BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO.: ORDER/PS/NS/2022-23/17217

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 Shri Kunj Behari Sharda

PAN: AJMPS1184L

In the matter of dealings in Illiquid Stock Options at the Bombay Stock Exchange

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BACKGROUND

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. In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options segment at the 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, 744 trades comprising 81.40 % of all the trades executed in the Stock Options Segment at the 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 observed that Shri Kunj Behari Sharda (hereinafter referred to as "Noticee") was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price. The said reversal trades allegedly resulted into generation of artificial volumes, leading to allegations that the Noticee had violated the provisions of Regulations 3 (a), (b), (c) & (d) and Regulations 4 (1) & 4 (2) (a) of the SEBI (Prohibition of

Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations, 2003").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "SEBI Rules") vide order dated September 20, 2021 to inquire into and adjudge under section 15HA of the SEBI Act against the Noticee for the alleged violation of the aforesaid provisions of PFUTP Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. AO/PS/NS/2022/6817/1 dated February 17, 2022 (hereinafter referred to as "SCN") was served upon the Noticee under Rule 4 (1) of the SEBI Rules to show cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed upon the Noticee under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. The undersigned was informed vide letter dated March 19, 2022 that the Noticee had passed away on February 25, 2020 and a notarized copy of death certificate issued by South Delhi Municipal Corporation was provided vide the said letter. The Noticee expired before initiation of the present adjudication proceedings against her and the issuance of SCN.

6. Thus, the proceedings are against the acts of omission and commission of person who is no more to face the charges. In this regard, it is relevant to note that the Hon'ble Supreme Court in the case of *Girijandini vs. Bijendra Narain* (AIR 1967 SC

1124), inter-alia held that in case of personal action, 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 *Chandravand 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 appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates*."

7. Relying on the aforementioned Order of the Hon'ble Supreme Court, I am of the view that the adjudication proceedings initiated against the Noticee do not survive and are liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee who is since deceased and the Adjudication Proceedings against the Noticee stand abated.

ORDER

8. In view of the foregoing, the adjudication Proceedings initiated against the Noticee, viz. Late Shri Kunj Behari Sharda (PAN: AJMPS1184L) vide SCN bearing reference no. AO/PS/NS/2022/6817/1 dated February 17, 2022 are disposed of.

9. In terms of Rule 6 of the Adjudication Rules, 1995, a copy of this order is sent to the Noticee's last known address and also to SEBI.

PRAMILA SRIDHAR Digitally signed by PRAMILA SRIDHAR Date: 2022.06.22 10:33:53 +05'30'

PLACE: MUMBAI **PRAMILA SRIDHAR**

DATE: June 22, 2022 **ADJUDICATING OFFICER**