

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO. : Order/BM/LD/2021-22/14557)**

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

Ashok Kumar Sharma HUF

(PAN: AAHHA4898K)

In the matter of dealings in Illiquid Stock Options at the BSE

BACKGROUND OF THE CASE :

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) conducted an investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter referred to as “**BSE**”) for the period April 01, 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 BSE.
 2. Pursuant to investigation it was observed that a total of 2,91,744 trades comprising 81.40 % of all the trades executed in the stock options on BSE segment during the investigation period were non genuine trades. It was observed that Ashok Kumar Sharma HUF (hereinafter referred to as the “**Noticee**”) was one such entity who indulged in execution of reversal trades in stock options segment of BSE during the Investigation period. 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 alleged violation of the provisions of Regulation 3(a),(b),(c),(d) and Regulation 4(1) & 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations, 2003**”).
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APPOINTMENT OF ADJUDICATING OFFICER :

3. The undersigned has been appointed as the adjudicating officer *vide* order dated September 23, 2021, under Section 19 read with sub-section (1) of Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the “**SEBI Act, 1992**”) and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the “**Adjudication Rules, 1995**”) to inquire into and adjudge the alleged violation committed by the Noticee, under Section 15HA of the SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING :

4. A show cause notice ref. EAD-3/BM/LD /ISO-II/29263/2021 dated October 20, 2021 (hereinafter referred to as “SCN”) was served upon the Noticee under Rule 4(1) of the SEBI 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 the SEBI Act.

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

- (i) *The Noticee was one of the entities which had 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.*
- (ii) *The Noticee had engaged in 2 instances in 1 unique contract which led to generation of artificial volume in the aforesaid unique contracts.*
- (iii) *In the 1 unique contract, the trades entered by the Noticee were reversed with the same counterparty at a substantial price difference without any basis for significant change in the contract price, which indicates that these trades were artificial and non-genuine in nature.*
- (iv) *For the purpose of illustration of non-genuine trades and creation of artificial volume by the Noticee, details of trading done by the Noticee in the contract viz. “RCOM15SEP55.00CEW3” on 11/09/2015 is given below:*

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	RCOM15 SEP55.00 CEW3	6	68000	10.3	68000	368000	20	36.96

- (v) *It is observed from the table that the trades entered by the Noticee in the contract of “RCOM15SEP55.00CEW3” on 11/09/2015 with its counterparty viz. Jet Air Agencies Private Limited were reversed between the Noticee and the same counterparty on the same day resulting in reversal of trades which are, prima facie, considered to be as non-genuine. Therefore in the process, artificial volume in the stock option contract at BSE has been generated by the Noticee through such non-genuine trades.*
- (vi) *In view of the above, it is alleged that the Noticee, by indulging in execution of reversal trades in Stock Options with same counterparty on the same day, which were non-genuine in nature, has created false or misleading appearance of trading in stock options and therefore allegedly violated Regulation 3(a), (b), (c), (d) and Regulation 4(1) & 4(2)(a) of the PFUTP Regulations, 2003.*
5. The Noticee replied to the SCN vide letters dated November 11, 2021 and additional submissions made vide letter dated December 07, 2021 which are summarized below :
- The Noticee submits that :
- (a) There is a considerable delay in the issuance of notice i.e there is a delay of more than 6 years.
- (b) The Exchange did not allege that the trades were illegal. There has been no indirect buy or sell of securities. No public policy has been breached or

contravened and no substance has been provided to substantiate that the trades are fraudulent.

- (c) No complaint has been made nor the Exchange allege that the Noticee has acted against the interest or to the prejudice of any party.
 - (d) No third party prejudice was caused, no one including investors were misled nor was the exchange or its mechanism used to perpetuate fraud.
 - (e) The trades were very insignificant.
 - (f) The trades were conducted through a legalized mechanism or device.
 - (g) No relation or connection with counterparties and no link / nexus/ relationship/ connection / dealings /collusion / arrangement or agreement with counterparty.
6. 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 November 18, 2021, through the online webex platform. Authorized Representative ('AR') appeared on behalf of the Noticee on the stipulated date of hearing. During the course of hearing, the AR reiterated the submissions made by the Noticee in its reply dated November 11, 2021 and requested for time to make additional submissions by December 07, 2021. The personal hearing in the matter was concluded and minutes are on record. The AR made the additional submissions vide letter dated December 07, 2021.

CONSIDERATION OF ISSUES AND FINDINGS :

7. I have carefully perused the charges levelled against the Noticee, his reply 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 Regulation 3(a), (b), (c), (d) and Regulation 4(1) & 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 ?

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

PFUTP Regulations :

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;*

Issue No 1 : *Whether the Noticee has violated provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1) & 4(2)(a) of PFUTP Regulations, 2003?*

9. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, he had executed reversal trades which were

allegedly non-genuine and the same had resulted in generation of artificial volume in stock option contracts 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. The said reversal trades are alleged to be non-genuine trades as they are not executed in the normal course of trading, lack basic trading rationale, and allegedly lead to false or misleading appearance of trading in terms of generation of artificial volumes, hence, these trades are deceptive and manipulative. From the facts/material made available on record, I find that the reversal trades executed by the Noticee, which were observed in the present case, were undertaken by the Noticee with its counterparty with a predetermined arrangement to book profit or losses respectively, and therefore, the parties to the trades were not trading in the ordinary course of business. Therefore, it is alleged that the Noticee by indulging in such reversal trades with its counterparty in the illiquid stock option segment at BSE has managed to generate artificial volume in the Stock Options segment at BSE during the IP.

10. I shall now proceed to deal with the transactions executed by the Noticee in the alleged non-genuine trades :

10.1 In this regard, it is observed from the trade log of the Noticee that it had traded in 1 unique contract in the Stock Options segment of BSE during the above mentioned IP. The examination of the Trade log of the Noticee during the relevant period revealed that it had executed 2 non-genuine trades in respect of 1 contract on the Stock Options segment of BSE. I note that the above mentioned trades of the Noticee had resulted in creation of artificial volume of 1,36,000 units in the said 1 contract making a profit of Rs. 2,92,400/-.

Summary of the alleged non-genuine trades of the Noticee are as follows :

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	RCOM15 SEP55.00 CEW3	6	68000	10.3	68000	368000	20	36.96

10.2 I note that the abovementioned trades of the Noticee had resulted in the creation of artificial volume of a total of 136000 units in the given contract. Further, it is observed that the trades executed by the Noticee were squared up within a short span of time with the same counterparty i.e. trades were reversed within minutes on the same day. Thus, it is observed that Noticee had indulged in reversal trades with its counterparty in the stock option segment of BSE and the same were non-genuine trades.

10.3 The details of squaring up done by the Noticee in the contract "RCOM15SEP55.00CEW3" are as given below :

Trade date	Client name	CP Client name	Trade time	Trade rate	Traded quantity	Buy/Sell
11/09/2015	Ashok Kumar Sharma HUF	Jet Agencies Private Ltd.	14:08:16 hrs	Rs.6 per unit	68,000	Buy
11/09/2015	Ashok Kumar Sharma HUF	Jet Agencies Private Ltd.	14:15:03 hrs	Rs.10.30 per unit.	68,000	Sell

10.4 It is observed from the above table on 11/09/2015 at 14:08:16 hrs, the Noticee entered into 1 buy trade with counter party Jet Agencies Private Limited for 68,000 units at the rate of Rs. 6 per unit in the contract "RCOM15SEP55.00CEW3". Thereafter, on the same day, the Noticee

at 14:15:03 hrs entered into 1 sell trade with same counter party for 68,000 units at the rate of Rs. 10.30 per unit in the same contract. It is observed that while dealing in the said contract during the I.P., the Noticee executed reversal trades with the same counter party i.e. Jet Agencies Private Limited on the same day and with significant price difference in buy and sell rate within a short span of time. Thus the Noticee, through its dealing in the above contract during the I.P., executed non genuine trades which was 20% of the total trades from the market in the said contract during the I.P., and thereby Noticee generated artificial volume of 1,36,000 units which was 36.96% of the total volume traded in the said contract in the market during the I.P.

10.5 The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis to suddenly, within a matter of few minutes, reverse the position with its counterparty with significant price difference. The trade reversals in the said case points out to the fact that the party to the transactions, including the Noticee, did not intend to transfer the beneficial ownership and through these orchestrated transactions, the intention of which was not regular trading, other investors have been excluded from participating in these trades/ contracts.

10.6 As already mentioned above, there was very little time gap between the buy and sell orders placed by the Noticee with its counterparty in the above trades. The time gap between both the trades ranged within few minutes, on the same day. Given the fact that the Stock Option contracts were illiquid in nature at BSE and also in view of the observations made above, I am convinced that Noticee has entered into reversal/non-genuine trades with its counterparty and in the process generated artificial volume in the otherwise illiquid stock option contracts at BSE.

11. The Noticee has *interalia* contended that there is a delay of more than six years in the initiation of the proceedings under the SEBI Act. I note that there are no timelines prescribed in the SEBI Act, 1992 for initiating the adjudication

proceedings. I find that SEBI initiated investigation as soon as information regarding mala fide actions came into notice. Further under SEBI Act there is no limitation on initiation of adjudication proceedings for violation of various provisions of Act and Regulations made thereunder. Further I note that the investigation as regards PFUTP Regulations, 2003 is an exhaustive and time consuming process, which may require detailed analysis of the case facts.

In this regard, I note that the Hon'ble SAT in the matter of Pooja Vinay Jain vs SEBI (Appeal No. 152 of 2019 decided on March 17, 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"*.

I also note that the Hon'ble SAT in the matter of Bipin R Vora vs SEBI decided on March 22, 2006 held that,

"As regards the plea of delay and laches 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".

I note that the delay in issuance of SCN did not cause prejudice against the Noticee as contended by him, and therefore, contentions of Noticee in this regard are without merits.

12. Noticee has contended that the Exchange did not allege that the trades were illegal. The trades were conducted through a legalized mechanism. There has been no indirect buy or sell of securities and no one including investors were

misled. No substance has been provided to substantiate that the trades are fraudulent.

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 counterparty with significant price difference.

I note from the trade log of the Noticee that the time taken by the Noticee for reversing the non-genuine trades ranged few minutes on the same day. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non-genuineness of these trades executed by the Noticee.

Thus, it is observed that Noticee had indulged in reversal trades with his counterparty in the stock options segment of BSE and the same were non-genuine trades.

13. Noticee has contended that no complaint has been made nor the Exchange allege that he had acted against the interest or to the prejudice of any party.

I note that Noticee was obligated to ensure genuineness of the trades executed by him on the exchange platform. The aforesaid obligation was mandatory notwithstanding any allegation by the exchange or any complaint submitted by any investor, in this regard.

14. The Noticee has also contended that no third party prejudice was caused and consequently there could not be any deception, fraud or deceit perpetuated upon any person; no one including investors were misled nor was the exchange or its mechanism used to perpetuate fraud.

In this regard, I note the following from the judgment of the Hon'ble SAT in the matter of Ketan Parekh vs SEBI (supra): *In other words, if the factum of manipulation is established it will necessarily follow that the investors in the*

market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4 (a) of the Regulations.

In view of the abovementioned judgement, the contention of the Noticee are without any merits.

15. Noticee has also contended that his trades were very insignificant and therefore unlikely to disturb or influence the market volume to cause any harm to the safety and integrity of the securities market. I note that the impugned stock option contract was illiquid, as stated in the SCN, and also Noticee's trades in the said contract constituted 36.96% to the total market volume generated during the IP. This points to the contribution of Noticee, irrespective of quantum of reversal trades or volume generated, in the creation of misleading appearance of trading through his impugned trades.
16. The Noticee has contended that the trades were conducted through a legalized mechanism or device and not through any improvised or artificial means or devices and that the noticee has no link /nexus/ relationship / connections / dealing/ collusion / arrangement or agreement with the counterparty to his trade nor has any relationship with the entity.

I note that in the screen based trading, which is virtually anonymous, it is not possible for anyone to enter into such reversal trades. However, considering the precision at which the reversal transactions had taken place, the quantity, price and time and sale with price variations, I am of the view that it will be too naïve to hold that these 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 w.r.t the transactions entered into

by the Noticee with its counterparty and such synchronized trading is clearly violative of the transparent norms of trading in the securities market.

In view of the above observations, I hold that the 2 transactions executed by the Noticee in the 1 Stock Option Contract were synchronized trades, which were reversed within a small time gap with prior meeting of mind between the parties to the trade. Needless to mention the fact that these transactions were manipulative/deceptive device with a view to create a desired loss and/or profit in the books of the parties to the transactions and in the process, artificial volume was generated through such contract.

At this juncture, it is pertinent to refer to the decision of the Hon'ble Supreme Court of India 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 dated February 08, 2018) wherein, the Hon'ble Supreme Court while cumulatively analyzing the reversal transactions held that,

"...From the facts before us, it is clear that the traders in question did not intend to transfer beneficial ownership and therefore these trades are non-genuine. Rather than allowing the market forces to operate in their natural course, the traders repeatedly carried out the impugned transactions which deprived other market players from full participation. The repeated reversals and predetermined arrangement to book profits and losses respectively, made it clear that the parties were not trading in the normal sense and ordinary course. Resultantly, there has clearly been a restriction on the free and fair operation of the market forces in the instant case..."

In the same matter, Hon'ble Supreme Court had further stated that-

"...quantity, time and significant variation of prices, without major variation in the underlying price of the securities clearly indicate that Respondent's trades are not genuine and had only misleading appearance of trading in the securities market...".

“35.... Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market. In the instant case, one party booked gains and the other party booked a loss. Nobody intentionally trades for a loss. An intentional trading for loss per se, is not a genuine dealing in securities. 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 losses and that too in a preplanned manner and rapid trades, it is not genuine...”

In this context, I also find it relevant to refer to the decision of Hon'ble Supreme Court in the matter of Securities and Exchange Board of India v. Kishore R Ajmera {(2016)} 6 SCC 368 : AIR 2016 SC 1079} wherein, the Hon'ble Supreme Court has held that ,

“... According to us, knowledge of who the 2ndparty/client or the broker is, is not relevant at all. While the screen based trading system keeps the identity of the parties anonymous it will be too naïve to rest the final conclusions on the said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned...”

The Hon'ble Supreme Court, has further 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 trade effected; the period of persistence in trading in a particular scrip; the particulars of buy and sell orders, namely the volume thereof; the proximity of time between the two and such relevant factors...”

The observations made in the aforesaid judgments of Hon'ble Supreme Court apply with full force to the facts and circumstances of the present case. Therefore, applying the ratio of the above judgments, I am convinced that the execution of trades by the Noticee in the illiquid options segment with such precision in terms of order placement, time, price, quantity etc. and also the fact that the transactions were reversed with the same counterparty clearly indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. The variation in prices of the same contract, within few minutes was a clear indication that there was pre-determination in the prices by both the counterparty when executing the trades. Thus, the nature of trading, as brought out above, clearly indicates an element of prior meeting of minds and therefore, a collusion of the Noticee with its counterparty to carry out the trades at pre-determined prices.

Rather than allowing the market forces to operate in their natural course, the Noticee carried out the impugned transactions with its counterparty which deprived other market players from full participation. The reversal and predetermined arrangement to book profits and losses respectively, made it clear that the parties were not trading in the ordinary course of business. Resultantly, there has clearly been a restriction on the free and fair operation of market forces in the instant case.

Such trading also involves an act amounting to manipulation of the price of the security in the sense that the price has been artificially and apparently prefixed. It is also a transaction without any intention of performing it and without any intention of effecting a change of ownership of such securities, ownership being understood in the limited sense of the rights in the contract. By synchronization and reversal trade, as has been carried out by the Noticee in the instant case, the price discovery system has been affected. Except the parties who have prefixed 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.

Further, the Hon'ble SAT in its judgment 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 were meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price".

17. Therefore, I find that the allegations of violation of Regulation 3(a), (b), (c) & (d) and Regulation 4(1) & 4(2)(a) of the PFUTP Regulations, 2003 by the Noticee stands established.

Issue No 2 : Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act, 1992 ?

18. Considering the findings that the Noticee as mentioned above has executed non-genuine trades resulting in the creation of artificial volume, thereby violating the provisions of Regulation 3(a), (b), (c) & (d) and Regulation 4(1) & 4(2)(a) of the PFUTP Regulations, 2003 and in terms of the judgement of 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...*" I am convinced that it is a fit case for imposition of monetary penalty under the provisions of Section 15 HA of SEBI Act which reads 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 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.

Issue 3 : *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 ?*

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

15J. While adjudging quantum of penalty under[15-I or Section 11 or Section 11B, the Board or 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 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.]

20. I observe that it is not possible from the material available on record to quantify the amount of loss caused to genuine investors as a result of the reversal trades/ non-genuine trades executed by the Noticee with its counterparty. However the Noticee has entered into 2 non-genuine trades which demonstrates the repetitive nature of default on its part.

21. Having considered all the facts and circumstances of the case, the material available on record and the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs.5,00,000/- (Rupees Five Lakhs only) on the Noticee viz. Ashok Kumar

Sharma HUF under the provisions of Section 15HA of the SEBI Act for the violation of Regulations 3(a), (b), (c) & (d) & 4(1) and 4(2) (a) of the PFUTP Regulations, 2003. I am of the view that the said penalty is commensurate with the default committed by the Noticee.

22. 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 and the said DD should be forwarded to the Division Chief, Enforcement Department -I (EFD), Division of Regulatory Action -I [EFD1-DRA-1] SEBI Bhavan, Plot No.C4-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 details :

1	Case Name	
2	Name of the 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 and legal charges along with order details)	

23. Payment can also be made online by following the below path at SEBI website www.sebi.gov.in ENFORCEMENT → Orders → Orders of AO → Click on **PAY NOW** or at <https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html>.

24. 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.

25. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee viz. Ashok Kumar Sharma HUF and also to Securities and Exchange Board of India.

Date: **December 23, 2021**

Place: **Mumbai**

BARNALI MUKHERJEE

ADJUDICATING OFFICER