BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER No. Order/BS/YK/2023-24/26561]

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 BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

Late Mithlesh Kumari

PAN: ACXPK2308J

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 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 those trades in which an entity reverse its buy or sell positions in a contract with subsequent sell or buy position with the same counter party 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 and allegedly lead to false or misleading appearance of trading in terms of generation of artificial volume, hence were deceptive and manipulative.

2. SEBI conducted an investigation into the trading activities of certain entities in ISO, BSE for period April 1, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period/IP**"). Pursuant to investigation, it was observed that during the IP, a huge number of trades executed in stock options of BSE were non-genuine trades. The aforesaid non-genuine trades resulted in creation of artificial

volume to the tune of 826.21 crore units or 54.68% of the total market volume in Stock Options segment of BSE during the IP.

3. It was alleged that Mithlesh Kumari (hereinafter referred to as "**Noticee**") was one of the entities who had indulged in creating artificial volume of 1,46,000 units through 2 non-genuine trades in 1 stock option contract. Following is noted from the dealings of Noticee in aforesaid 1 contract viz, "VOLT15MAR310.00CE" at BSE

    a. During the investigation period, 2 trades for 1,46,000 units were executed by the Noticee in said contract on March 03, 2015.
    b. While dealing in the said contract on March 03, 2015, at 14:44:40 hrs, the Noticee entered into one buy trade with counterparty RINKY SADANI for 73,000 units at Rs. 0.2 per unit. At 14:44:45 hours, the Noticee entered into a sell trade with the same counterparty for 73,000 units at Rs. 2.8 per unit.
    c. Noticee's two trades while dealing in the aforesaid contract during the investigation period allegedly generated an artificial volume of 1,46,000 units, which made up of 100% of total market volume in the said contract during the period.

4. In view of the foregoing, it was alleged that the Noticee has entered into reversal trades in BSE ISO and these reversal trades were non-genuine in nature and have created false and misleading appearance of trading in terms of artificial volume in Stock Options and therefore alleged to be manipulative, deceptive in nature. The Noticee was alleged to have violated regulations 3(a), (b), (c) and (d), 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

APPOINTMENT OF ADJUDICATING OFFICER

5. Vide an order of the Competent Authority, SEBI, dated September 27, 2021, Shri Atul Agarwal was appointed as the Adjudicating Officer under Section 15-I of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to inquire and adjudge under section 15HA of SEBI Act. Subsequently, vide communique dated April 24, 2023, the undersigned has been appointed as the Adjudicating Officer.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. Based on the findings by SEBI, Show Cause Notice dated December 23, 2021 (hereinafter referred to as "**SCN**") was served on the Noticee under Rule 4(1) of Rules to show cause as to why an inquiry should not be held and penalty should not be imposed on him for the alleged violations. Vide letter dated August 11, 2022, a post SCN Intimation was sent and the Noticee was informed about the SEBI Settlement Scheme, 2022, in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options and in case, Noticee do not wish to avail of the facility under the SEBI Settlement Scheme, 2022, Noticee was advised to file a reply to the SCN within 30 days of the receipt of the intimation

7. With regard to the aforementioned SCN, Mr. Sandeep Singhal (Son of Noticee) provided a copy of death certificate of Noticee. The Death Certificate provided by Mr. Sandeep Singhal shows that Noticee had passed away on October 21, 2017. Death Certificate bearing registration number D-2017: 9-90054-000950 is issued by Department of Medical and Health, Nagar Nigam Moradabad, Govt of Uttar Pradesh. I note from the perusal of said death certificate that Noticee passed away on October 21, 2017.

8. Before proceeding further in the matter on merit, it would be in the fitness of things to first decide as to whether on account of the death of the Noticee, the present adjudication proceedings against him would continue or abate.

9. In this context, it is worth mentioning that in **Girijanandini Vs Bijendra Narain** (AIR 1967 SC 2110), the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the maxim *action 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 SAT in **Chandravadan J. Dalal vs. SEBI** (Appeal No. 35/2004 decided on June 15, 2005) wherein it was held that: "*The appeal abates since the appellant during the pendency of the appeal died on 29th November2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates*."

ORDER

10. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee abates without going into the merits of the case qua her and the SCN dated December 23, 2021 issued against her is accordingly disposed of.

11. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to SEBI and to the last known address of deceased Noticee.

Date: May 18, 2023 **BIJU S.**
Place: Mumbai **ADJUDICATING OFFICER**