

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/BM/DS/2022-23/16497]

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

In respect of
Rajendra Kumar Chokhany HUF
(PAN: AAHHR7930M)

In the matter of Trading in Illiquid Stock Options on BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as “**BSE**”). SEBI observed that such large scale reversal of trades in stock options lead to creation of artificial volume at BSE. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in illiquid stock options at BSE for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as “**IP**”).
2. Pursuant to investigation, it was observed that total of 2,91,744 trades comprising 81.40% of all the trades executed in stock options segment of BSE during the IP were allegedly non genuine trades. The aforesaid alleged non-genuine trades resulted into creation of artificial volume in stock options segment of BSE during the IP. It was observed that Rajendra Kumar Chokhany HUF (PAN – AAHHR7930M) (hereinafter referred to as

Adjudication Order in respect of Rajendra Kumar Chokhany HUF in the matter of trading in Illiquid Stock Options at BSE

the “**Noticee**”) was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the IP. Such trades were alleged 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 Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations, 2003”).

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated September 27, 2021, under Section 19 read with Section 15-I(1) of the SEBI Act, 1992 (hereinafter referred to as “SEBI Act, 1992”) and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”) to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with Section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated October 20, 2021 (hereinafter referred to as “SCN”) was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against him and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 2 non-genuine trades in 1 Stock Options contract which resulted in artificial volume of total 91,000 units. Summary of dealings of the Noticee in the said Options contracts, in which the Noticee allegedly executed non-genuine trades during the I.P, is as follows:

S · N O ·	Contract Name	Avg. Buy Rate (Rs)	Total Buy Volume (No. of units)	Avg. Sell Rate (Rs)	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% 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	AXIS15APR540.00PE	1.00	45500	13.00	45500	100	20	100	20.59

6. From the above table, following was noted as regard to dealings of the Noticee:

- The Noticee had executed alleged non genuine trades in 1 contract, wherein all the trades of Noticee in the said contract were non-genuine trades.
- No. of alleged non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the above contract, as 20% of the trades that happened in the said contract were due to non-genuine trades executed by the Noticee.
- 100% of volume generated by Noticee in the above contract was alleged to be artificial volume, and further, the percentage of alleged artificial volume generated by the Noticee in the above contract to the total volume from the market in said contract was 20.59%. Therefore, the Noticee allegedly generated artificial volume in the above contract.

7. The SCN with reference no. SEBI/HO/EAD/EAD-3/BM/DS/OW/2021/29094/1 was served on the Noticee via Speed Post Acknowledgement Due (SPAD) and digitally signed mail on October 21, 2021. The proof of service is on record.
8. As no reply was received from the Noticee till November 12, 2021, i.e. on completion of 21 days' time allowed to the Noticee in the SCN for making its submissions, the Noticee was provided an opportunity of hearing in the interest of natural justice. Vide notice dated November 12, 2021, Noticee was advised to appear before the undersigned on November 17, 2021. The hearing notice was sent and duly delivered to the Noticee via SPAD and digitally signed e-mail. Vide mail dated November 16, 2021, the Noticee requested for one week's time to appear before the undersigned, which was granted to the Noticee. Noticee was informed vide mail dated November 16, 2021 that he was advised to appear before the undersigned on November 22, 2021. Vide mail dated November 22, 2021, the Noticee informed that karta of the Noticee, Mr. Rajendra Kumar Chokhany would not be able to appear for hearing due to health issues. Noticee also submitted that *"all the trades done in the Year 2015, we are actually done and we didnot have any malafide intention to create any unnecessarily volumes. We never had any intention to create or recreate any volumes in any of the Platform."*
9. In the interest of natural justice, Noticee was given last and final opportunity of hearing vide notice dated November 30, 2021. The Noticee was advised to appear before the undersigned on December 08, 2021. Noticee, through its Authorized Representative (hereinafter referred to as "AR") appeared for the hearing on the scheduled date and time through video-conferencing mode. The AO explained the purpose of the hearing and the charges

levelled against the Noticee. The AR requested time till December 18 to submit reply to the SCN, which was granted by the undersigned.

10. It was observed that Noticee had not submitted its reply to the SCN till December 21, 2021. Vide mail dated December 21, 2021, the Noticee was advised to submit its reply to the SCN by the end of the day. From the material available on record, it was observed that the Noticee did not submit his reply to the SCN in the matter till date.
11. From the above, I am of the view that the principles of natural justice have been adhered to, as the SCN and the Hearing Notices were duly served upon the Noticee and sufficient opportunity was granted to it to reply to the SCN, personal hearing was conducted and sufficient time was given thereafter to submit its reply to the SCN.
12. As the Noticee did not file any reply to the SCN, it can be presumed that the Noticee has admitted the charges levelled against him and has nothing further to submit in its defence.
13. While deciding the case, I cannot lose sight of settled position of law that the charge should be established with valid reasons and in accordance with law. I, therefore, deem it necessary to examine the charge based on the trades executed by the Noticee and the supporting material as provided in the SCN.

CONSIDERATION OF ISSUES AND FINDINGS

14. I have carefully perused the charges levelled against the Noticee, its 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 Regulations 3(a), (b), (c), (d), 4(1) and 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?

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

PFUTP Regulations, 2003

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?

16. I note that Pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 which was confirmed vide Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to stock options segment of BSE which was completed in the year 2018. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock option segment during the investigation period. The proceedings initiated vide the aforementioned Interim Order were disposed of vide Final Order dated April 05, 2018 also considering that appropriate action was initiated against the said 14,720 entities in a phased manner.

During the course of hearing in the case of *R. S. Ispat Ltd Vs SEBI*, the Hon'ble Securities Appellate Tribunal (SAT), vide its Order dated October 14, 2019, *inter alia* observed that "*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options*".

A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided one-time opportunity for settlement of proceedings in the Illiquid Stock Options matter. The said scheme was kept open from August 01, 2020 till December 31, 2020.

Adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement.

As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on September 23, 2021, SCN was issued on October 20, 2021.

17. 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 to be those trades in which an entity reverses 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, lead to false or misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive and manipulative.

18. I note from the trade log of the Noticee that he had traded in one contract in the stock options segment of BSE during the IP. It is observed that the Noticee had executed 2 non-genuine trades in 1 contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of 91000 units in the said contract. Summary of non-genuine trades of the Noticee is as follows:

S · N o ·	Contract Name	Avg. Buy Rate (Rs)	Total Buy Volume (No. of units)	Avg. Sell Rate (Rs)	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% of Artificial Volume generate d by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generate d by Noticee in the contract to Total Volume in the Contract
1	AXIS15APR540.00PE	1.00	45500	13.00	45500	100	20	100	20.59

19. It is noted that the Noticee had executed non-genuine trades in said contract, wherein the percentage of non-genuine trades of the Noticee in stock options contract to total trades in the contract was 20% in the aforesaid contract. Further, artificial volume generated by Noticee in the contract amounted to 100% of total volume generated by him in the contract. It is also noted that artificial volume generated by the Noticee contributed 20.59% of the total volume from the market in the said contract.

20. The details of squaring up done by the Noticee in the contract 'AXIS15APR540.00PE' are as given below :

Trade Date	Client Name	CP Client Name	Trade Time	Trade Rate (Rs.)	Traded Quantity	Buy/Sell by the Noticee
23/03/2015	RAJENDRA KUMAR CHOKHANY HUF	J B OVERSEAS	10:56:05	1.00	45500	Buy
23/03/2015	J B OVERSEAS	RAJENDRA KUMAR CHOKHANY HUF	10:56:09	13.00	45500	Sell

21. I note from the trade log details which are given above, that the trades executed by the Noticee in a contract were squared up within 04 seconds, which is a very short span of time, with his counter-party. As can be seen

from the table, the Noticee on March 23, 2015 at 10:56:05 hrs (Order time of Noticee: 10:56:05 and Counterparty Order time: 10:56:05) entered into 1 buy trade with counterparty viz. J B Overseas for 45500 units at the rate of Rs. 1.00 per unit in the contract 'AXIS15APR540.00PE'. Thereafter, on the same day, Noticee at 10:56:09 hrs (Order time of Noticee: 10:56:09 and Counterparty Order time: 10:56:09) entered into 1 sell trade with same counterparty for 45500 units at the rate of Rs. 13.00 per unit in the same contract. It is noted that while dealing in the said contract during the IP, the Noticee executed reversal trades with same counterparty viz. J B Overseas on the same day, with significant price difference. Thus, the Noticee, through his dealing in the contract viz. 'AXIS15APR540.00PE' 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 91000 units which was 20.59% of the volume traded in the said contract from the market during the I.P.

22. 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 counterparties with significant price difference. The fact that the transactions in a particular contract were reversed with the same counterparty indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contract, there was negligible trading in the said contract and hence, there was no price discovery in the strictest terms. 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.

23. I note that the Noticee executed reversal trades which defy market rationality when looked along with attending circumstances in toto.

Therefore, Noticee's trades, irrespective of the quantum of such trades, were manipulative and intended to create misleading appearance of trading. I note that the impugned stock option contracts were illiquid, as stated in the SCN, and also that Noticee's trades in the contract viz. "AXIS15APR540.00PE" contributed 20.59% to the total market volume generated during the IP. Noticee's trades, irrespective of the quantum of such trades, contributed substantially to the volume generated in the contract.

24. Here I would like to rely on the judgment of Hon'ble Supreme Court in SEBI v Kishore R Ajmera (AIR 2016 SC 1079) decided on February 23, 2016, wherein it was held that-*"...According to us, knowledge of who the 2nd party / 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...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 the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*

25. The Hon'ble Supreme Court further held in the same matter that – *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning*

from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof, the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion.”

26. 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 only reason for the wide variation in prices of the same contract, within seconds 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

27. I also place my reliance on the judgment of Hon'ble Supreme Court in the matter of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble SC held that - *“Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade*

transactions with huge price variations, it will be too naive to hold that the 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 and not negotiated deals as per the board's circular. The impugned transactions are manipulative/deceptive device to create a desired loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities.....”

28. Therefore, the trading behaviour of the Noticee confirms that such trades were not normal indicating 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. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of 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 ?

29. 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) & Regulation 4(1) and 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?

30. 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.]

31. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and

the losses, if any, suffered by the investors due to such violations on part of the said Noticee. However, the Noticee has entered into two non-genuine trades which demonstrates the violation of PFUTP Regulations, 2003.

ORDER

32. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 15J of the SEBI Act, 1992 and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under section 15HA of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Violation provisions	Penalty
Rajendra Kumar Chokhany HUF PAN:AAHHR7930M	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	₹ 5,00,000/- (Rupees Five Lakhs only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

33. 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 online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

34. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Noticee
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

35. 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.

36. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Rajendra Kumar Chokhany HUF and also to the Securities and Exchange Board of India.

Date: May 20, 2022

Place: Mumbai

**BARNALI MUKHERJEE
ADJUDICATING OFFICER**