA of the SEBI Act against the Noticee for the alleged violation of the aforesaid provisions of PFUTP Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. SEBI/HO/MRD1/MRD1_DTCS/P/OW/2021/15104 dated July 13, 2021 (hereinafter referred to as "**SCN**") was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed on the Noticee under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. The SCN issued to the Noticee, *inter alia*, mentioned / alleged the following:

"….

5. The Noticee was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in the Stock Options Segment of BSE during the investigation period. The Noticee is alleged to have engaged in reversal trades through 2 *trades in 1 unique contract, which led to generation of alleged artificial volume of 2,12,000 units. These trades of the Noticee involved reversal with the same counterparty on the same day, but at different prices.*

…

7. A summary of dealings of Noticee in 1 Stock Options contract in which the said Noticee allegedly executed reversal trades during the investigation period, is as follows:-

S. No.	***Contract Name***	***Avg. Buy Rate (in Rs.)***	***Total Buy Volume (no. of units)***	***Avg. Sell Rate (in 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.	*INCM15APR90.00CE*	*9.30*	*1,06,000*	*6.50*	*1,06,000*	*100.00%*	*50.00%*

8. The abovementioned reversal trades and volumes are illustrated through the dealings of Noticee in the one contract viz, "INCM15APR90.00CE" during the investigation period, as follows:-

a) During the investigation period, 2 trades for 2,12,000 units were executed by the Noticee in the said contract on April 23, 2015.

b) While dealing in the said contract on April 23, 2015, at 15:07:27 hrs, the Noticee entered into a sell trade with counterparty Shree Waris Piya Steel Company P Ltd for 1,06,000 units at ₹6.50 per unit. At 15:07:40 hrs, the Noticee entered into a buy trade with the same counterparty for 1,06,000 units at ₹9.30 per unit.

c) The Noticee's two trades while dealing in the abovesaid contract during the investigation period allegedly generated artificial volume of 2,12,000 units, which made up 50% of total market volume in the said contract during this period.

9. In view of the foregoing, it is alleged that Noticee, by indulging in execution of non-genuine reversal of trades in Stock Options with same entities on the same day, created false and misleading appearance of trading in stock options and therefore allegedly violated Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) of PFUTP Regulations, 2003.

…"

6. The SCN was served on the Noticee via Registered Post Acknowledgement Due. Thereafter, the Noticee, vide letters dated July 28, 2021 and September 09, 2021, submitted the following:

   i. *The Noticee has received the said SCN and the Noticee denies the allegation made in the SCN against the Noticee.*

   ii. *The Noticee submitted Form 19 Certificate of Registration document pertaining to the Ministry of Corporate Affairs, Government of India regarding conversion of its name from Radha Mohan Construction Private Limited to Radha Mohan Construction LLP on November 16, 2017.*

   iii. *The Noticee submitted that it was not provided any material / data of total market volume in the stock option segment of BSE during the investigation period. The Noticee also mentioned that it was not provided Trade and Order Log for total 2,91,744 trades comprising 81.40% of all trades executed in Stock Market Segment of BSE during the investigation period.*

   iv. *The Noticee mentioned that its trades in the option segment of BSE were only in well-known company and the alleged 2 trades of the Noticee were executed on the anonymous screen based trading platform provided by BSE where the* *identity of the counter party remain undisclosed. Hence, the question of any non-genuine trade did not arise at all unless it was proved that such trades were executed by the Noticee in connivance with any counter party. However, the counter party whose name had been disclosed in the captioned SCN was completely unknown to the Noticee.*

v. *Complete material documents in support of the allegation contained in the SCN had not been made available to the Noticee and, hence, the Noticee was not in a position to file a proper reply effectively answering the charges levelled against the Noticee in the SCN. Moreover, not providing complete materials / documents to the Noticee is in violation to the Principles of Natural Justice.*

vi. *It was not made clear as to what constituted a reversal trade or what the definition of reversal trade is. No document or information was provided in this regard.*

vii. *The trades executed by the Noticee in the BSE stock option segment were in the normal course of business devoid of any fraudulent intentions. In the derivative segment, only those stock and indices are permitted which are very liquid and there is a robust risk mitigation mechanism in place. Since the Noticee had traded in the options of very well-known company which had a tradable position in the market, there was no reason to doubt credibility of the platform provided by the Exchange as approved by SEBI.*

viii. *It was beyond comprehension of the Noticee that how any allegation of fraud can be alleged against the Noticee for execution of mere 1 buy and 1 sell trade. In this regard, the Noticee placed reliance on the Adjudication Order dated December 24, 2019 in the matter of Richa Industries Limited.*

ix. *A reversal trade is a trade wherein both buy and sell trades are matched with the same counterparty. Further, for the completion of one reversal trade, both buy trade and sell trade are required to be executed. Buy trade alone or sell trade alone cannot be termed as reversal trade. In the instant case, one sell* *trade and one buy trade had been executed and, thus, the same cannot be termed as two reversal trades.*

x. *The Noticee submitted that, like self-trades or synchronized trades, reversal trade is also per se not illegal. In catena of cases, SEBI itself exonerated several entities wherein the quantum of purported reversal trades were lesser. In this regard, the Noticee relied on the Order of the Hon'ble Securities Appellate Tribunal (*hereinafter referred to as *"**SAT**") in the matter of Mr. Narendra Vallabhji Bahuva v/s SEBI (Order dated July 14, 2021, Appeal No. 516/2019).*

xi. *The allegation that the Noticee had generated 50% of the volume in 1 unique contract were merely an eyewash as it did not take into consideration the number of trades and volumes generated in complete Option Segment in BSE in a particular Scrip on a particular day. The Stock Exchange platform at the relevant point of time gave a choice to write options at various strike prices as per the suitability of the trader. What had been considered in the SCN was only an option with a particular strike price and not the total trading on option segment in a particular scrip at the relevant point of time. Thus, the percentages shown in the SCN are misleading and cannot be relied upon.*

xii. *The issue of SCN after a lapse of 2,273 days from the date of execution of trades by the Noticee caused extreme mental agony and highly prejudices the case of the Noticee as justice delayed is justice denied.*

xiii. *None of the acts or trades executed by the Noticee fell under the definition of fraud as provided in regulation 2(1)(c) of PFUTP Regulations, 2003, the genuineness of the trades executed by the Noticee cannot be questioned and therefore, the Noticee cannot be alleged to have violated any PFUTP Regulations, 2003. In this regard, the Noticee placed reliance on the Orders of the Hon'ble SAT in the following matters :*

- *Matter of KSL & Industries Ltd Vs. SEBI (Appeal No. 9/2003, Date of decision – September 30, 2003)*
- *Matter of Vintel Securities Pvt Ltd Vs. SEBI (Appeal No. 219/2009, Date of decision – November 23, 2009)*
- *Matter of Dhvani Darshan Kothari & Anr. (Appeal No. 276/2020, Date of decision – January 21, 2021)*

xiv. *The Noticee further denied that the Noticee has violated the Regulation 3(a), (b), (c), (d) and 4(1), 4(2)(a) of PFUTP Regulations, 2003.*

xv. *Regarding the quantum of penalty, the Noticee relied on the judgment dated February 28, 2019 of the Hon'ble Supreme Court of India in Civil Appeal No. 11311/2013 in the matter of Adjudicating Officer, SEBI Vs Bhavesh Pabari. The Noticee mentioned that there was no bar in the SEBI Act which restricted the Adjudicating Officer to impose penalty lesser than ₹5,00,000/-.*

xvi. *The Noticee also submitted that the Adjudicating Officer should exercise discretion provided judiciously and ought to consider the factors enumerated in Section 15J of the SEBI Act. The Noticee submitted that one of the Adjudicating Officers while passing Order dated November 30, 2018 against Mr. Jai Prakash Agarwal had imposed a penalty of ₹5,00,000/- for generation of artificial volume of 3,94,91,500 shares / units by execution of 56 reversal trades in 25 unique contracts, in comparison to the instant matter in which the Noticee is facing allegation of execution of 2 trades in 1 unique contract and total volume generated due to alleged trades were 2,12,000 shares / units. The Noticee further placed reliance on the Order dated June 22, 2016 of the Hon'ble SAT in the matter of Dhvani Darshan Kothari Vs SEBI (Appeal No. 390/2015).*

7. Mr. Vikas Bengani, the Authorised Representative (hereinafter referred to as "**AR**") of the Noticee, made further submission vide email dated October 05, 2021. The AR submitted copies of the Orders of Hon'ble SAT in the matters of Almondz Entertainment Pvt. Ltd. (Appeal No. 198/2020, Date of decision – January 21,

2021),R M Shares Trading Pvt. Ltd. (Appeal No. 204/2014, Date of decision – August 07, 2014) and Dhvani Darshan Kothari (Appeal No. 390/2015, Date of decision – June 22, 2016).

8. In the interest of natural justice and in terms of the Adjudication Rules, the Noticee was provided with an opportunity of personal hearing in the matter on October 05, 2021 through the online Webex platform. The AR, on behalf of the Noticee, appeared on the stipulated date of hearing. During the course of the hearing, the AR reiterated the submissions made by the Noticee in its replies dated September 09, 2021 and October 05, 2021. The AR relied, once again, upon the judgment in the matter of February 28, 2019 of the Hon'ble Supreme Court of India in Civil Appeal No. 11311/2013 in the matter of Adjudicating Officer, SEBI Vs Bhavesh Pabari with regard to the discretion of AO to impose lesser penalty than the minimum penalty prescribed under Section 15HA of the SEBI Act by keeping in view the circumstances of the matter. The AR requested time for making further written submission, summarizing certain case laws which was acceded to.

9. The AR, vide email dated October 05, 2021, made further submissions with regard to the quantum of penalty imposed by various AOs against various entities. The AR, once again, relied upon the judgment of the Hon'ble SAT in the matter of Dhvani Darshan Kothari (Appeal No. 390/2015, Date of decision – June 22, 2016) and AR made a plea that no penalty or a token penalty be imposed upon the Noticee in this matter.

CONSIDERATION OF ISSUES AND FINDINGS

10. I have taken into consideration the facts and circumstances of the case, the material/documents made available on record and the submissions of the Noticee. The issues that arise for consideration in the instant case are :

    (a) Whether the Noticee has violated the provisions of Regulations 3 (a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?

(b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act?

(c) 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?

11. I note from the documents submitted by the Noticee that, with effect from November 16, 2017, the Noticee is a Limited Liability Partnership (hereinafter referred to as "**LLP**") having PAN AAXFR1477R while at the time of executing the impugned trades on April 23, 2015, the Noticee was a private limited company having PAN AACCR8556M. In this regard, Clause 58(4)(b) under Chapter X of the Limited Liability Partnership Act, 2008 (hereinafter referred to as "**LLP Act**") reads as follows:

all tangible (movable or immovable) and intangible property vested in the firm or the company, as the case may be, all assets, interests, rights, privileges, liabilities, obligations relating to the firm or the company, as the case may be, and the whole of the undertaking of the firm or the company, as the case may be, shall be transferred to and shall vest in the limited liability partnership without further assurance, act or deed.

12. Further, Clause 8 under the Third Schedule of the LLP Act reads as follows:

Pending proceedings

All proceedings by or against the company which are pending before any Court, Tribunal or other authority on the date of registration may be continued, completed and enforced by or against the limited liability partnership.

13. From the aforesaid 2 Clauses of the LLP Act, I am inclined to take a view that an act committed by the Noticee when it was a private limited company can be attributed to the new entity so formed after conversion of the Noticee to an LLP. Therefore, the proceedings are continued against Radha Mohan Construction LLP.

14. Before advancing into the merits of the case, I would like to deal with the issue pertaining to delay, as alleged by the Noticee, that SCN was issued after a lapse of 2,273 days from the date of execution of the trades by the Noticee.

15. I note that there is no provision under SEBI Act which prescribes a time limit for taking cognizance of a breach of the provision of SEBI Act and Rules and Regulations made thereunder. Further, as per Section 11C of SEBI Act, SEBI can initiate investigation at any point of time, for any period of alleged violation or any period of alleged transactions.

16. 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, observed as follows:

    "*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*."

17. 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*".

18. 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".

19. I 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 the instant matter, I note that a total of 14,720 entities were involved in the generation of artificial volume by executing non-genuine / reversal trades in the illiquid Stock Options segment at BSE during the investigation period. Initiation of proceedings against the said 14,720 entities is a humungous task and therefore, considering the available resources, the proceedings were initiated against the entities in a staggered manner. I also note that SEBI had framed a settlement scheme in accordance with the provisions of the SEBI (Settlement Proceedings) Regulations, 2018 which provided a onetime opportunity to the concerned entities to settle the proceedings in the matter of dealings in illiquid Stock Options at BSE. I observe that the said scheme was kept open for a period of, initially, 3 months (commencing from August 01, 2020) and then extended till December 31, 2020 to enable the entities to avail the benefit of the scheme in view of the disruptions caused due to the Covid-19 pandemic. A total of 1,018 entities had availed the benefit of the Scheme and remitted the specified settlement amounts and a Settlement Order was passed by SEBI on January 15, 2021. Subsequently, proceedings against remaining entities (including the Noticee) were proceeded with and, accordingly, the SCN was issued against the Noticee.

20. In view of the aforesaid and considering the facts of the present matter, I do not find any merit in the aforesaid contentions of the Noticee.

21. With respect to the contention of the Noticee that it was not provided certain material / data, I note that the Integrated Trade Log of BSE containing the trades of the Noticee is the document relied upon for framing charges in the investigation in the matter of Illiquid Stock Options at BSE. I also note that the relevant portion

of the said Integrated Trade Log of BSE was attached as Annexure B of the SCN issued to the Noticee and also the said portion of the Integrated Trade Log of BSE in excel format was emailed to the Noticee on September 02, 2021. In this regard, I rely on the judgment of the Hon'ble SAT in the matter of Capfin Private Limited v SEBI (Appeal No. 20/2012, Decided on March 30, 2012) wherein it was held that :

"*the principles of natural justice require that the inquiry officer should make available such document and material to the delinquent on which reliance is being placed in the inquiry. It is not necessary for the inquiry officer to make available all the material that might have been collected during the course of investigation but has not been relied upon for proving charge against the delinquent. No prejudice can, therefore, be said to have been caused to the appellant on this count*".

22. Further, the Hon'ble SAT in the matter of Shruti Vora v SEBI (Appeal (L) No. 28/2020, Date of decision – February 12, 2020) held that :

"A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents, which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession specially when such documents are not being relied upon.

Reliance was also made of a decision of the Supreme Court in Union of India and Others vs E. Bashyan (1988) 2 SCC 196 which has no bearing to the controversy involved in the present context, in as much as, the said decision relates to a disciplinary proceedings wherein the Supreme Court observed that the inquiry report was required to be made available to the delinquent. An inquiry report is totally distinct and different from an investigation report. The inquiry *report considers all the materials in the inquiry proceedings which form the basis of the final order and therefore the said report is required to be made available to the delinquent. In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied.*

The learned counsel has also placed reliance upon a minority view of this Tribunal in Price Waterhouse vs Securities and Exchange Board of India decided by this Tribunal in Appeal No. 8 of 2011 on June 1, 2011 wherein it was observed that fairness demands that the entire material collected during the course of investigation should be made available for inspection to the person whose conduct was in question and that said material should also be supplied. In our opinion, the said minority view is directly against the decision of the Supreme Court in Natwar Singh case (supra)."

23. I also note that the Hon'ble SAT in the matter of Anant R Sathe v SEBI (Appeal No. 150/2020, Date of decision – July 17, 2020) reaffirmed the principle elucidated in the judgment of Shruti Vora's case, which has been reproduced above and held that:

    "the Authority is required to supply the documents that they rely upon while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in his defence".

24. In view of the aforesaid, I am of the view that all the material / data relied upon for framing of the charges levelled in the SCN has already been given to the Noticee and, accordingly, I dismiss the contentions of the Noticee in this regard. I now proceed to consider the instant matter on its merits.

25. With respect to the alleged violations in the instant matter, I note that it is pertinent to refer to the relevant provisions of the PFUTP Regulations, 2003, which are reproduced as follows:

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 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 6[manipulative] 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;

26. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation Period, the Noticee had executed reversal trades which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in stock options contracts at BSE. Reversal trades are considered as 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 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.

27. I note from the trade log of the Noticee that the Noticee had traded in 1 unique contract in stock options segment of BSE during the Investigation Period. It is observed that the Noticee had executed 2 non-genuine trades in 1 contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of a total of 2,12,000 units in the said 1 contract. The summary of the non-genuine trades of the Noticee are as follows:

Contract Name	**Avg Buy Rate (in ₹)**	**Buy Qty (No. of units)**	**Avg Sell Rate (in ₹)**	**Sell Qty (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**
INCM15APR90.00CE	9.30	1,06,000	6.50	1,06,000	100.00%	50.00%	100.00%	50.00%

28. It is noted that the Noticee had executed non-genuine trades in 1 contract, wherein the percentage of non-genuine trades of the Noticee to the total trades in the contract was 50%. Further, the artificial volume generated by the Noticee in the contract amounted to a substantial 100% of total volume generated by it in the contract. It is also noted that artificial volume generated by the Noticee contributed

50% to the total volume from the market in the said contract. The non-genuine trades executed by the Noticee in the above contract had significant difference between buy and sell rates considering that the trades were reversed on the same day.

29. Upon perusing the trade log, I note that the trades executed by the Noticee in the contract were squared off within a short span of time with the same counterparty. To illustrate, on April 23, 2015, at 15:07:27.251809, the Noticee placed a sell limit order for 1,06,000 units at a price of ₹6.50 per unit and the said order was matched with the buy limit order (which was also for 1,06,000 units at a price of ₹6.50 per unit) of counterparty client Shree Waris Piya Steel Company P Ltd. I note that the said buy limit order was placed at 15:07:27.118873, i.e. before the entry of the sell limit order by the Noticee. I also note that there was no modification of either price or quantity by either the Noticee or the counterparty and the sell limit order of the Noticee got executed into trade immediately upon the entry of the sell limit order of the Noticee. Subsequently, at 15:07:40.252566, the Noticee placed a buy limit order for 1,06,000 units at a price of ₹9.30 per unit and the said order was matched with the same counterparty (i.e. Shree Waris Piya Steel Company P Ltd), who placed a sell limit order for the same quantity (i.e. 1,06,000) and price (i.e. ₹9.30). I note that the said sell limit order was placed by the counterparty at 15:07:40.219636, i.e. before the entry of the buy limit order by the Noticee. I also note that there was no modification of either price or quantity by either the Noticee or the counterparty and the buy limit order of the Noticee got executed into trade immediately upon the entry of the buy limit order by the Noticee.

30. The non-genuineness of these transactions executed by the Noticee is evident from the fact that the time difference between the placement of the orders by the Noticee and the counterparty was very small, i.e. approximately same time for both the trades. The fact that the orders of the Noticee and its counterparty matched with such precision (considering there was a perfect match of price and quantity for both the trades) indicates a prior meeting of minds with a view to execute the reversal trades at a predetermined price. Since these trades were done in illiquid

option contracts, there was very little 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 (i.e. 13 seconds), is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Therefore, it is observed that the Noticee had indulged in reversal trades with its counterparty in the stock options segment of BSE and the same were non-genuine trades.

31. The Noticee has contended that its trades in the option segment of BSE were only in well-known company and the alleged 2 trades of the Noticee were executed on the anonymous screen based trading platform provided by BSE where the identity of the counterparty remain undisclosed and, hence, the question of any non-genuine trade did not arise at all unless it was proved that such trades were executed by the Noticee in connivance with any counterparty. In this regard, I place 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 has held the following:

"*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.....*"

32. Therefore, I find that it cannot a mere coincidence that Noticee could match its trades (with the corresponding price, in both the trades, and quantity, in one trade, entered by both the Noticee and counterparty being equal) with the same counterparty with whom she had undertaken first leg of the respective trades. It

indicates meeting of minds. In this context, I would also like to rely on the judgment of the Hon'ble Supreme Court of India in SEBI Vs 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 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 of India 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. In the instant matter, I note that though direct evidence regarding meeting of minds or collusion of the Noticee with the counterparty is not forthcoming, the trading behavior of the Noticee makes it clear that the aforesaid non-genuine trades could not have been possible without meeting of minds at some level. In this context, I find it pertinent to refer to the Hon'ble SAT Order dated July 14, 2006 in the matter of Ketan Parekh Vs SEBI (Appeal No. 2 of 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. Additionally, the Hon'ble SAT in its judgment dated September 14, 2020 in the matter of Global Earth Properties and Developers Pvt. Ltd. Vs SEBI (Appeal No. 212 of 2020) relied upon the aforesaid judgment of the 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."*

36. The Noticee has contended that the one buy trade and the one sell trade executed by the Noticee could not be termed as two reversal trades. In this regard, I note that the main allegation in the SCN is concerning whether the Noticee engaged in reversal trades through 2 trades in 1 unique contract, which led to the generation of artificial volume of 2,12,000 units, and these trades are in the nature of non-genuine trades. Therefore, I do not find any merit in the aforesaid contention of the Noticee.

37. The Noticee has contended that the SCN has not taken into consideration the number of trades and volumes generated in complete Option Segment in BSE in a particular scrip on a particular day. In this regard, I am of the opinion that the trading in every option contract, with a particular strike price, associated to a particular scrip has to be considered on an independent basis. The same may be treated analogous to trading in different scrips in the equity segment of the securities markets. For the purpose of evaluating whether any person has violated

the provisions of Regulations 3(a),(b),(c),(d),4(1) and 4(2)(a) of PFUTP Regulations, 2003 in any particular scrip, combining the trading of that person in all the scrips would not give a true picture. Likewise, for evaluating whether any person has violated the provisions of Regulations 3(a),(b),(c),(d),4(1) and 4(2)(a) of PFUTP Regulations, 2003 in any particular contract, it is imperative that the trades of that person in only that particular contract be considered to give a true picture so as to enable evaluation of the said alleged violation. In view of the same, I find no merit in the contentions of the Noticee in this regard.

38. Further, with regard to the submission of the Noticee regarding no penalty or imposition of token penalty against it in the instant matter, I wish to rely on the judgment dated November 24, 2021 of the Hon'ble SAT, in the matter of Radha Malani vs. SEBI (appeal no. 698 of 2021), wherein the Hon'ble SAT has observed the following:

"*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."

Therefore, I do not find any merit in the aforesaid contentions of the Noticee.

39. The trading behavior of the Noticee which confirms that the trades executed by the Noticee were not normal, the 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 respective contracts. In view of the aforesaid, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established. 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..”

40. 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, which reads as follows:

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.*

41. While determining the quantum of penalty under section 15 HA of the SEBI Act, it is pertinent to consider the relevant factors stipulated in section 15J of the SEBI Act, which reads as under :

Factors to be taken into account while adjudging quantum of penalty

15J. *While adjudging quantum of penalty under 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.

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.*

42. I observe that the instant matter is concerned with the creation of artificial volume through the execution of reversal / non-genuine trades and hence, I am of the view that it is not necessary to deal with the unfair gains or losses avoided by the Noticee.

43. Therefore, I note that the Noticee indulged in execution of reversal trades in stock options on BSE in 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 regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003.

ORDER

44. After taking into consideration all the facts and circumstances of the case, the material / documents made available on record including the submissions of the Noticee, the factors mentioned in section 15J of the SEBI Act and in exercise of the power conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹5,00,000/- (Rupees Five Lakh only) on the Noticee, viz. Radha Mohan Construction LLP, under section 15HA of the SEBI Act for the violation of regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003. I am of the view that the said penalty is commensurate with the lapse / omission committed by the Noticee.

45. The Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of the receipt of this order either by way of Demand Draft ("**DD**") in favour of "SEBI -Penalties Remittable to Government of India", payable at Mumbai or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in, i.e.

    ENFORCEMENT → Orders → Orders of AO → PAY NOW.

46. The Noticee shall forward the aforesaid DD / payment confirmation details to the Division Chief, Enforcement Department - I (EFD-I), Division of Regulatory Action -IV [EFD1-DRA-IV] SEBI Bhavan - II, Plot No.C7-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 detail:

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	

47. 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 for realization of the said penalty amount along with interest thereon, *inter alia,* by attachment and sale of movable and immovable properties.

48. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and SEBI.

Date : January 04, 2022 **ANSUMAN DEV PRADHAN**

Place : MUMBAI **ADJUDICATING OFFICER**