BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/SD/MH/2021-22/15321]

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
INDRA KUMAR DAGA HUF
(PAN: AAAHI35361E)
210 Jassore Road,
Lake Apartment, Flat No. C 403,
Kolkata, West Bengal -700019

In the matter of dealings in Illiquid Stock Options on BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**"), which lead to creation of artificial volume at BSE. In view 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, Investigation Period (hereinafter referred to as "**IP**").

2. Pursuant to investigation, it was observed that total 2,91,744 trades comprising substantial 81.38% of all the trades executed in stock options segment of BSE during the IP were non genuine trades. The aforesaid non-genuine trades resulted into creation of artificial volume in stock options segment of BSE during the IP. It was observed that **Indra Kumar Daga HUF** (PAN-AAAHI35361E) (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 observed 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, deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for violation of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated June 28, 2021, under Section 19 read with Section 15-I(1) of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with Section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing Ref No. SEBI/HO/CDMRD/DOI/P/OW/2021/18274/1 dated August 06, 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 under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 2 non genuine trades in 1 Stock Options contract which resulted in creation of artificial volume of total 28,000 units. Summary of dealings of the Noticee in the said Options contract,

in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

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
BIOC15FEB430.00CE	6.00	14000	22.75	14000	100	3.59

** Note: "Traded Quantity "or "unit "refers to lot size in contract multiplied by number of contracts traded*

6. From the trade executed by the Noticee in the contact, viz, BIOC15FEB430.00CE, following were noted:
    (a) While dealing in the said contract on 18/02/2015, the Noticee at 13:20:47.28 hrs entered into a buy trade with counterparty Swarnaratna Securities Pvt Ltd for 14,000 units at Rs. 6.00 per unit and at 14:02:00.03 hrs, the Noticee entered into a sell trade with the same counterparty for 14,000 units at Rs. 22.75 per unit.
    (b) Non genuine trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on same day.
    (c) The artificial volume generated by the Noticee in the contact amount to 100% of total volume generated by him in the said contact
    (d) Overall, the Noticee's trades contributed to 3.59% of total market volume in the said contract during this period.

7. The SCN ref no SEBI/HO/CDMRD/DOI/P/OW/2021/18274/1 was served on the Noticee via Speed Post Acknowledgement Due (SPAD) and via email dated August 09, 2021. The proof of service is on record. Vide emails dated August 31, the Noticee requested some more time (6 weeks) to enable them to prepare the

submissions, since the information asked for pertains to a reasonably old period that needs to be extracted from the old records and also stated that due to COVID19, they were not working with full strength.

8. Considering the request of Noticee and in the interest of principles of natural justice an opportunity of hearing was granted vide notice dated October 11, 2021, after 6 weeks, to appear for hearing on October 26, 2021 through video conferencing at 11:00 A.M.

9. Vide email dated October 23, 2021 CA Priyank Singhi, Authorized Representative (hereinafter referred as AR / Noticee), requested to take inspection of documents relied upon by Adjudicating Officer in the SCN and he has also attached an authorization letter dated October 21, 2021 issued by the Noticee authorizing CA Priyank Singhi, (PAN: BNQPS9711N) Chartered Accountant to appear and represent in all the hearings and proceedings and to do all acts and deeds necessary in this regard. As the Noticee has not provided the ID proof and e-mail id for sending the Zoom link for hearing, considering the request, the hearing was rescheduled and held on October 27, 2021 through Zoom (video conferencing). During the course of hearing, the Noticee reiterated the request made in the email dated October 23, 2021. In this regard, during personal hearing Noticee was informed that all the documents relied upon in the SCN had been provided to Noticee along with the SCN dated August 06, 2021. The Noticee confirmed that he would submit all his oral submission in writing with other points, if any, as his final submissions. The personal hearing in the matter was completed.

10. Vide letter dated November 06, 2021, AR submitted reply to the SCN. The main Contentions made in the aforesaid reply are summarized below:

    "With reference to the aforesaid matter and as mentioned verbally in the hearing today over zoom, I on behalf of the Noticee would like to make the following submissions:

10.1. At the outset, I vehemently refute that the Noticee indulged in any reversal trade which allegedly created false and misleading appearance of trading, generated artificial volumes in the stock options segment of BSE during the IP. The allegation is completely baseless and without any evidence.

10.2. The Noticee is in possession of genuine contract notes which are STT paid, brokerage, other exchange and SEBI turnover fees had been charged. Further, all the transactions took place on the online platform provided by the Bombay Stock Exchange (BSE) which is allowed by the Securities and Exchange Board of India (SEBI). It is impossible to know in such online transactions who the counter party is and similarly, we are also not aware from whom we purchased these stock options and to whom we sold. The amount received / paid from / to the broker have been done through proper banking channels. Therefore, in my humble opinion there is nothing illegal that has been done in the said instance as everything was transparent and done in the legal boundaries as provided by BSE and SEBI.

10.3. Moreover, the Noticee's trade was in the options segment of M/s. Biocon Limited which is a company included in the indices such as Nifty Next 50 and BSE 100. It is a widely traded company and not a penny stock which can be manipulated/ managed/ traded according to the whims and fancies of any individual. Therefore, in my humble opinion it is impossible for the Noticee to have engaged in any reversal trade which allegedly created false and misleading appearance of trading and generated artificial volumes in the said stock during the IP.

10.4. The Noticee punched a buy order at 13:18:30 hours and the same was executed on 13:20:47 after a time gap of 137 seconds. It is not hidden to your honour that 137 seconds is a long time in the stock market, and anyone could have sold the said options during the said time. I would like to bring to your kind notice that there were 5,031 trades translating to 83,476 shares that happened in the cash segment of Biocon Limited on 18th February, 2015. If we consider NSE, there were 14,094 trades translating to 5,84,783 shares. The market is open from 9:15 in the morning till 3:30 in the afternoon i.e., 375 minutes which translates to 22,500 seconds. This means that on an average every 0.2236 seconds there was a trade that was taking place on the BSE platform (in the cash segment) in the said stock. The prices in the cash segment and futures segment move in the same direction. Similarly, the Noticee punched a sell order at 14:00:16 hours and the same was executed on 14:02:00 after a time gap of 104 seconds. How can prices be manipulated in a company having such humongous volumes is difficult to comprehend. (screen shot of price history of Biocon Ltd inserted) It is clearly visible from the above image that the low price of this share was 438.80 and it made a high of 451.50 on that day. The Noticee purchased call option with a strike price of 430 i.e. in the money call option. As per Investopedia a call option is in the money (ITM) when the underlying security's current market price is higher than the call option's strike price. The call option is in the money because the call option buyer has the right to buy the stock below its current trading price. When an option gives the buyer the right to buy the underlying security below the current market price, then that right has intrinsic value. The intrinsic value of a call option equals the difference between the underlying security's current market price and the strike price. Similarly, in the current instance, when the high price of Biocon shares is Rs. 451.50, it is but natural for the call option value to be around Rs. 21.50 (Rs. 451.50 – Rs. 430) plus some premium. In this case, the Noticee’s call option was sold at Rs. 22.75 which is not at all unusual as explained above.

10.5. There is no statutory definition to the term “synchronized trading”. In absence of any statutory definition, courts have tried to define the term through case laws. According to the Oxford dictionary, the word “synchronized” means “Cause to occur or operate at the same time or rate”. In SEBI v. Pursarth Trading Company Private Ltd., Securities Appellate Tribunal observed that, “*synchronized trade is a kind of transactions where the seller and buyer execute the trade for almost same quantity and price at the same time*.” Synchronized trading is not illegal per se. In cases where the parties decide to genuinely trade their shares, transfer beneficial interest and there is no intention to inflate or deflate the prices of shares, synchronized trading is very much legal. In Ketan Parekh v. SEBI, it was observed that, “*genuine parties who intend to transfer beneficial interest in the trading stock and who undertake the transaction only for that purpose and not for rigging the market is not illegal and cannot violate the regulations*”.

As stated earlier, synchronized trading is not per se illegal. Merely because parties entered into transactions with pre-determined quantity and price of shares does not make them illegal. As observed by the Securities Appellate Tribunal in SEBI v. Ketan Patekh, merely because a trade was crossed on the floor of the stock exchange with the buyer and seller entering the price at which they intended to buy and sell respectively, the transaction does not become illegal. A synchronised transaction even on the trading screen between genuine parties who intend to transfer beneficial interest in the trading stock and who undertake the transaction only for that purpose and not for rigging the market is not illegal and cannot violate the regulations. However, they become illegal if it is executed to create false volumes of trade- For instance, shares of co. X are not being traded at all or are rarely traded.

In such cases, investors may not be interested in buying shares of co. X. But the shareholders of the company decide to create false volumes of trade by entering into synchronized transactions. Though no actual trading takes place, but an impression is created that shares of the company are frequently traded. In this way, an investor can be lured to invest in the company. In the said instance, Biocon Limited is not thinly traded and there is no doubt in the minds of anyone that false volumes need to be created as stated above.

In the matter of Sureshchand S. Jain, Broker – National Stock Exchange in the scrip of Ranbaxy Laboratories Limited Shri V. K. Chopra, Whole Time Member of SEBI was of the view "*that 16 synchronized deals with the gap of number of days between trades which were spread over a period of almost 8 months may not affect the price discovery mechanism of the Exchange. I observe that there were time gaps ranging from zero seconds to 49 seconds in buy and sell orders in the alleged 16 synchronised trades. Out of these, 13 trades were executed with a time gap in order placing of more than 5 seconds. I also observe that total volume of the Broker (quantity – wise and value – wise) of Ranbaxy was only 1.93% and 1.85% of the total volume of Ranbaxy on the NSE and the volume of the identified trades (16 trades) was a meagre 0.14% of the total volume in respect of Ranbaxy on the NSE. These volumes can be treated as minuscule compared to the large market volume in the scrip of Ranbaxy. In the absence of any other adverse finding in the Enquiry Report regarding specific violation of code of conduct as stipulated in the Stock Brokers Regulation, I am of the view that the said charge is not tenable against the Broker. Thus, I am inclined to grant benefit of doubt to the Broker*." In view of the above facts and circumstances, in exercise of the powers conferred upon me in terms of Section 19 of the SEBI Act, 1992 read with Regulation 13(4) of the said Regulations, I hereby dispose of the show cause notice issued to the Broker without imposing any penalty or direction in terms of Regulation 13(4) of SEBI Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002 on the Broker, Sureshchand S Jain.

In the current instance, Noticee's volume was 28,000 shares i.e. a mere 3.59% out of the total volume of 780,000 shares. As explained above as well, just a 3.59% volume cannot influence the share price of a huge company like Biocon Limited.

Based on the above submissions, it is absolutely clear and there is no doubt that the transactions that took place on the platform of the exchange were genuine and not fraudulent/ illegitimate in nature. I, therefore, humbly request you to drop the proceedings initiated by you against the Noticee for alleged violation of Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) of PFUTP Regulations, 2003 as the Noticee had not executed any such trades in the Scrip of Biocon in the BSE Stock Option Segment as alleged in SCN dated 6th August, 2021."

<u>CONSIDERATION OF ISSUES AND FINDINGS</u>

11. I have carefully perused the charges levelled against the Noticee and the documents / material available on record. The issues that arise for consideration in the present case are:

    (a) Whether the Noticee has violated provisions of regulations 3(a), (b), (c), (d), and 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, 1992?

(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, 1992?

12. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003 as below:

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 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;

13. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, he had executed a reversal trade which was

alleged non-genuine and the same had resulted in generation of artificial volume in stock option contracts at BSE. Reversal trades are considered to be 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 trade is alleged to be non-genuine trade as it lacks basic trading rationale, lead to false or misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive & manipulative.

14. Noticee *inter alia* contended that Biocon Limited is a widely traded, part of Nifty Next 50 and BSE 100 and having huge volumes in cash segment and prices cannot be manipulated in a company having such humongous volumes. Noticee had explained the volumes and liquidity in cash segment of Biocon Limited. Further the Noticee, on the other hand, mentioned that there was a huge time gap for execution of buy order and sell order from respective order entry time of the Noticee. I note that the allegation against the Noticee in the instant SCN was relating to his dealing in stock option contact viz., BIOC15FEB430.00CE. I note from the analysis of dealings in the said option contract that only 53 trades were executed in this contract during the IP, which indicates that the said option contract was illiquid. Therefore, I conclude that there is no merit in the contentions of the Noticee relating to the humongous volumes in the cash segment of Biocon Limited.

15. Noticee explained the term synchronized trading and contended that synchronized trading is not illegal if genuine parties who intend to transfer beneficial interest in the trading stock and who undertake the transaction only for that purpose and not for rigging the market is not illegal and quoted some case laws related to synchronized trading viz SAT in the matter of SEBI v. Pursarth Trading Company Private Ltd., SAT in SEBI v. Ketan Patekh, and Sureshchand S. Jain, Broker – National Stock Exchange in the scrip of Ranbaxy Laboratories Limited Shri V. K.

Chopra, Whole Time Member of SEBI. Further, the Noticee mentioned that synchronized trade is a kind of transactions where the seller and buyer execute the trade for almost same quantity and price at the same time.

I note that allegation against the Noticee is that, while dealing in the stock option contract at BSE during the IP, he had executed reversal trade which was allegedly non-genuine and the same had resulted in generation of artificial volume in stock option contract at BSE. Reversal trades are considered as those trades in which an entity reverse its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. From the reversal trades of the Noticee, it is noted that the Noticee did not intend to transfer the beneficial ownership. Therefore, the contention of the Noticee are devoid of any merit and extraneous to allegation in the instant SCN.

16. Further the Noticee has furnished the screen shot of the price history of Biocon Ltd and stated that the low price was 430.80 and the high price 451.50 on that day. The Noticee, *inter alia*, contended that the Noticee purchased call option with a strike price of 430 i.e. in the money call option. When the high price of Biocon shares is Rs. 451.50, it is but natural for the call option value to be around Rs. 21.50 (Rs. 451.50 – Rs. 430) plus some premium. In this case, the Noticee's call option was sold at Rs. 22.75 which is not at all unusual. In the current instance, Noticee's volume was 28,000 shares i.e. a mere 3.59% out of the total volume of 780,000 shares, just a 3.59% volume cannot influence the share price of a huge company like Biocon Limited.

I note from the trade log of the Noticee that he had traded in one contract in the stock options segment of BSE during the IP. 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

28,000 units in the said contract. Summary of non-genuine trades of the Noticee is as follows:

Contract Name	Avg. Buy Rate (Rs	Total Buy Volume (No. of units)	Avg. Sell Rate (Rs)	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
BIOC15FEB430.00CE	6.00	14000	22.75	14000	100	3.77	100	3.59

17. It is noted that the Noticee had executed non-genuine trades in said contract, wherein the percentage of non-genuine trades of the Noticee in stock options contract to total trades in the contract was 3.77% in the aforesaid contract. Further, artificial volume generated by Noticee in the contract amounted to 100% of total volume generated by him in the contract. It is also noted that artificial volume generated by the Noticee contributed 3.59% of the total volume from the market in the said contract.

18. I note from the trade log that the trades executed by the Noticee in a contract were squared up within a short span of time with his counterparties. To illustrate, the Noticee on February 18, 2015 at 13:20:47 hrs (Order time of Noticee: 13:18:30 and Counterparty Order time: 13:20:47) entered into 1 buy trade with counterparty viz. Swarnaratna Securities Pvt Ltd for 14000 units at the rate of Rs 6.00 per unit in the contract ‘BIOC15FEB430.00CE’. Thereafter, on the same day, Noticee at 14:02:00 hrs (Order time of Noticee: 14:02:00 and Counterparty Order time: 14:00:16) entered into 1 sell trade with same counterparty for 14000 units at the rate of Rs. 22.75 per unit in the same contract. It is noted that while dealing in the said contract during the I.P., the Noticee executed reversal trades with same counterparty viz.

Swarnaratna Securities Pvt Ltd. on the same day. Thus, the Noticee, through his dealing in the contract viz. 'BIOC15FEB430.00CE' during the I.P., executed non genuine trades which was 3.77% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 28000 units which was 3.59% of the volume traded in the said contract from the market during the I.P.

19. The buying of illiquid stock options by the Noticee and subsequent reversal trade with the same counterparty for the same quantity, within a short span of time with a significant difference in buy and sell value of stock options, in itself, exhibits abnormal market behavior and defies economic rationality. I note from the above trading pattern that the Noticee has deliberately made blatant misuse of trading platform for creating artificial volume in the illiquid stock options. The wide variation in prices of the said contracts, within a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. I note that no justifiable rationale has been given for entering into such transactions by the Noticee as the behavior exhibited by the Noticee defies the logic and basic economic sense.

20. The Noticee has *inter alia* contended that the transactions were genuine and legitimate and in possession of contact notes and the transactions took place on the online platform of BSE, and it is impossible to know in such online transactions who the counter party is and similarly, he was not aware from whom he purchased these stock options and to whom he sold.

    I note that the non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time, the Noticee reversed the position with his counterparties with significant price difference. The fact that the transactions in a particular contract were reversed with the same counterparties indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contract, there was negligible trading in the said contract and hence, there was no price discovery in the strictest terms. Thus, it is observed that Noticee had indulged in reversal trades with his counterparties in the stock options segment of BSE and the same were non-genuine trades. Further, I note that while the trading happened within the anonymous trading platform of BSE under supervision of the BSE, however, considering the precision at which the reversal transactions had taken place, the quantity, exact matching of price with huge price variations, I am of the view that it will be too naïve to hold that just because these transactions were executed through exchange trading platform, within the applicable limits, such trades were genuine. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order w.r.t. the transactions entered into by the Noticee with its counterparty and such reversal trading is clearly in violation of the transparent norms of trading in the securities market. In view of the above observations, I hold that the said transactions executed by the Noticee in the said Stock Option contract were non-genuine trades, in which positions were reversed within a small time gap with prior meeting of mind between the parties to the trade.

21. At this juncture, I deem it appropriate to reliance on the judgment of Hon'ble Supreme Court in the matter 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 SC held 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….."

22. Noticee has contended that the Biocon Limited is widely traded company and the prices were not manipulated and he did not created false and misleading appearance of trading and not generated artificial volumes in the said contract. The decision of investors was not affected because of reversal trades executed by him. Also that, there was no effect on prices of the derivative contract because of Noticee's trades. I note that the impugned reversal trades, which were carried out with prior meeting of minds as inferred from the case facts, affected the price discovery and execution of trades as per market mechanism on the stock options segment of BSE. In this regard, I further note the following from the judgement of the Hon'ble SC in the matter of **SEBI vs Rakhi Trading Pvt Ltd** (supra):
"……….According to SAT, only if there is market impact on account of sham transactions, could there be violation of the PFUTP Regulations. We find it extremely difficult to agree with the proposition. As already noted above, SAT has missed the crucial factors affecting the market integrity, which may be direct or indirect. The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. 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." Therefore, I note that contentions of Noticee in this regard are liable to be rejected.

23. Further, the Hon'ble SAT in its judgement dated September 14, 2020 in the matter of **Global Earth Properties and Developers Pvt Ltd** relied upon the aforesaid judgement of Hon'ble SC 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."

24. Therefore, the trading behaviour of the Noticee confirms that such trades were not normal indicating 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 above, 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) decided on May 23, 2006 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…".*

25. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act, 1992 which read as under:

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 1[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].

26. While determining the quantum of penalty under section 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act which reads as under:-

Factors to be taken into account by the adjudicating officer.

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.

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.

27. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on part of the said Noticee. The said violation is not repetitive in nature.

28. Therefore, I note that Noticee indulged in execution of reversal trades in stock options contracts in the IP 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) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

<u>ORDER</u>

29. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 15J of the SEBI Act, 1992

and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose a penalty of Rs.5,00,000/- (Rupees Five Lakh only) on the Noticee viz. Indra Kumar Daga HUF under the provisions of section 15HA of the SEBI Act 1992 for the violations of Regulations 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 on the part of the Noticee.

30. 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

31. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to "The Division Chief, Enforcement Department (EFD1 – DRA I), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	

32. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

33. 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 the Securities and Exchange Board of India.

Date: March 08, 2022
Place: Mumbai

S. DHAKSHINAMURTHY
ADJUDICATING OFFICER