BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO.: Order/SBM/AK/2021-22/14892)

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:

Anunay Commosale Private Limited

PAN No: AAJCA5956F

196, C.R. Avenue, Kolkata,

Pin- 700007

In the matter of

Dealing in illiquid stock options at BSE

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) observed large scale reversal of trades in the Stock Options segment of the Bombay Stock Exchange (hereinafter referred to as **'BSE'**) leading to the alleged creation of artificial volume in the stock options segment by various entities. In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options segment at BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as **'Investigation Period'**).

2. It was observed during the course of investigation that a total of 2,91,643 trades comprising 81.38% of all the trades executed in the Stock Options Segment at BSE during the investigation period were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was also observed that the aforesaid trades resulted into alleged creation of artificial volume to the tune of 826.21 crore units or 54.68% of the total market volume in the Stock Options segment of BSE during the investigation period. In view of the large scale reversal of trades that were observed in the illiquid Stock Options segment at BSE, it is alleged that these trades were non-genuine in nature.

3. It was observed that Anunay Commosale Private Limited (hereinafter referred to as **'Noticee'**) was one of the various entities which had indulged in the execution of the non-genuine trades in the Stock Options Segment at BSE during the above referred investigation period. It was observed that Noticee had entered into reversal trades with its counterparties which involved squaring off transactions with significant difference in sell value and buy value of the transactions. It was therefore alleged that Noticee had executed the reversal trades, which were non-genuine in nature and have created false or misleading appearance of trading in terms of creation of artificial volume in the Stock Options segment at BSE and therefore, it is alleged that the Noticee has violated the provisions of regulations 3(a), (b), (c), (d) and regulation 4(1), 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Markets) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**). In view of the above reasons, adjudication proceedings have been initiated against the Noticee under the provisions of section 15 HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**).

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer, vide communique dated July 27, 2021 under section 19 read with section 15-I of the SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) to inquire into and adjudge under the provisions of section 15HA of the SEBI Act the aforementioned alleged violation of the provisions of law by the Noticee.

SHOW CAUSE NOTICE, HEARING AND REPLY

5. Show Cause Notice ref. SEBI/HO/EAD1/SBM/KL/28759/2021 dated October 14, 2021 (hereinafter referred to as **'SCN'**) was issued to the Noticee in terms of rule 4 of the Adjudication Rules requiring the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed on the Noticee under the provisions of section 15HAof the SEBI Act.

6. The SCN issued to the Noticee, inter alia, mentioned/alleged the following-
   a. It was observed from the trade data of the Noticee that it has allegedly entered into 3 non-genuine contracts wherein it executed a total of 17 trades all of which were, prima facie, non-genuine trades.
   b. The total volume of 9,68,000 units generated by the Noticee in these 3 contracts due to its alleged non-genuine trades artificial volume was generated by the Noticee in the stock

option segment of BSE. These alleged non-genuine trades, executed by Noticee in above contracts, had significant differential in buy rates and sell rates considering that the trades were reversed on same day.

c. In view of the foregoing, it was alleged that the Noticee, by indulging in execution of reversal trades in Stock Options with same entities on the same day, which were non-genuine in nature, has created false or misleading appearance of trading in the aforementioned contracts in the option segment of BSE. In view of the fact that these options contracts were illiquid in nature, having very small volume in trading, the Noticee allegedly created artificial volumes in stock options which was manipulative and deceptive in nature. Therefore, in view of above, it is alleged that the Noticee has violated Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003.

7. The SCN dated October 14, 2021, issued to the Noticee had returned undelivered with remarks "*Unclaimed/Door Locked*". Therefore, during the course of Adjudication proceedings, details of the Noticee were ascertained from the website of Ministry of Corporate Affairs (**"MCA"),** and it was observed that the present status of the Noticee was shown as "Amalgamated". Upon examination of available records downloaded from MCA website database, *inter alia*, the following were observed: -

   i. A copy of Form no. CAA.12 dated March 26, 2021 and related documents were examined, to ascertain the factual position w.r.t. the identity of the Noticee mentioned in the Scheme of Amalgamation. The PAN No. AAJCA5956F, CIN No. U52190WB2011PTC164175 and capital structure, mentioned in the approved Scheme of Amalgamation were matching with the available details of the Noticee.

   ii. As per records, the Noticee got merged with Ceremony Marketing Pvt Ltd (**"CMPL"**) (**"Transferee Company")**, pursuant to confirmation of a scheme of amalgamation between Noticee, Devesh Commosale Pvt Ltd (**"DCPL"**), Sambhavna Vincom Private Limited (**"SVPL"**) **(together as "Transferor Companies"**) with CMPL and their respective Shareholders.

   iii. The scheme of amalgamation was approved by the Regional Director, Eastern Region, MCA vide Confirmation Order dated March 26, 2021 and the scheme was effective from March 26, 2021 ("**Effective Date**"), having the appointed date as April 01, 2020.

   iv. The scheme of amalgamation was approved through the fast track process as contemplated under section 233 of the Companies Act, 2013 along with applicable rules and regulations, therefore, there is no order issued by the Hon'ble National Company Law Tribunal.

v. As per the approved scheme of amalgamation, the Noticee was dissolved without being wound –up from the effective date of the order i.e., March 26, 2021.

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

8. I have taken into consideration the facts and circumstances of the case and the material available on record. I find that a Scheme of Amalgamation has been approved by the Regional Director, Eastern Region, MCA with effect from March 26, 2021 in respect of the Noticee, DCPL, SVPL and CMPL. Therefore, pursuant to the Scheme of Amalgamation, as aforesaid, all the Transferor Companies, i.e Noticee, DCPL, SVPL were amalgamated into CMPL i.e., the Transferee Company, u/s 233 of the Companies Act, 2013 and the Transferor Companies, including the Noticee have been dissolved without being wound up w.e.f. March 26, 2021 i.e. the effective date, in terms of the aforementioned MCA Confirmation Order. Therefore, in view of the above observation, Noticee has ceased to exist as a separate legal entity w.e.f. March 26, 2021 and was not in existence at the time when the instant Adjudication Proceedings were initiated against the Noticee i.e., on October 14, 2021(date of issuance of SCN to the Noticee).

9. In this context, it is pertinent to note that the Hon'ble Supreme Court in the matter of Saraswati Industrial Syndicate Ltd vs. C.I.T, Haryana, Himachal Pradesh, Delhi, 1990 (Supp) SCC 675 has held the following: -

> *" The High Court was in error in holding that even after the amalgamation of two companies, the transferor company did not become non-existent instead it continued its entity in a blended form with the appellant company. The High Court's view that on amalgamation there is no complete destruction of corporate personality of the transferor company instead there is a blending of the corporate personality of one with another corporate body and it continues as such with the other is not sustainable in law. The true effect and character of the amalgamation largely depends on the terms of the scheme of the merger.* ***But there cannot be any doubt that when two companies amalgamate and merge into one the transferor company loses its entity as it ceases to have its business. However, their respective rights of liabilities are determined under the scheme of amalgamation but the corporate entity of the transferor company ceases to exist with effect from the date the amalgamation is made effective.****"(Emphasis supplied).*

10. Therefore, in view of the above observations, I am convinced that the Noticee was not in existence as on the date of initiation of the adjudication proceedings against it, vide SCN dated October 14, 2021. In view of the same, I am convinced that the instant adjudication proceedings in respect of the Noticee cannot be proceeded with and the SCN dated October 14, 2021 issued to the Noticee is accordingly disposed of.

ORDER

11. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby dispose of the Adjudication Proceedings initiated against the Noticee viz. Anunay Commosale Private Limited vide SCN dated October 14, 2021.

12. In terms of the provisions of rule 6 of the Adjudication Rules, copies of this order are sent to the Transferor Company i.e., Ceremony Marketing Pvt. Ltd. (on behalf of the Noticee) and also to the Securities and Exchange Board of India.

Date: January 31, 2022
Place: Mumbai

SURESH B MENON
ADJUDICATING OFFICER