BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO: Order/MS/NS/2022-23/23187]

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

In respect of:

(Late) Mr. SANWARMAL AGARWAL
(PAN- ADCPA3298H)

KENDUA BAZAR KULTI
P.O.-KULTI
BURDWAN ASANSOL
WEST BENGAL -713343

In the matter of dealings in Illiquid Stock Options at BSE.

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter be referred to as, "SEBI") conducted an investigation into the trading activity in illiquid Stock options at BSE for the period between April 1, 2014 to September 30, 2015 (hereinafter referred to as the "Investigation Period") after observing large scale reversal of trades in the Stock Options segment of the Bombay Stock Exchange Ltd. (hereinafter referred to as "BSE").

2. Investigation revealed that during the Investigation Period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. Sanwarmal Agarwal ("the Noticee/You") was one such client whose reversal trades involved squaring off transactions with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly resulted into generation of artificial volumes by the aforesaid clients

and counterparties, leading to allegations that the Noticee had violated Regulation 3(a),(b),(c),(d) and Regulation 4(1), 4(2)(a) SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as, "PFUTP Regulations").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer (hereinafter referred to as, "AO") under section 15-I of the SEBI 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 be referred to as, "Adjudication Rules") vide order dated September 27,2021, to inquire into, and adjudge under section 15HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations, by the Noticee. The appointment of the AO was communicated vide Order dated September 27, 2021.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

4. A Show Cause Notice dated August 04, 2022 (hereinafter referred to as 'SCN') was issued in the matter. The SCN was issued to the Noticee under the provisions of Rule 4 (1) of the Adjudication Rules, to show cause as to why an inquiry should not be held against the Noticee and why penalty should not be imposed on the Noticee under the provisions of Sections 15A(b), 15G, 15HB of the SEBI Act, for the aforesaid alleged violations.

5. The undersigned was informed vide email dated November 16, 2022, that Mr. Sanwarmal Agarwal (Noticee) had passed away on April 05, 2015. Copy of the death certificate of the Noticee, has been produced along with email.

6. Here, I would like to quote that in the matter of Padmalaya Telefilms Ltd. (November 2, 2006), the Hon'ble WTM, SEBI inter-alia held that *"...Since the proceedings were*

initiated against the personal acts of omission of a person who is no more alive to face the penalty, the proceedings against him are liable to be abated".

7. Further, in *Girijandini vs. Bijendra Narain* (AIR 1967 SC 2110), the Hon'ble Supreme Court, inter-alia observed 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.

8. In view of the above, the adjudication proceedings initiated against late Mr. Sanwarmal Agarwal is liable to be abated without going into the merits of the case. The matter in respect of late Mr. Sanwarmal Agarwal is accordingly disposed of.

ORDER

9. After taking into consideration all the facts on record and circumstances of the case, I find that the matter in respect of the Noticee, Mr. Sanwarmal Agarwal initiated vide SCN Ref: No. SEBI/IVD-5/SCN/AO-MS/NS/34486/1/2022 dated August 04, 2022 cannot be proceeded with as the Noticee has passed away on April 05, 2015 and, thus, the matter becomes infructuous and adjudication proceeding cannot be proceeded with.

10. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules 1995, a copy each of this order is being sent to the Noticee and also to the Securities and Exchange Board of India, Mumbai.

Date: January 27, 2022	**MUKUL SHUKLA**
Place: Mumbai	**ADJUDICATING OFFICER**