BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/SKV/GD/2023-24/26498)

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
Rolex Dealer Private Limited
(PAN: AAFCR9256B)
In the matter of dealings in Illiquid Stock Options at 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 BSE. Subsequently, upon investigation of the trading done during the period from April 1, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period**" / "I.P.") in the stock options traded on BSE, SEBI observed large scale reversal of trades by various entities including **Rolex Dealer Private Limited** (hereinafter referred to as 'Noticee'). The reversal trades comprised of 81.40% (2,91,643 trades) of all the trades executed in BSE Stock Options Segment wherein the open positions were squared off with a significant price difference without any basis for such change in the contract price. It was alleged that the aforesaid reversal trades were non-genuine in nature and also resulted into generation of artificial volumes. The Noticee was alleged to have engaged in 18 such instances in 1 unique contract wherein the position taken was reversed with same counterparties on the same day, but at a substantial price difference. The 18 trades of the Noticee constituted 100% of the total market volume in the contract and allegedly generated artificial volume of 200000 units.

APPOINTMENT OF ADJUDICATING OFFICER

2. In this connection, SEBI had initiated adjudication proceedings against the Noticee, under SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **'Adjudication Rules'**) for allegedly violating Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Markets) Regulations, 2003, in the matter of trading in illiquid stock options at BSE. SEBI vide order dated July 27, 2021 appointed Shri Prasanta Mahapatra as Adjudicating Officer under section 19 read with sub-section (1) of 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**) and Rule 3 of the Adjudication Rules to inquire into and adjudge the alleged violations by the Noticee and determine whether penalty under Section 15HA of the SEBI Act is liable to be imposed. Pursuant to the transfer of erstwhile Adjudicating officer Shri Prasanta Mahapatra, the instant matter vide order dated July 27, 2022, was transferred to the Ms. Asha Shetty. Subsequently upon transfer of Ms. Asha Shetty vide communique dated April 17, 2023, the instant matter was transferred to the undersigned.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice no. EAD-8/PM/GD/ISO-II/29759/1/2021 dated October 25, 2021 (hereinafter referred to as **'SCN'**) was served on the Noticee, in terms of the provisions of rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act, requiring the Noticee to show cause as to why an inquiry should not be held in terms of Rule 4 of the Adjudication Rules read with section 15-I of the SEBI Act, and penalty, if any, should not be imposed on Noticee under Section 15HA of the SEBI Act for the aforesaid alleged contraventions done by it. Subsequently, a notice no. EAD-8/AS/GD/2022/36589/1 dated August 03, 2022 (hereinafter referred to as **'Notice'**) was served on the Noticee informing 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 did 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 SCN. The aforesaid SCN and Notice sent through SPAD were returned undelivered.

4. Thereafter, during the course of the proceedings, the status of the Noticee was ascertained from the website of Ministry of Corporate Affairs (MCA). As per Form No. STK-7-"Notice of Striking Off and Dissolution" dated July 12, 2021, downloaded from the website of Ministry of Corporate Affairs (MCA), Government of India (www.mca.gov.in), it is observed that the name of the Noticee has been struck-off from the list of companies by the Registrar of Companies, Kolkata (ROC) and dissolved as on July 12, 2021. The said notice, inter alia, mentioned the following:
"This is with respect to this office public notice no. 1/2021(No./W.B/248/STK-2/2021/1916 dated 26.03.2021 in form STK 6. Notice is hereby published that pursuant to sub-section (2) and sub-section (5) of Section 248 of the Companies Act, 2013, the names of following Companies have been struck off from the Register of companies and the said companies are dissolved."

5. I find that the name of the Noticee is mentioned at sl.no. 3683 under CIN No U74999WB2019PTC230044 in STK-7. However, the CIN mentioned in MCA master database is U51909WB2011PTC159564. In light of the Mismatch of CIN in MCA records and STK-7, clarification was sought from Registrar of Companies, Kolkata (RoC, Kolkata) to confirm the correct CIN of Noticee. ROC, Kolkata vide letter dated May 01, 2023 submitted that the correct CIN of Noticee is U51909WB2011PTC159564.

6. From the above, it is clear that the name of the Noticee has been struck off from the ROC list with effect from July 12, 2021 and the Noticee stands dissolved from the said date. I further note that, it is an established fact that when a company's name is struck-off from the ROC list and the company is dissolved, it is a non-existing company and the adjudication proceedings against the non-existing company is thus nullity. In view of the foregoing, I am of the view that the instant

adjudication proceedings against the Noticee are liable to be abated without going into the merits of the case. Should the Noticee stand revived or restored at any stage, a decision to initiate proceedings may be taken afresh at that stage.

7. In this context, I would also like to draw reference to a judgment of the Hon'ble Delhi High Court in the case of Commissioner of Income Tax (CIT) vs Vived Marketing Services (P) Ltd., ITA NO. 273/2009 dated September 17, 2009 in which it was held that –

   "When the Assessing Officer passed the order of assessment against the respondent company, it had already been dissolved and struck off the register of the Registrar of companies under Section 560 of the Companies Act. In these circumstances, the Tribunal rightly held that there could not have been any assessment order passed against the company which was not in existence as on that date in the eyes of law it had already been dissolved. We are of the opinion that the view taken by the Tribunal is perfectly valid and in accordance with law."

8. After taking into consideration the aforesaid facts and circumstances, the Adjudication Proceedings initiated against Noticee vide SCN dated October 25, 2021 and Notice dated August 03, 2022, are disposed of without going into the merits of the case.

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

Place: Mumbai **SHASHI KUMAR VALSAKUMAR**

Date: May 16, 2023 **ADJUDICATING OFFICER**