

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/SKV/GD/2023-24/26222)**

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

Late Dharam Chand Agarwal

(PAN: ADKPA7122J)

In the matter of dealings in Illiquid Stock Options at BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an investigation into large scale reversal of trades in Stock Options segment of Bombay Stock Exchange (hereinafter referred to as '**BSE**') during the period of April 01, 2014 to September 30, 2015 (hereinafter referred to as '**investigation period**'). Pursuant to investigation, it was observed that there were trades executed in BSE Stock Options Segment involving reversal of buy and sell positions by clients and counterparties in the same contract. The reversal trades involved squaring off trades (either buy or sell), with significant difference in the price. Late Dharam Chand Agarwal (hereinafter referred to as '**Noticee**') was one among the entities who indulged in reversal trades, which allegedly created false and misleading appearance of trading thereby generated artificial volumes in the Stock Options Segment of BSE during the investigation period. The trades entered in the unique contracts were reversed on the same day with same counterparties, at a price difference which had no underlying basis and without an intention of performing it or there being a change of ownership / rights in the contracts. These factors indicated that these trades were allegedly artificial and non- genuine in nature.

APPOINTMENT OF ADJUDICATING OFFICER

2. In this connection, SEBI had initiated adjudication proceedings against Noticee, under SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') for allegedly violating Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Markets) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**'), in the matter of trading in illiquid stock options at BSE. Shri Prasanta Mahaptara was appointed as Adjudicating Officer communicate dated September 30, 2021 under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') to inquire into and adjudge the alleged violations by the Noticee and determine whether penalty under Section 15HA of the SEBI Act is liable to be imposed. Pursuant to the transfer of erstwhile Adjudicating officer Shri Prasanta Mahaptara, vide communicate dated July 26, 2022, the matter was transferred to Ms. Asha Shetty, subsequently upon transfer of Ms. Asha Shetty vide communicate dated April 17, 2023, the instant matter was transferred to the undersigned.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice no. EAD-8/AS/SM/31200/1/2022 dated July 29, 2022 (hereinafter referred to as '**SCN**') was served on the Noticee, in terms of the provisions of rule 4 of the Adjudication Rules read with section 15-I of the SEBI Act, requiring the Noticee to show cause as to why an inquiry should not be held against him in terms of Adjudication Rules read with section 15-I of the SEBI Act, and penalty, if any, should not be imposed on Noticee under section 15HA of the SEBI Act for the aforesaid alleged contraventions done by him. This SCN was sent by SPAD and email. In the SCN, the Noticee was also informed about the SEBI Settlement Scheme, 2022, in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options and in case, Noticee do not wish to avail of the

facility under the SEBI Settlement Scheme, 2022, Noticee was advised to file a reply to the SCN within 30 days of the receipt of the SCN. The SCN served through SPAD was returned undelivered.

4. In reply to the SCN, vide email dated August 03, 2022 Mr. Lalit Kumar Agarwal, stated to be son of Noticee (hereinafter referred to as “AR”) requested to drop the adjudication proceedings in respect of Noticee following the demise of Noticee and also provided a copy of the death certificate issued by Howrah Municipal Corporation. Vide email dated March 02, 2023, AR was asked to submit Notarized death certificate of the Noticee. Vide letter dated April 03, 2023, AR has provided the notarized copy of the death certificate issued by Howrah Municipal Corporation. The certificate shows that the Noticee passed away on December 22, 2015.
5. Before proceeding further in the matter on merit, it would be in the fitness of things to first decide as to whether on the death of the Noticee, the present adjudication proceedings against him would continue or abate.
6. 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 Securities Appellate Tribunal 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 November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates.”*
7. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee are liable to be abated without going into the merits of the

case qua him and the SCN dated July 29, 2022 issued against him is disposed of accordingly.

8. 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 deceased Noticee as well as to the AR.

Place: Mumbai

Date: May 04, 2023

SHASHI KUMAR VALSAKUMAR

ADJUDICATING OFFICER