BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER No. Order/BS/RG/2023-24/27612]

UNDER SECTION 15 I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:

Late Mr. Sandip Gupta

PAN: AFOPG4106L

In the matter of dealing in Illiquid Stocks Options at BSE

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), observed large scale reversal of trades in Illiquid Stock Options (hereinafter referred to as "**ISO**") segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**") leading to creation of artificial volume. Reversal trades are those trades in which an entity reverse its buy or sell positions in a contract with subsequent sell or buy position with the same counter party. The said reversal trades are alleged to be non-genuine trades as they are not executed in the normal course of trading, and allegedly lead to false or misleading appearance of trading in terms of generation of artificial volume.

2. SEBI conducted an investigation into the trading activities of certain entities in ISO segment of BSE during period April 1, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period/IP**"). Pursuant to investigation, it was observed that during the IP, a huge number of trades executed in certain stock options of BSE were non-genuine trades. The aforesaid non-genuine trades

resulted in creation of artificial volume to the tune of 826.21 crore units or 54.68% of the total market volume in Stock Options segment of BSE during the IP.

3. It was alleged that Mr. Sandip Gupta (hereinafter referred to as "**Noticee**") was one of the entities who had indulged in creating artificial volume of 60,000 units through 2 non-genuine trades in 1 stock option contract. Following is noted from the dealings of Noticee in aforesaid 1 contract viz, "VOLT15APR240.00CEW1" at BSE

    a. During the investigation period, 2 trades for 60,000 units were executed by the Noticee in the said contract on March 30, 2015.
    b. While dealing in the said contract on March 30, 2015, at 11:30:29 hrs, the Noticee entered into a buy trade with counterparty Deejay Stocks Private Limited for 30,000 units at Rs. 23.00 per unit. At 11:39:38 hours, the Noticee entered into a sell trade with the same counterparty for 30,000 units at Rs. 37.35 per unit.
    c. Noticee's two trades while dealing in the aforesaid contract during the investigation period allegedly generated an artificial volume of 60,000 units, which made up of 2.65% of total market volume in the said contract during the period.

4. In view of the foregoing, it was alleged that the Noticee has entered into reversal trades in BSE ISO and these reversal trades were non-genuine in nature and have created false and misleading appearance of trading in terms of artificial volume in Stock Options and therefore alleged to be manipulative, deceptive in nature. The Noticee is alleged to have violated the provisions of regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

APPOINTMENT OF ADJUDICATING OFFICER

5. Vide an order of the Competent Authority, SEBI, dated September 27, 2021, Smt. S. Jayamanju was appointed as the Adjudicating Officer under Section 15-I of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to inquire and adjudge under section 15HA of SEBI Act. Subsequently, vide communique dated April 24, 2023, the undersigned has been appointed as the Adjudicating Officer.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. Based on the findings by SEBI, Show Cause Notice dated August 05, 2022 (hereinafter referred to as "**SCN**") was served on the Noticee under Rule 4(1) of Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on him for the alleged violations. The Noticee did not respond to the SCN.

7. Subsequently, in the interest of natural justice, the Noticee was provided the opportunity of personal hearing on May 17, 2022, vide hearing notice dated May 04, 2022. The Noticee did not appear for hearing.

8. However, vide letter dated 06 June, 2023, the Authorised Representative (hereinafter referred to as "**AR**") of the Noticee had submitted that the Noticee has passed away in a car accident on 30 April, 2023 and had also enclosed the death certificate of the Noticee, issued by Municipal Corporation, Indore, with the aforesaid letter.

9. Vide email dated June 19, 2023, SEBI asked the AR of the Noticee to submit the notarised copy of the aforesaid death certificate of the Noticee. The AR had replied

to the SEBI's email on the same day and submitted the notarised copy of the death certificate.

10. Before proceeding further in the matter on merit, it would be in the fitness of things to first decide as to whether on account of the death of the Noticee, the present adjudication proceedings against him would continue or abate.

11. In this context, 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 SAT 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 November2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates*."

ORDER

12. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee abates without going into the merits of the case *qua him* and the SCN dated August 05, 2022 issued against him, accordingly, is disposed of.

13. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to SEBI and to the last known address of the deceased Noticee.

Date: June 21, 2023
Place: Mumbai

BIJU S.
ADJUDICATING OFFICER