BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/AS/VC/2024-25/31343]

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

In respect of:

Bhavika Parimal Shah

(PAN: BFDPS9959B)

In the matter of dealing in Illiquid Stocks Options at BSE

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**"), observed large scale reversal of trades in the Illiquid Stock Options (hereinafter referred to as "**ISO**") segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**") leading to creation of artificial volume. Reversal trades are the trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy position with the same counter party. The said reversal trades are alleged to be non-genuine trades as they lack basic trading rationale and allegedly lead to false or misleading appearance of trading leading to generation of artificial volume. In view of the same, such reversal trades are alleged to be deceptive and manipulative in nature. On account 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 "**Investigation Period/IP**").

2. Pursuant to investigation by SEBI, it was observed that during IP, a total of 2,91,744 trades comprising substantial 81.41% of all the trades executed in Stock Options of BSE were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's Stock Options segment during the investigation period. It was observed that Bhavika Parimal Shah (PAN – BFDPS9959B) (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 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 and 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**").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed Shri N Muralikrishnan as Adjudicating Officer in the matter vide order dated September 20, 2021, under Section 19 read with Section 15-I of 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 and adjudge under Section 15HA of SEBI Act. Pursuant to transfer of cases, the undersigned was appointed as Adjudicating Officer in the matter vide communique dated September 06, 2024.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Based on the findings by SEBI, Show Cause Notice dated February 10, 2022 (hereinafter referred to as "**SCN**") was served to the Noticee under Rule 4(1) of Adjudication Rules to show cause as to why an inquiry should not be held and

penalty should not be imposed on her for the alleged violations of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations.

5. It was alleged in the SCN that the Noticee had executed 2 non genuine trades in 1 stock options contract creating artificial volume of 20,000 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:

Table No. 1

Contract name	Avg. buy rate (₹)	Total buy volume (no. of units)	Avg. sell rate (₹)	Total sell volume (no. of units)	% of Artificial volume generated by the Noticee in the contract to Noticee's Total volume in the contract	% of Artificial volume generated by the Noticee in the contract to Total volume in the contract
A	**B**	**C**	**D**	**E**	**G**	**H**
GRSM15APR3650.00CE	82	10,000	92	10,000	100%	8.1%

6. The aforesaid reversal trade is illustrated through the dealings of the Noticee in one contract viz. "GRSM15APR3650.00CE" during the investigation period as follows:
   a. During the investigation period, 2 trades for 20,000 units were executed by the Noticee in the said contract on March 25, 2015.
   b. While dealing in the said contract on March 25, 2015, at 13:53:21 hours, the Noticee entered into a buy trade with the counterparty Somenath Commodities Private Limited for 10,000 units at Rs. 82/- per unit. At 13:53:24 hours, Noticee entered into a sell trade with the same counterparty for 10,000 units at Rs. 92/- per unit.

c. The Noticee's two trades while dealing in the abovementioned contract during the investigation period generated artificial volume of 20,000 units, which constituted 8.1% of total market volume in the said contract during this period.

7. The SCN was duly served to the Noticee through Speed Post Acknowledgement Due (hereinafter referred to as **"SPAD"**). Noticee, vide e-mail/letter dated March 21, 2022, submitted her response to the SCN which, *inter alia*, stated as under:
"I am not having much knowledge in F&O contract but get the call from other resources to do this trade. Trade was done on same day because there was opportunity for making profit and intraday order was executed and I do not know that counter party so I have not done any non-genuine activity or misleading.
Currently I closed the account with broker, I will take care in future."

8. Vide Post SCN Intimation (PSI) dated August 05, 2022, Noticee was informed SEBI introduced a Settlement Scheme i.e. SEBI Settlement Scheme, 2022 (hereinafter referred to as "**Settlement Scheme 2022**") in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as "**Settlement Regulations**"). It was further informed that the Settlement Scheme, 2022 provided a one time opportunity to the entities against whom proceedings had been initiated and appeals against the said proceedings are pending before any forum or authority. The scheme commenced from August 22, 2022 and closed on November 21, 2022. The PSI was served to the Noticee through SPAD and email.

9. Pursuant to that, vide public notice dated November 21, 2022, it was advertised/informed that "*Considering the interest of entities in availing the Scheme, the competent authority has extended the period of the Scheme till January 21, 2023*".

10. The Noticee vide undated letter received by SEBI on November 17, 2022, submitted her additional submissions which, *inter alia*, stated as under:

"With respect to observation that noticee has dealt in stock options contracts which are illiquid in nature, noticee submits that if we observe the underlying scrips in which the noticee traded it can be established that these scrips are highly liquid in nature i.e. frequently traded in market. The noticee has stock options segment of BSE. In fact, noticee submits with humility that underlying stock of aforesaid contracts consists of companies which make up index of Bombay Stock Exchange. Thus, to allege that noticee deliberately traded in only those options which were illiquid in nature is unfair.

Apparently, SEBI has held that noticee transacted in 'illiquid options' on the basis that noticee's trades were in reversal trades in few minutes. However, in that case, it may also be concluded that said trades could have had no effect on other investors or market at large and that such illiquidity would be the reason for volatility and alleged reversal transactions since variations in options price would be dramatic if the chosen strike price is thinly traded.

The noticee submits that BSE and SEBI have themselves allowed and permitted trading in options for far months ' with a strike price which are at large variance to current market price. The fact that such parameters are laid down is clearly indicative of fact that options will always be 'in the money' and 'out of money' and since regulators have themselves permitted trading in same, no adverse inference be drawn against us in this regard.

It is pertinent to mention that stock exchanges regularly come out with list of illiquid scrips in cash segment. However, no such list is issued by exchanges or regulator for dealing in stock options contracts. Thus, to fasten the responsibility or allege a single individual investor that she traded in illiquid option is unwarranted and unfair.

The noticee submits with humility that derivative market is 'zero-sum game' and thus in each and every case one party will inevitably make profit and counterparty will make loss. In capital market neither BSE nor SEBI can guarantee profit or loss to any individual/entity. In derivative trading, traders often make profit or loss over a period of time since the market does not always behave as per their prediction/expectation. Thus, profit and loss is concomitant to trading in derivative segment. The mere fact that noticee traded in option segment cannot be a ground to rope us into present proceedings.

The noticee wants to submit that SEBI has not provided any evidence or proof to show that my trades were fraudulent. None of the ingredients of the said PFTUP Regulations are attracted in the present case essentially because:

i. The trades were executed on the floor of the exchange with due compliance with all the rules and regulations of the exchanges;

ii. At no point of time was there any warning or any observation about the scrips / stocks which were executed by me;

iii. The observations regarding the stocks being illiquid is incorrect;

iv. The trades in question were in the normal course of business and there is nothing amiss in the trades executed by us;

v. For the transaction to be termed fraudulent, as per the definition of "fraud", there has to be an "inducement" and SEBI has not even alleged inducement;

vi. None of the trades are deceptive in nature or have any impact on the investors or their investment decision which is a sine qua non of "fraud".

vii. There is no nexus, directly or indirectly with the counter party brokers or the clients;

viii. The Show Cause Notice does not specify and consider facts matrix of our dealings in stock options segment of BSE. It does not state the reasons, rational, cause of action, locus and invoking of jurisdiction after over three (3) years from the dates of settled transactions. The Show Cause Notice is therefore arbitrary.

ix. The Show Cause Notice fails to appreciate that when SEBI itself has not discharged its obligations of quick investigation, seeking explanation of the parties at that time, declaring trades in stock options as illegal at the relevant time, subjecting to me to adjudication proceeding belatedly in unfair, unreasonable and absurd.

The noticee wants to submit that any kind of alleged fictitious/ manipulative trade in option segment may create distorted impression in minds of investors that price of scrip is rising/falling who may invest/divest from said scrip. However, in case of option segment there is no such effect since each contract expires at end of contract period and for every party who makes profit there is counter party who makes a loss. There is no question of transfer of beneficial ownership in option segment since at end of settlement cycle only net loss/profit is adjusted.

The noticee would like to further submit that all my trades in option segment were within prudential norms of exchange and as per procedures and guidelines as prescribed by regulator (BSE). At the relevant time, none of our trades were questioned by the brokers who are SEBI registered intermediaries and frontline gate-keepers of stock exchange. Had the noticee been alerted by the broker or stock exchange, the noticee would have taken prompt and immediate corrective measures. if any, at that point in time only.

Further, no cautionary warning, advisory, communication or alarm was raised by BSE at any point of time. There was nothing in the public domain that there is anything amiss in the matter. In fact, with a fool proof and state of art surveillance system BSE could have annulled the trades at that point in time only in case it considered that the trades were fraudulent. However, this was not the case, which means that the trades executed by the noticee were genuine and fair.

In this regard, the noticee would like to draw your kind attention to case of Commissioner of Central Excise, Bangalore vs. M/s Brindavan Beverages (P) Ltd. and Ors [Civil Appeal 3417 of 2002] decided on June 15, 2007; wherein Hon'ble Supreme Court observed as under:

"The show cause notice is the foundation on which the department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague. lack details and/or unintelligible that is sufficient to hold that the notice was not given proper opportunity to meet the allegations indicated in the show cause notice. In the instant case, what the appellant has tried to highlight is the alleged connection between the various concerns. That is not sufficient to proceed against the respondents unless it is shown that they were parties to the arrangements. if any… "

In summary, with regard to our dealings in stock options on BSE, noticee would like to clarify as under:

(i) The noticee acted as bonafide trader and have transacted in stock option segment in normal course of our business activity and my trading in the same was very much within our own financial and risk bearing capacity.

(ii) The noticee submits that in any business activity in stock market, one can either make profit or loss. The noticee humbly submit that at the relevant time the noticee had no idea

of any profit or loss in said transactions and noticee traded in option segment taking into account our 'risk and reward' parameters.

(iii) The noticee believe there has been no grievance by any investor, broker, stock exchange or any other agency concerned with respect to our dealing in the option segment of BSE Ltd.

(iv) The noticee has an impeccable record of dealing in stock market and no action has ever been taken against noticee in past in respect of dealing in securities market.

(v) the noticee states that noticee had followed and complied with all the procedures and requirements of capital market while dealing through SEBI registered intermediary. All the pre-trade, trade and post trade activities were carried out on the trading, clearing and settlement system of stock exchange which itself has sophisticated on-line surveillance software and systems in place.

Based on the aforesaid submissions, it is apparent that noticee was not involved in dealing any illiquid stock options segment of BSE. There is enough material on record to suggest that no further enquiry is required in the matter. It is, therefore, humbly requested that the Show Cause Notice be dropped.

The noticee wants to draw attention towards the fact that noticee has duly recorded such transactions in books and also duly shown in income tax return. It is undisputed fact that the noticee has taken the delivery of shares through stock exchange and sold through stock exchange. Further, the noticee also wants to state that the noticee has properly shown sale & purchase in books of accounts.

The noticee also relies on the following citations:

(i) Achal Gupta Vs ITO (ITAT Lucknow) Appeal Number: I.T.A. No. 501/Lkw/2019 Date of Judgement/Order: 16/12/2020 Related Assessment Year: 2015-2016 Courts: All ITAT (7767) ITAT Lucknow (94) Download Judgment/OrderAchal Gupta Vs ITO (ITAT Lucknow)

The noticee acted as bonafide trader and have transacted in stock option segment in normal course of our business activity and my trading in the same was very much within our own financial and risk bearing capacity. The noticee humbly submit that at the relevant time the noticee had no idea of any profit or loss in said transactions and noticee traded

in option segment taking into account our 'risk and reward' parameters. The noticee has an impeccable record of dealing in stock market and no action has ever been taken against noticee in past in respect of dealing in securities market. The noticee states that noticee had followed and complied with all the procedures and requirements of capital market while dealing through SEBI registered intermediary."

11. It was observed that Noticee did not avail the Settlement Scheme 2022, in view of which, the adjudication proceeding against the Noticee was resumed.

12. Subsequently, a second PSI dated March 11, 2024, was issued to the Noticee wherein it was informed to the Noticee that SEBI introduced another Settlement Scheme i.e. SEBI Settlement Scheme, 2024 (hereinafter referred to as "**Settlement Scheme 2024**") in terms of Regulation 26 of Settlement Regulations. It was informed that the Settlement Scheme, 2024 provided opportunity to the entities against whom proceedings had been initiated and appeals against the said proceedings are pending before any forum or authority. The scheme commenced from March 11, 2024 to May 10, 2024.

13. Further, vide Public Notice dated May 08, 2024, the Settlement Scheme 2024 was extended till June 10, 2024 by SEBI.

14. It is observed that Noticee did not avail the Settlement Scheme 2024 and accordingly, the adjudication proceeding against the Noticee was resumed.

15. In the interest of natural justice, vide notice of hearing dated January 01, 2025, Noticee was granted an opportunity of being heard on January 14, 2025, which was adjourned to January 27, 2025 considering the request of the Noticee. Noticee, vide e-mail dated January 27, 2025, forwarded and reiterated the earlier submissions made by her and also made the additional submissions dated January 27, 2025 in the present proceedings. The AR of the Noticee appeared for

the hearing on January 27, 2025, and reiterated the submissions made by the Noticee vide email / letter dated January 27, 2025.

16. Additional submissions dated January 27, 2025 made by the Noticee are, *inter alia*, as under:

"Regarding the cross-examination:

The noticee herewith wants to cross examination of Ask Bhoomi Developers Private Limited for the allegation made in the SCN. Further, noticee requests you to provide the whole investigation report wherein noticee's name is reflecting as the fictitious transaction.

If an assessing authority is relying on the testimony of a witness, the noticee has to be afforded an opportunity to cross-examine her. It is not open to the assessing authority to get over this hurdle on the plea that the witness had not been produced by the noticee. Thus, depending upon the facts and circumstances of a particular case, the rule of audi alteram partem may import a requirement that witnesses whose statements are sought to be relied upon by the authority holding the inquiry should be permitted to be cross-examined by the party affected.

Therefore, be concluded that in cases where the assessing authority has collected some information from a third party then the noticee is entitled to apply for cross-examination of such person for the purpose of eliciting the truth or for proving that the Information furnished by such person is not genuine. And, refusal to permit cross-examination shall vitiate the proceedings. Therefore, bestowing the opportunity of cross-examination is a necessary corollary to the principles of natural justice.

(i) in State of Kerala v. K T. Shaduli Yusuf (1977) 39 STC 478, the Supreme Court held that not only it is the duty of the Department to provide copies of statements or reports, but the assessee is entitled to seek right of cross-examination.

(ii) The Supreme Court in Kishan Chand Chellaram v. CIT (1980) 125 ITR 713 (SC) held that evidence which is used against the assessee must be provided to the assessee and also an opportunity to confront the same should be given permitting cross-examination.

Regarding the allegation of transaction in illiquid stock:

The SEBI has held that noticee transacted in 'illiquid options' on the basis that noticee's trades were in reversal trades in few minutes. However, in that case, it may also be concluded that said trades could have had no effect on other investors or market at large and that such illiquidity would be the reason for volatility and alleged reversal transactions since variations in options price would be dramatic if the chosen strike price is thinly traded.

The noticee wants to submit that SEBI has not provided any evidence or proof to show that my trades were fraudulent. The noticee would like to further submit that all my trades in option segment were within prudential norms of exchange and as per procedures and guidelines as prescribed by regulator (BSE).

The noticee had followed and complied with all the procedures and requirements of capital market while dealing through SEBI registered intermediary. All the pre-trade, rade and post trade activities were carried out on the trading, clearing and settlement system of stock exchange which itself has sophisticated on-line surveillance software and systems in place."

CONSIDERATION OF ISSUES AND EVIDENCE

17. I have carefully perused the charges levelled against the Noticee in the SCN, its reply and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination:-

I. **Whether the Noticee has violated Regulations 3(a), (b), (c), (d) and 4(1) and 4(2)(a) of PFUTP Regulations?**

II. **Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15HA of SEBI Act?**

III. **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?**

18. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations:

Relevant provisions of PFUTP Regulations

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 recognised 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 recognised 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 recognised stock exchange in contravention of the provisions of the Act or the rules and the regulations made thereunder.

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) and 4(2)(a) of PFUTP Regulations?

19. Before proceeding to the merits of the case, it is pertinent to deal with the following preliminary contentions raised by the Noticee:

20. The Noticee has requested for the cross examination of Ask Bhoomi Developers Private Limited. In this regard, it is noted that no statement of Ask Bhoomi Developers Private Limited was recorded under oath during the investigation process and as such no such statement has been relied upon in the present proceedings. Therefore, request of the Noticee for cross examination of Ask Bhoomi Developers Private Limited has not been acceded to.

21. Noticee has submitted that the SEBI has not provided any evidence or proof to show that her trades were fraudulent. In this regard, it is noted that the details of the alleged non-genuine reversal trades executed by the Noticee including the trade dates, name of the counterparties, time, price and volume etc. were already provided to the Noticee as an Annexure to the SCN.

22. Noticee has submitted that the SCN was issued after three years from the dates of settled transactions, which is arbitrary. In this regard, 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".

23. 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. Further, another settlement scheme i.e. Settlement Scheme 2022 was introduced from August 22, 2022 to November 21, 2022. Finally, third settlement scheme i.e. Settlement Scheme 2024 was introduced from March 11, 2024 till June 10, 2024.

24. It is further noted that there are no timelines prescribed in the SEBI Act, 1992 for the purpose of identifying trades as non-genuine. In this regard, it is pertinent to note that, in the matter of *SEBI Vs Bhavesh Pabari* (2019) SCC Online SC 294, the Hon'ble Supreme Court of India has, inter alia, held that:

"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc."

25. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on September 20, 2021, SCN dated February 10, 2022 was issued to the Noticee. First PSI dated August 05, 2022 was issued to the Noticee to inform about the second Settlement Scheme 2022. Subsequently, the Noticee was informed regarding the Settlement Scheme 2024 vide second PSI dated March 11, 2024. As Noticee had not availed the third settlement scheme, she was provided an opportunity of personal hearing on January 27, 2025, which was availed by the Noticee. Hence, there has been no delay as alleged by the Noticee.

26. I note that it is alleged that the Noticee, while dealing in the stock option contract at BSE during the IP, had executed reversal trades which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in stock option contract at BSE. Reversal trades are considered to be those trades in which an entity reverses it's 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.

27. From the documents on record, I note that the Noticee was one of the entities who had indulged in creating artificial volume of 20,000 units through 2 non genuine reversal trades in 1 stock options contract during IP. The summary of trades is given below:

Table No. 2

Contract name	Avg. buy rate (₹)	Total buy volume (no. of units)	Avg. sell rate (₹)	Total sell volume (no. of units)	% of Artificial volume generated by the Noticee in the contract to Noticee's Total volume in the contract	% of Artificial volume generated by the Noticee in the contract to Total volume in the contract
A	**B**	**C**	**D**	**E**	**F**	**G**
GRSM15APR3650.00CE	82	10,000	92	10,000	100%	8.1%

28. On March 25, 2015, the Noticee, at 13:53:21 hours, entered into a buy trade in a contract named viz, "GRSM15APR3650.00CE" with counterparty Somenath Commodities Private Limited for 10,000 units at Rs. 82/- per unit. Within few seconds, at 13:53:24 hours, Noticee entered into a sell trade of same contract with

the same counterparty, for 10,000 units at Rs. 92/- per unit. It is noted that while dealing in the said contract during the IP, the Noticee executed a total of 2 trades (1 buy trade and 1 sell trade) with same counterparty viz, Somenath Commodities Private Limited on the same day and with significant price difference in buy and sell rates. It is observed that the Noticee's two trades while dealing in the aforesaid contract during the investigation period generated artificial volume of 20,000 units, which made up 8.1% of total market volume in the said contract during this period.

29. In response, the Noticee in her replies submitted that the underlying scrips of the stock options contracts in which Noticee traded were liquid in nature. In this regard, it is noted that the present proceedings pertain to the trades executed by the Noticee in the stock options and not on the underlying scrips. It is further noted that the Noticee's trades in particular stock options contracts of the said scrip during the IP (1 buy and 1 sell trades of 10,000 units each) itself contributed a significant viz. 8.1% of the total volume across market in the said option contracts reflecting the illiquidity of stock options contracts in which the Noticee traded. Hence, this submission of the Noticee is not tenable.

30. Noticee has contended that there has been no grievance by any investor, broker, stock exchange or any other agency concerned with respect to her dealings in the option segment of BSE. I note that the allegations pertaining to the Noticee's non-genuine trades neither depend nor rely upon the receipt of any grievance by any investor, broker, stock exchange or any other agency against the Noticee.

31. The Noticee in her replies further submitted that the trades were executed on the floor of the exchange which have themselves allowed trading in options for far months with a strike price which are at large variance to current market price and no cautionary warning, advisory, communication or alarm was raised by Broker/BSE at the relevant time. The Noticee also submitted that the exchange has not issued list of illiquid stock options contracts. The Noticee also states that she doesn't have much knowledge in F&O and has executed trades on the advice

of some other resources. In this regard, it is pertinent to note that since the Noticee has traded in the securities as defined under Securities Contracts (Regulation) Act, 1956, she is obligated to comply with the securities law. The responsibility of ensuring the genuineness of trades rests with the Noticee. The Noticee is expected to act with due diligence and cannot shift responsibility for her own trading decisions onto the exchange and the broker. Hence, the contention of the Noticee in this regard is not tenable.

32. The Noticee in her replies further submitted that she has duly recorded the said transactions in her books and also duly shown in her income tax return. The Noticee has also relied upon the Judgment in the matter of Achal Gupta Vs ITO (Appeal No. I.T.A. No. 501/Lkw/2019 dated 16/12/2020). In this regard, it is noted that in the present proceedings, genuineness of the trades executed by the Noticee is in question and not whether the trades were reported for tax purposes. Further, the Noticee has failed to demonstrate how the cited order is relevant in the present proceedings. Hence, this submission of the Noticee does not hold merit any further consideration.

33. The Noticee further submitted that her transactions neither created distorted impression in minds of investors that price of scrip is rising/falling who may invest/divest from said scrip nor caused any effect on other investors or market at large. In this regard, I would like to refer to 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, wherein the Hon'ble Supreme Court, *inter alia*, states that:

"……...Orchestrated trades are a misuse of the market mechanism. It is playing the market and it affects the market integrity.

……The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery

system itself is affected. Except the parties who have pre-fixed the price nobody is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market."

In view of the aforesaid, it is noted that the synchronization and reversal trades affects the price discovery system and have an adverse impact on the fairness, integrity and transparency of the stock market. Hence, the submission of the Noticee in this regard is not tenable.

34. The Noticee has further submitted that derivatives are a “Zero-sum game” and thus in each and every case one party will inevitably make profit and counterparty will make loss. In this regard, it is noted that the present proceedings are not concerned about the profit or loss or the zero-sum nature of derivatives but the manner in which trades were executed by the Noticee indicating that there was pre-determination of the prices, quantity and timing of trades by the counterparties while executing the trades and the trades were reversed with same counterparty within a few seconds with significant price difference. Hence, this submission of the Noticee is not tenable.

35. The Noticee in her response further contended that the trades executed by her were in the normal course of her business activity and there is no nexus, directly or indirectly with the counterparty brokers or the clients. The Noticee also submitted that none of the ingredients of the PFUTP Regulations such as inducement have been met in the present case. The Noticee has also relied on the Judgment of Hon’ble Supreme Court in the matter of Commissioner of Central Excise, Bangalore vs. M/s Brindavan Beverages (P) Ltd. and Ors (Civil Appeal 3417 of 2002 decided on June 15, 2007). In this regard, I note that the non-genuineness of the transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within few seconds, the Noticee reversed the position with the same counterparty with significant price difference on the same day. The fact that the transactions in a particular contract were

reversed with the same counterparties 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. The wide variation in prices of the said contract, within a short span of time, 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 its counterparty in the stock options segment of BSE and the same were non-genuine trades.

36. It is also noted that it is not mere coincidence that the Noticee could match its trades with the same counterparty with whom it had undertaken first leg of the respective trades. The fact that the transactions in a particular contract were reversed with the same counterparty for the same quantity of units, indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. It is further noted that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion with other entities inter-alia the counterparties or agents/fronts. However, trading behaviour as noted above make it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level.

37. Here I would like to rely on the following judgement of Hon'ble Supreme Court in **SEBI v Kishore R Ajmera** (AIR 2016 SC 1079), 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.

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."

38. The observations made in the aforesaid judgment 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, it is observed 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 short span of time 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.

39. It is also relevant to refer to judgement of the Hon'ble Securities Appellate Tribunal in the matter of **Ketan Parekh vs SEBI** (in Appeal No. 2 of 2004; date of decision July 14, 2006):

"In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4 (a) of the Regulations."

40. In this regard, reliance is placed on 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 on similar factual situations, which *inter alia* states 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….."

41. 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 contract. In view of the above, I find that the allegation of violation of Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) of PFUTP Regulations by the Noticee stands established.

Issue No. 2: Do the violations, if any, on the part of the Noticee attract monetary penalty under section 15HA of SEBI Act?

42. 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 and in terms of the judgement of Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shriram Mutual Fund** [2006] 68 SCL 216 (SC) decided on May 23, 2006, wherein it was 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. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.",* 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 No. 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?

43. While determining the quantum of penalty under Section 15HA of the SEBI Act, it is important to consider the factors as stipulated in Section 15J of the SEBI Act which read as under: -

Factors to be taken into account while adjudging quantum of penalty.

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.]

44. As established above, the trades by the Noticee were non-genuine in nature and created a misleading appearance of trading in the aforesaid contract. I note that when the impact of artificial volume created by the two counterparties is seen as a whole, it is not possible, from the material on record, to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counter parties or the consequent loss caused to investors as a result of the default. Further, the material available on record does not demonstrate any repetitive default on the part of the Noticee. However, considering that the 2 non-

genuine trades entered by the Noticee in 1 contract led to creation of artificial trading volumes which had the effect of distorting the market mechanism in the Illiquid Stock Options segment of BSE, I find that the aforesaid violations were detrimental to the integrity of securities market and therefore, the quantum of penalty must be commensurate with the serious nature of the aforesaid violations.

ORDER

45. In view of the above, after considering all the facts and circumstances of the case and the factors mentioned in the provisions of Section 15J of the SEBI Act, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, conclude that the proceedings against the Noticee stands established in terms of the provisions of the SEBI Act. Hence, in view of the charges established under the provisions of the SEBI Act, I, hereby impose monetary penalty of **₹ 5,00,000/- (Rupees Five Lakh only**) on the Noticee (Bhavika Parimal Shah) under section 15HA of SEBI Act for the violation of Regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) of PFUTP Regulations. I am of the view that the said penalty is commensurate with the violations committed by Noticee.

46. The Noticee shall remit/pay the said amount of penalty within 45 days of receipt of this order in either of the way, such as by following the path at SEBI website www.sebi.gov.in:

ENFORCEMENT >Orders >Orders of AO> PAYNOW;

47. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon*, inter alia*, by attachment and sale of movable and immovable properties of Noticee.

48. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to SEBI.

ASHA SHETTY
Digitally signed by ASHA SHETTY
Date: 2025.03.28 16:26:02 +05'30'

Place: Mumbai **ASHA SHETTY**

Date: March 28, 2025 **ADJUDICATING OFFICER**