BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PB/AS/2021-22/14854]

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

Nisha Balasia

(PAN: AHYPK7057Q)

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 led 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 2,91,643 trades comprising substantial 81.38% of all the trades executed in stock options segment of BSE during the IP were non genuine trades. It was observed that Nisha Balasia (PAN-AHYPK7057Q) (hereinafter referred to as 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 observed 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 and deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for 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 relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. Shri Parag Basu was appointed as Adjudicating Officer in the matter, conveyed vide communique dated September 30, 2021, under section 19 read with section 15-I(1) of the Securities and Exchange Board of India 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 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 ref no SEBI/HO/A&E/EAD-2/PB/AS/32763/2021 dated November 12, 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 her and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 12 non genuine trades in 6 Stock Options contracts which resulted in artificial volume of total 6,75,882 units. Summary of dealings of the Noticee in 6 Stock Options contracts, in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

S. No.	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (No. of units)	Avg. Sell Rate (₹)	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	DISH15APR70.00CE	4	28000	7.8	28000	100	20	100	7.69
2	DLFL15JUL115.00PEW4	1	34000	4	34000	100	40	100	23.94
3	GMRI15JUN16.00PEW1	1.8	64211	3.45	64211	100	25	100	10.61
4	GMRI15JUN16.00PEW2	1.9	91730	3	91730	100	20	100	14.71

5	JAIA15APR16.00CE	3	112000	4.25	112000	100	16.67	100	10.77
6	YESB15JUL800.00PE	1.5	8000	20.5	8000	100	25	100	15.17

6. From the above table, following was noted as regard to dealings of the Noticee:
   (a) The Noticee had executed non genuine trades in 6 contracts, wherein all trades of Noticee in the said 6 contracts were non genuine trades.
   (b) No. of non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the aforesaid contracts, as 16.67% to 40% of the trades that happened in the aforesaid contracts were due to non-genuine trades executed by the Noticee.
   (c) The entire 100% of volume generated by Noticee in the above contracts was artificial volume, and further, the percentage of artificial volume generated by the Noticee in the above contracts to the total volume from the market in said contracts were in the range of 7.69% to 23.94%. Therefore, substantial volume generated by the Noticee in each of the above contracts were artificial volume.
   (d) Non genuine trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

7. The SCN was served on the Noticee via Speed Post Acknowledgement Due (SPAD) and via email dated November 16, 2021. Vide email dated December 01, 2021, Noticee requested for additional time for submitting

reply to the SCN. Vide email dated December 06, 2021, Noticee's request was acceded to and further, Noticee was granted opportunity of personal hearing on December 22, 2021. Vide email dated December 18, 2021, Noticee submitted Authority letter in favor of Juris Matrix Partners LLP, and also submitted reply to the SCN. The aforesaid reply has been summarized below:

- Noticee's dealings in the stock options could not be termed as illiquid. Further, SCN had failed to define the term 'illiquid'.
- SCN had been issued after a delay of 6 years. No satisfactory reasons have been given to explain the delay in the SCN. In this regard, Noticee relied *interalia* on the judgements of the Hon'ble Securities Appellate Tribunal (hereinafter referred as **"SAT"**) in the matters of Rajeev Bhanot vs SEBI, Rakesh Kathotia vs SEBI and Khandwala Securities vs SEBI, and of the Hon'ble Supreme Court in the matters of Ashok Rupani and Anr vs SEBI and Mansaram vs S P Pathak and Others.
- Ask and bid limits in the stock options were determined by BSE, and Noticee had no role to play in formulating or determining the limits.
- There is no allegation of creation of false price, as all the trades were within the circuit filters. Further, all the trades were settled and cleared as per BSE guidelines.
- Squaring off trades with a difference in values were based on limited understanding of market, and could not have led to generation of artificial volumes, as alleged.

- Noticee was not aware of counterparties to the impugned trades, and matching of trades was a coincidence. SCN is based on the premise that stock options were illiquid, so probability of matching of orders with same counterparties is high.
- Noticee relied upon the judgement of the Hon'ble SAT in the matter of Almondz Entertainment Pvt Ltd vs SEBI, and contended that as there were considerable time differences in Noticee's trades, so such trades could not have been intentional.
- The allegations are based merely on presumptions and assumptions, and are useless.
- SCN is silent on connection(s) between parties, counterparties, brokers and counterparty brokers, if any. In absence of such connection, charges against Noticee cannot be sustained. In this regard, Noticee relied upon judgements of the Hon'ble SAT in the matters of Nishith Shah HUF vs SEBI, Pine Animation Ltd vs SEBI, Labhu Gohil vs SEBI and Narendra Ganatra vs SEBI.
- SCN has erred in concluding collusion of minds with counterparty without any credible evidence.
- Trading decisions are taken upon principle of "as on" basis, and after lapse of 6 years, it is not possible to remember details behind decisions taken at that point.
- Only stock brokers, and not Noticee were in a position to enter into alleged matching of trades.

- No complaints or loss have been caused to any investor, and no person has claimed to be defrauded. All taxes including STT, stamp duty etc had been paid by the Noticee.
- Buy and sell rates should have been compared on the basis of notional values instead of premium. Further, volume of derivatives was very small compared to that in underlying securities, and such a small volume was not sufficient to generate any artificial volume.
- No list pertaining to illiquid contracts in stock options segment has been brought out by Exchanges or Regulator.
- There was no major movement in price of the underlying scrip, which proves that Noticee's trades had no impact on market.
- Noticee traded for a small time period out of the total IP, which spanned around one and a half years. Such trades neither distorted the market equilibrium nor have caused any loss/ prejudice to investors at large.
- In cash segment, manipulative trades might create distorted impression in minds of investors who may then invest/ divest from the scrip. However, in the stock options segment, each contract expires at the end of contract period and for any party which makes a profit, another one makes a loss.
- The preventive mechanism to prevent execution of reversal trades with same counterparty was introduced w.e.f. March 14, 2016. Therefore, merely because online preventive measures did not exist at the time of impugned trades, no adverse inference must be drawn against the Noticee. In this regard, Noticee relied upon the judgements of the

Hon’ble SAT in the matters of Jagurti Securities vs SEBI, SPJ Stock Brokers Pvt Ltd vs SEBI and HB Stockholdings Ltd vs SEBI.

- With reference to Clauses 1.2 and 1.3 of Risk Disclosure Documents, which deal with risk of low liquidity and of wider spread, it can be inferred that SEBI was well aware of possibility of trades being executed at substantial price difference, possibility of loss due to lower liquidity and that of wider spreads in illiquid stock options.
- The trades had been settled in terms of BSE and the resultant profit had been declared in taxation in Noticee’s returns of income.
- Noticee has not used any manipulative or deceptive device or contrivance in contravention of provisions of SEBI Act, 1992 or rules thereunder.

8. Vide email dated December 21, 2021, AR confirmed their appearance for the personal hearing as scheduled. Personal hearing in the matter was held on December 22, 2021 via video conferencing over Webex platform. During the course of hearing, AR reiterated the submissions made vide letter dated December 18, 2021. Further, AR requested for additional time to make post hearing submissions. Acceding to the said request, time till December 30, 2021 was granted to make post hearing submissions. Hearing Minutes are on record.

9. Vide email dated December 30, 2021, post hearing submissions in the matter were made. The contentions submitted vide the said submissions

had already been made in the reply to the SCN submitted vide email dated December 18, 2021, and are not being repeated for the sake of brevity.

CONSIDERATION OF ISSUES AND FINDINGS

10. I have carefully perused the charges levelled against the Noticee, her replies 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?

11. 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;

12. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, she had executed reversal trades which were allegedly non-genuine trades 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.

13. Noticee has *interalia* contended that the instant SCN has been issued after a delay of 6 years, however, no satisfactory reasons have been given to explain the delay in the issuance of SCN. In this regard, Noticee relied *interalia* on the judgements of the Hon'ble SAT in the matters of Rajeev Bhanot vs SEBI, Rakesh Kathotia vs SEBI and Khandwala Securities vs SEBI, and of the Hon'ble Supreme Court in the matters of Ashok Rupani and Anr vs SEBI and Mansaram vs S P Pathak and Others. Noticee has also contended that the trading decisions were taken upon principle of "as on" basis, and after a lapse of 6 years, it was not possible to remember the details behind decisions taken at that point. 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 IP. 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.

14. Further, during the course of hearing in the case of *R. S. Ispat Ltd Vs SEBI*, the Hon'ble 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".*

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

16. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of Adjudicating Officer on September 30, 2021, SCN was issued on November 12, 2021. In compliance with principles of natural justice, after receipt of reply dated December 18, 2021, an opportunity of personal hearing was scheduled on December 22, 2021 and upon conclusion of hearing, additional written submissions were received from the Noticee vide email dated December 30, 2021. Therefore, I note that the instant adjudication proceedings were initiated pursuant to a series of legal and judicial developments, and that the principles of natural justice were duly complied with during the course of proceedings, so that the aforesaid contentions are devoid of merits.

17. I note from trade log of the Noticee on record that she had traded in 6 unique contracts in the stock options segment of BSE during the IP. It is observed that the Noticee has allegedly executed 12 non-genuine trades in the said 6 contracts. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of 6,75,882 units in the said 6 contracts. Summary of non-genuine trades of the Noticee is as follows:

S. No.	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (No. of units)	Avg. Sell Rate (₹)	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	DISH15APR70.00CE	4	28000	7.8	28000	100	20	100	7.69
2	DLFL15JUL115.00PEW4	1	34000	4	34000	100	40	100	23.94
3	GMRI15JUN16.00PEW1	1.8	64211	3.45	64211	100	25	100	10.61
4	GMRI15JUN16.00PEW2	1.9	91730	3	91730	100	20	100	14.71
5	JAIA15APR16.00CE	3	112000	4.25	112000	100	16.67	100	10.77
6	YESB15JUL800.00PE	1.5	8000	20.5	8000	100	25	100	15.17

18. It is noted that the Noticee had executed non-genuine trades in 6 contracts, wherein the percentage of non-genuine trades of the Noticee in stock options contracts to total trades in the contracts was in the range of 16.67% to 40% in the aforesaid contracts. Further, artificial volume generated by Noticee in the contracts amounted to the entire 100% of total volume generated by her in the aforesaid contracts. It is also noted that artificial volume generated by the Noticee contributed significantly in the range of 7.69% to 23.94% of the total volume from the market in the said contracts.

Non-genuine trades executed by the Noticee in the above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on the same day.

19. I note from the trade log that the trades executed by the Noticee in a contract were squared up within a short span of time with her counterparties. To illustrate, the Noticee on July 01, 2015 at 13:06:16.13 hrs entered into 1 buy trade with counterparty viz. J B Overseas for 34,000 units at the rate of ₹1 per unit in the contract DLFL15JUL115.00PEW4. Thereafter, on the same day, Noticee entered into 1 sell trade with same counterparty at 13:07:43.54 hrs for 34,000 units at the rate of ₹4 per unit.

20. It is noted that while dealing in the said contract during the I.P., the Noticee executed reversal trades with same counterparty viz. J B Overseas on the same day and with significant price difference in buy and sell rates. Thus, the Noticee, through her dealing in the contract viz. “DLFL15JUL115.00PEW4” during the I.P., executed non genuine trades which was 40% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 68,000 units which was 23.94% of the volume traded in the said contract from the market during the I.P.

21. 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 her

counterparties with significant price difference. I note from the trade log of the Noticee that the time taken by the Noticee for reversing the non-genuine trades ranged from 01 minutes 21 seconds to 04 minutes 42 seconds, on the same day. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non-genuineness of these trades executed by the Noticee. 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 contracts, there was no trading in the said contract and hence, there was no price discovery in the strictest terms. There was wide variation in prices of the said contracts, within a short span of time, without substantial variation in the price of the underlying scrip to justify the aforesaid variation. It is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Thus, it is observed that Noticee had indulged in reversal trades with her counterparties in the stock options segment of BSE and the same were non-genuine trades.

22. Noticee has *interalia* contended that squaring off trades with a difference in buy/sell rates was based on limited understanding of market, and could not have led to generation of artificial volumes, as alleged. Noticee has also contended that as there was considerable time difference in Noticee's trades, which indicates that they were not intentional. Noticee has also relied upon the judgement of the Hon'ble SAT in the matter of Almondz Entertainment Pvt Ltd vs SEBI in this regard. Further, Noticee has cited

Risk Disclosure Document issued by SEBI, which stated that in an illiquid contract, chances of wider spreads and losses/ profit are present. I note that all the trades executed by Noticee in the relevant contracts were in the form of reversal trades, in which the buy and sell rates had substantial difference without any trading strategy or changes in price of underlying scrip to justify the same as per the records. I note that considering the nature of trades in *toto* along with attending circumstances, it is discernible that the aforesaid reversal trades were non-genuine, and were executed without the intention of mere change in rights to exercise the impugned contract. Therefore, I note that aforesaid contentions are liable to be set aside on the above grounds.

23. Noticee has *interalia* contended that she was not aware of counterparties to the impugned trades, matching of trades was a coincidence, and that SCN is based on the premise that stock options were illiquid, so probability of matching of orders with same counterparties was high. Also that, SCN has erred in concluding collusion of minds with counterparty without any credible evidence. Further, Noticee also contended that SCN was silent on connections between parties, counterparties, brokers and counterparty brokers, if any, and that in absence of such connections, charges against Noticee could not be sustained. In this regard, Noticee relied upon judgements of the Hon'ble SAT in the matters of Nishith Shah HUF vs SEBI, Pine Animation Ltd vs SEBI, Labhu Gohil vs SEBI, Narendra Ganatra vs SEBI, Jagurti Securities vs SEBI, SPJ Stock Brokers Pvt Ltd vs SEBI and HB Stockholdings Ltd vs SEBI. I note that it is not mere coincidence that

Noticee could match her trades with the same counterparties with whom she had undertaken first leg of the impugned trades. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a fashion. I note in matters dealing with violation of PFUTP Regulations, 2003, the reason as regards execution of non-genuine trades might not be forthcoming. However, the correct test instead, is one of preponderance of probabilities. I also note that the facts in the instant matter are distinguishable from that in the referred matters as in the present proceedings, prior meeting of mind of the Noticee with its counterparties can be inferred on the basis of consideration of trading pattern exhibited while executing the reversal trades, along with attending circumstances. The aforesaid rebuttal is further buttressed basis 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 - "…*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..."*

24. 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."

25. I note that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entities. However, the trading behaviour of the Noticee makes it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level. In this context, I deem it appropriate to refer to the Hon'ble SAT order dated July 14, 2006, in the case of Ketan Parekh vs. SEBI (Appeal no. 2/2004), wherein the Hon'ble SAT has held that - *"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."*

26. I place my reliance on the judgment of Hon'ble Supreme Court in the matter in respect of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), which had similar case facts, in which the Hon'ble Supreme Court 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….."*

27. Further, the Hon'ble SAT in its judgement dated September 14, 2020 in the matter of Global Earth Properties and Developers Pvt Ltd relied upon the aforesaid judgement of Hon'ble Supreme Court and held that,

"*It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade. In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price.*"

28. Noticee has contended that no complaints or loss had been caused to any investor, and no person had claimed to be defrauded. Also that, all taxes including STT, stamp duty etc had been paid by the Noticee. Noticee also contended that the preventive mechanism to prevent execution of reversal trades with same counterparty was introduced w.e.f. March 14, 2016, so that as the online preventive measures did not exist at the time of impugned trades, no adverse inference must be drawn against the Noticee. Noticee has also contended that no list pertaining to illiquid contracts in stock options segment has been brought out by the Exchanges or SEBI. Noticee has also contended that only the stock brokers were in a position to enter into alleged matching of trades. I note that Noticee was obligated to ensure genuineness of the trades executed by her on the exchange platform. The aforesaid obligation was mandatory not withstanding any warning issued by BSE or other intermediaries, any grievance submitted by any investor or any preventive measures installed by SEBI in this regard.

29. Noticee has *interalia* contended that the buy and sell rates should have been compared on the basis of notional values, instead of the premium. I note that as regards instant considerations, the market value i.e. premium, which is the rate at which contracts were bought and sold on exchange platform are relevant. Notional value represents the total underlying amount of the derivative, which is much larger than the market value of contracts, and is not relevant as regards instant considerations. So, I reject the contentions of Noticee in this regard.

30. Noticee has also contended that her dealings in the stock options segment cannot be termed as illiquid. I note that Noticee’s trades in the contracts under consideration contributed in the range of 7.69% to 23.94% to the total market volume generated during the IP in said contracts. I note that Noticee’s trades contributed substantially to the volume generated in the said contracts, which indicates that the said contracts were thinly traded and that Noticee contributed substantially to artificial volume in such contracts.

31. Noticee has also contended that there was no major movement in the price of the underlying scrip, which proves that Noticee’s trades had not impacted the market. I note that the underlying scrip was traded on equity market of BSE, however, instant considerations are based on the reversal trades in stock options contracts which are traded on derivative market of BSE, resulting in generation of artificial volume in the said market. Therefore, considerations of Noticee in this regard are not germane to facts of the case. Noticee has also contended that the trades had been settled as per rules of BSE and the resultant profit had been declared for taxation purpose in Noticee’s returns of income. I note that the aforesaid facts are not in dispute and have not been relied upon in the SCN for framing allegations.

32. Noticee has also contended that there is no allegation of false price as all the trades were within the circuit filters of the day of the trade, and also that, ask and bid limits in the stock options were determined by BSE, and Noticee had no role to play in formulating or determining the limits. I note that manipulation of price has not been alleged as part of the instant considerations. I also note that even though the trades were executed within prescribed limits set by BSE, the trading pattern exhibited while executing the aforesaid trades indicates their non-genuineness.

33. Noticee has also contended that she had traded only for a small time period during the IP, and that such trades neither distorted the market equilibrium nor have caused any loss/ prejudice to investors at large. Noticee has further contended that although in cash segment, manipulatives trades may create distorted impression in minds of investors who may then invest/ divest from the scrip, however, there is no such effect in the stock options segment, wherein each contract expires at the end of contract period and for any party which makes a profit, another one makes a loss. I note that Noticee executed the trades over six trading days, such that the trading pattern comprised of reversal trades in which buy and sell rates had substantial difference in them without any difference in the underlying scrip price or any trading strategy to justify the same. I note that the aforesaid facts point to non-genuineness of such trades on the days they were executed on the stock options segment, which prevented efficient price discovery and resulted in generation of artificial volume.

34. Therefore, the trading behaviour of the Noticee confirms that such trades were not normal 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. 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. The 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…".*

35. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act, 1992 which read as under:

*[1][**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 [2][which shall not be less than five lakh

[1] Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.
[2] Substituted for the words ―twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher‖ by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

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].

36. While determining the quantum of penalty under section 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act which reads as under:-

    Factors to be taken into account by the adjudicating officer.

    15J. While adjudging quantum of penalty under section 15-I, 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 of an adjudicating officer 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.

37. 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, Noticee has entered into 12 non-genuine trades in 6 stock option contracts which demonstrates the repetitive nature of default on her part.

38. Therefore, I note that Noticee indulged in execution of reversal trades in stock options contracts in the IP which were non-genuine and created false and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of regulations 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

ORDER

39. 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**
Nisha Balasia PAN:AHYPK7057Q	regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	₹5,00,000/- (Rupees Five Lakh only)

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

40. 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

41. 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

42. 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.

43. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Nisha Balasia and also to the Securities and Exchange Board of India.

Date: January 28, 2022	**PARAG BASU**
Place: Mumbai	**ADJUDICATING OFFICER**