BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/BM/LD/2021-22/14186)

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

(Late)Shri Ashok Kumar Varshney
(**PAN: ADRPS2084E**)
In the matter of dealings in Illiquid Stock Options at the BSE

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter be referred to as, the **SEBI**) conducted investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter be referred to as, the **BSE**) for the period April 01, 2014 to September 30, 2015 (hereinafter be referred to as, the **Investigation Period**) after observing large scale reversal of trades in the Stock Options segment of the BSE.

2. The investigation revealed that during the Investigation Period, a total of 2,91,744 trades comprising 81.40% of all the trades executed in the BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. It was observed that **Shri Ashok Kumar Varshney** (hereinafter be referred to as, the **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 be referred to as, the 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 be referred to as, the SEBI Act, 1992) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as, **PFUTP Regulations, 1995**) vide order dated September 23, 2021 to inquire into and adjudge under Section 15HA of the SEBI Act, 1992 against the Noticee for the alleged violation of aforesaid provisions of PFUTP Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated October 20, 2021 (hereinafter be referred to as, the **SCN**) was served upon the Noticee under Rule 4(1) of the Adjudication Rules, 1995 to show cause as to why an inquiry should not be held and penalty not be imposed against it under Section 15HA of the SEBI Act for the alleged violation of the provisions of Regulations 3(a),(b),(c),(d), 4(1) and 4(2)(a) of the PFUTP Regulations, 2003.

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

   a) That 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 Stock Options segment of the BSE during the Investigation Period.

b) That the Noticee engaged in 2 reversal trades (1 buy trade and 1 sell trade) in one (1) unique contract which led to generation of artificial volume in this unique contract.

c) The trades entered by the Noticee were 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 these trades are artificial and are non-genuine in nature.

d) A summary of dealings of the Noticee in the 1 Stock Options contract in which the Noticee executed non-genuine reversal trades during the Investigation Period are as under:

Table 1: Summary of trading of the Noticee in Illiquid Stock Options on BSE

Sl. no	Contract name	Avg. buy rate (Rs.)	Total buy volume (no. of units)	Avg. sell rate (Rs.)	Total sell volume (no. of units)	Total Volume in the Contract	% of Non-genuine trades of the Noticee in the contract to total trades in the contract	% of Artificial volume generated by Noticee in the contract to total volume in the contract
1	BOBL15 MAR190. 00CE	0.5	100000	5.5	100000	6217500	6.67	3.22

e) By indulging in execution of aforesaid non-genuine reversal trades, the Noticee has violated the provisions of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

6. Vide e-mail dated November 15, 2021, it was informed that *Shri Ashok Kumar Varshney expired on 20/12/2020. Further present proceedings shall be dropped on the principal of 'actio personsalis moritur cum persona".*

7. The Death Certificate attached with the email issued by the Nagar Swasthya Adhikari Karyalaya, Mukhya Chikitsa Adhikari Nodia, Department of Medical and Health, Government of Uttar Pradesh, shows that the Noticee had passed away on 20/12/2020. The death certificate was verified from the website of Nagar Swasthya Adhikari Karyalaya Mukhya Chikitsa Adhikari Nodia, Thus, the proceedings are against the acts of omission and commission of a person who is no more to face the charges. In this regard, it is worth mentioning that in *Girijanandini Vs Bijendra Narain* (AIR 1967 SC 2110), the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the *maxim actio personalis moritur cum persona* (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal in *Chandravadan J. Dalal vs. SEBI* (Appeal No. 35/2004 decided on June 15, 2005) wherein it was held that: *"The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates."*

8. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee are liable to be abated without going into the merits of the case *qua* him and the SCN dated October 20, 2021 issued against him is disposed of accordingly.

9. In terms of Rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee's last known address and also to SEBI.

Place: Mumbai **Barnali Mukherjee**

Date: November 17, 2021 **Adjudicating Officer**