BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER: EAD-5/MC/VS/2018-19/26]

UNDER SECTION 15-I OF THE SEBI ACT, 1992 READ WITH RULE 5 OF THE SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995

In respect of -

Ketan Ramanlal Shah HUF [PAN: AACHK9724K]

having address at - Flat No. D-3/2, Ground Floor, Vasupujya, Sarvodaya, Nagar, Near Jain Mandir, Mulund West, Mumbai - 400080

In the matter of *Dealing in Illiquid options on the BSE*

BACKGROUND

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

2. Investigation revealed that during the Investigation Period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. Ketan Ramanlal Shah HUF ("**the Noticee**") was one such client whose reversal trades involved squaring off transactions with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly resulted into generation of artificial volumes by the aforesaid clients and counterparties, leading to allegations

that the Noticee had violated Regulation 3(a),(b),(c),(d) and Regulation 4(1), 4(2)(a) 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 (hereinafter referred to as "**AO**") under section 15-I of the SEBI Act read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as the "**Adjudication Rules**") vide order dated May 31, 2018, to inquire into, and adjudge under section 15 HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations, 2003, by the Noticee. The appointment of the AO was communicated vide order dated June 4, 2018.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice No. EAD5/MC/VS/24592/1/2018 dated August 31, 2018 (hereinafter referred to as "**SCN**"), was issued to the Noticee in terms of Rule 4 (1) of the Adjudication Rules, to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee in terms of section 15 HA of the SEBI Act, for alleged violation of Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

5. The allegations levelled against the Noticee in the SCN are summarized as follows:-
    (a) 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.

(b) The Noticee is alleged to have engaged in 137 such reversal trades in 17 unique contracts, which led to generation of alleged artificial volume of 12883500 units, between March 13, 2015 and August 14, 2015.

(c) The trades entered by the Noticee were reversed on the same day with same counterparties 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 Noticee in 17 Stock Options contracts in which Noticee allegedly executed non genuine reversal trades during the Investigation Period, provided in the SCN is reproduced below-

S. No.	**Contract Name**	**Avg. Buy Rate (Rs.)**	**Total Buy Volume (no. of units)**	**Avg. Sell Rate (Rs.)**	**Total Sell Volume (no. of units)**	**% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract**	**% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract**
1	ADEL15MAR680.00PEW3	22.10	565000	36.81	565000	100%	79%
2	ADEL15MAR700.00PEW3	36.10	132000	56.73	132000	1%	0%
3	ADEL15MAR720.00PEW3	44.10	250000	81.30	250000	68%	66%
4	ARVI15APR250.00CEW1	16.08	514000	25.75	514000	100%	55%
5	AXIS15MAR640.00PEW3	44.10	550000	69.19	550000	100%	56%
6	CESC15MAR640.00PEW3	32.50	630000	51.56	630000	100%	100%
7	CRGL15APR185.00PEW1	18.68	238000	29.20	238000	100%	93%
8	DLFL15APR135.00CEW1	19.77	348000	34.00	348000	100%	48%
9	HAIL15AUG280.00PEW3	5.63	75000	12.00	75000	100%	34%
10	IDFC15APR180.00PEW1	12.22	390000	24.90	390000	100%	80%
11	JSWE15AUG70.00CEW2	1.80	350000	4.10	350000	100%	68%
12	MSSL15AUG330.00CEW2	8.50	182250	13.50	182250	100%	100%
13	TCHM15MAR470.00PEW3	12.15	328000	28.88	328000	100%	55%
14	TITA15MAR380.00CEW3	18.96	452000	34.20	452000	100%	96%
15	VOLT15MAR240.00CEW3	27.00	550000	42.96	550000	100%	25%
16	VOLT15MAR245.00CEW3	22.50	650000	37.62	650000	100%	100%
17	ZEEL15MAR330.00CEW3	16.41	448000	32.50	448000	100%	49%

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

"*3. Prohibition of certain dealings in securities*

No person shall directly or indirectly—

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

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

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

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

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—

(a) indulging in an act which creates false or misleading appearance of trading in the securities market"

7. A time period of 14 days was granted to the Noticee to present its reply to the SCN. The said SCN was served upon the Noticee on September 6, 2018 in terms of rule 7 of the Adjudication Rules by SPAD and acknowledgement was received.

8. Vide letter dated September 26, 2018 the Noticee communicated its intention to file an application for settlement in terms of the SEBI (Settlement of Civil and

Administrative Proceedings) Regulations, 2014 ("**the Settlement Regulations**"), and requested that the present adjudication proceedings with respect to aforesaid SCN be kept in abeyance.

9. Vide letter dated October 9, 2018, it was communicated to the Noticee that adjudication proceedings are not affected by filing of a settlement application except that "the passing of the final order shall be kept in abeyance till the application is disposed of" in terms of regulation 7 of the Settlement Regulations. The Noticee was accordingly advised to inform the undersigned regarding any settlement application filed by the Noticee with SEBI in the present matter. The Noticee was also advised to make submissions, if any, by October 15, 2018. The said letter was dispatched by SPAD and is shown as delivered on October 13, 2018 as per tracking details available on www.indiapost.gov.in.

10. Vide letter dated October 12, 2018, it was further communicated to the Noticee that an opportunity of personal hearing on October 24, 2018 was being granted to the Noticee in accordance with rule 4 (3) of the Adjudication Rules. The aforesaid hearing notice was served upon the Noticee on October 17, 2018 by SPAD, which is shown to be duly delivered on October 17, 2018 as per tracking details available on www.indiapost.gov.in. However, no response has been received from the Noticee, and the Noticee has also not availed of the opportunity of hearing granted.

11. I note that there no record of a Settlement Application having been filed by the Noticee with SEBI and the same has been confirmed by the Settlement Division of SEBI.

12. It is relevant to point out that as the Noticee had not submitted reply towards the SCN, in the said hearing notice issued on October 12, 2018, Noticee was asked to file reply on or before October 15, 2018 and it was also communicated that if no appearance is made or no reply is furnished by the Noticee, the matter would be decided on the basis of evidence available on record in terms of Rule 4(7) of the Adjudication Rules. However, no reply has been received from the Noticee in respect of the SCN and opportunity of hearing granted on October 24, 2018 has also not been availed by the Noticee.

13. Hence, I am of the view that sufficient time has been provided to the Noticee to submit reply, which the Noticee has failed to submit, and also failed to appear for hearing. At this juncture, I find it relevant to refer to the observation of the Hon'ble SAT in the matter of ***Dave Harihar Kiritbhai*** v. ***Securities and Exchange Board of India*** (Appeal No. 181 of 2014 dated December 19, 2014), wherein, it observed, "…*further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal…*". Keeping the aforesaid in mind, the adjudication proceedings against the Noticee are undertaken *ex-parte* on the basis of material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

14. The issues arising for consideration in the instant proceedings before me are:-

   I. Whether reversal trades in illiquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?

   II. If yes, whether Noticee is liable for imposition of monetary penalty under Section 15HA of SEBI Act?

   III. If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

ISSUE I: Whether reversal trades in illiquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?

15. The allegation that the Noticee carried out reversal trades is directly supported by evidence from the trade log records in Annexures B and C of the SCN. Between March 13, 2015 and August 14, 2015, the Noticee is seen to have indulged in 137 reversal trades in 17 contracts.

16. To illustrate, on March 13, 2015, the Noticee sold 452000 units of the contract named “TITA15MAR380.00CEW3” to one Jaideep Halwasiya at Rs. 34.2 per unit. Within 35 minutes, the Noticee had bought a total of 452000 units of the contract from the same counterparty through three separate buy trades executed at Rs. 18.6, Rs. 19.2 and Rs. 19.25 per unit. Within a few minutes of the said reversal trades, the Noticee once again carried out a sell trade of 448000 units of another contract, “ZEEL15MAR330.00CEW3”, to Jaideep Halwasiya at Rs. 32.5 per unit, and then reversed this trade as well by buying 448000 units back from the same counterparty in three separate buy orders executed at Rs. 16.6, Rs.16.25 and Rs.16.3 per unit, within 30 minutes of the aforementioned sell trade. On March 13, 2015 itself, 6 such reversal trades in 4 contracts were observed, with four counterparties.

17. A similar *modus operandi* is seen to have been adopted by the Noticee with respect to trades on March 16, 17, 18, 19, 27, 30 and 31, as well as on August 13 and 14, 2015.

18. The counterparty with respect to the reverse leg of the trades entered into by the Noticee was the same as the first leg. I find that trades were reversed by executing opposite trades within a matter of a few minutes to under two hours of the first leg with the same counterparty. I also note that that the trades entered into by the Noticee were reversed at a substantial price difference from the first leg without any basis for the significant change in the contract price within such a short period.

19. I further note that the Noticee’s orders were synchronised with those of the counterparties and the buy and sell orders in the trades were only a few seconds apart. While synchronised trades may occur by accident in a liquid stock, execution of such synchronised trades in an illiquid market with anonymous

trading can only happen if there is prior meeting of minds with a view to execute trades.

20. I note that as stated in the SCN, the Noticee generated a total trading volume of 12883500 units through such reversal between March 13, 2015 and August 14, 2015 in 17 separate contracts as per the table reproduced below:-

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
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2	ADEL15MAR700.00PEW3	36.10	132000	56.73	132000	0.75%	0.10%
3	ADEL15MAR720.00PEW3	44.10	250000	81.30	250000	68%	66%
4	ARVI15APR250.00CEW1	16.08	514000	25.75	514000	100%	55%
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21. From the table above, I note that the Noticee on average contributed 65% of the volume in the contracts traded, which establishes the lack of public participation in the contracts.

22. The manner of placing buy and sell orders in a synchronised manner within seconds of each other, reversal of the trades within a short time on the same day, and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, 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. By engaging in such trades, the Noticee violated provisions of Regulation 4(2)(a) of PFUTP Regulations, 2003 which states that dealing in securities will be deemed to be a fraudulent and unfair trade practice if it involves "*indulging in an act which creates false or misleading appearance of trading in the securities market*".

23. The Noticee, by engaging in non-genuine transactions which created a misleading impression of trading in respective contracts, dealt in the stock options contracts in a fraudulent manner in violation of Regulation 3(a) and 4(1) of the PFUTP Regulations, 2003.

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

Issue II If yes, whether Noticee is liable for imposition of monetary penalty under Section 15HA of SEBI Act?

and

Issue III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

25. As it has been established that the Noticee violated provisions of Regulations 3(a), 4(1) and 4(2) (a) of the PFUTP Regulations, 2003; hence the Noticee is liable for imposition of monetary penalty under Section 15 HA of the SEBI Act.

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

    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.

27. As established above, the trades by the Noticee were non genuine in nature and created a misleading appearance of trading. I note that the trading was in illiquid stock option contracts where there was nil or negligible participation by the public. Investigation has shown amount of profit / loss of the counterparties to the trades as a result of the non-genuine trades. However, considering that the violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trades are such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the two counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, it is not possible from material available on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counterparties or the consequent loss caused to investors as a result of the default. I further note that the Noticee contributed around 0.05% of the artificial reversal trades in the market during the Investigation Period.

28. The Noticee has contributed to artificial volumes in 17 contracts on 10 days during the Investigation Period. Therefore, taking into account the facts and circumstances of this matter, and the proportion of trading by the Noticee as compared to the total volume of reversal trades in the market during the

Investigation Period, I am of the view that a penalty of Rs.5,00,000 will be commensurate with the violations committed by the Noticee.

ORDER

29. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs.5,00,000/- (Rupees Five Lakh only) upon the Noticee i.e. Ketan Ramanlal Shah HUF, under section 15 HA of the SEBI Act, for violation of regulations 3(a), 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

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 e-payment facility into Bank Account the details of which are given below:-

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI - Penalties Remittable To Government of India
Beneficiary A/c No.	3146527195930

31. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department –Division of Regulatory Action – I of SEBI. The Noticee shall provide the following details while forwarding DD/ payment information:-
    a) Name and PAN of the Noticee
    b) Name of the case / matter
    c) Purpose of Payment –Payment of penalty under AO proceedings
    d) Bank Name and Account Number
    e) Transaction Number.

32. Copies of this Adjudication Order are being sent to the Noticees and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date : October 31, 2018 **(Maninder Cheema)**

Place : Mumbai **Adjudicating Officer**