BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/AS/RJ/2024-25/ 31335]

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:

DAKSH SHARE BROKERS PRIVATE LIMITED

PAN: AACCD9973A

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 Daksh Share Brokers Private Limited (**PAN – AACCD9973A**) (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 Atanu Pal as Adjudicating Officer (AO) in the matter vide communique dated September 27, 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 order/ communique dated September 13, 2024.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Based on the findings by SEBI, Show Cause Notice dated March 22, 2022 (hereinafter referred to as "**SCN**") was issued 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 it 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 two non genuine trades in one stock options contract creating artificial volume of 17,000 units on March 31, 2015. Summary of dealings of the Noticee in the said options contract, in which the Noticee allegedly executed non-genuine trades during the I.P, is as follows:

Table No. 1

Date	Buyer	Seller	Buy Order Time	Sell Order Time	Trade Time	Trade Time	Trade Rate	Trade Quantity
31/03/2015	DAKSH SHARE BROKERS PRIVATE LIMITED	AJAY KUMAR MITTAL	12:45:04.572341	12:45:04.670340	12:45:04.670340	12:45:04.670340	3	8500
31/03/2015	AJAY KUMAR MITTAL	DAKSH SHARE BROKERS PRIVATE LIMITED	12:45:13.470864	12:45:13.472890	12:45:13.472890	12:45:13.472890	37.8	8500

Table No. 2

Contract name	Avg. buy rate (in Rs.)	Total buy volume (no. of units)	Avg. sell rate (in Rs.)	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
DRRL15APR3350.00PE	3	8,500	37.80	8,500	100	5.36

6. The analysis of the abovementioned reversal trades and volumes by the Noticee through dealings in one contract, i.e., 'DRRL15APR3350.00PE during the investigation period is as follows:-
   a) It was found that Noticee executed 1 trade reversal through 2 non-genuine transactions on 31/03/2015 and with same counter party i.e., Ajay Kumar Mittal.
   b) While dealing in the said contract on 31/03/2015, the Noticee, at 12:45:04.670340 hours, entered into a buy trade with counterparty Ajay Kumar Mittal for 8500 units at Rs.3 per unit. At 12:45:13.472890 hours, the Noticee entered into a sell trade with the same counterparty, for 8500 units at Rs.37.8 per unit.
   c) The Noticee's 2 trades while dealing in the aforesaid contract during the investigation period allegedly generated artificial volume of 17000 units, which made up 5.36% of total market volume in the said contract during this period.

7. Further, vide Post SCN Intimation (hereinafter referred to as "**PSI**") dated August 12, 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.

8. 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*".

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

10. In the interest of natural justice, vide notice of hearing dated May 29, 2023, Noticee was granted an opportunity of being heard on July 03, 2023. However, the said notice of hearing dated May 29, 2023 could not be delivered to the Noticee at his last known address and it returned undelivered to SEBI.

11. Subsequently, a Post SCN Intimation (hereinafter referred to as "**PSI**") dated March 06, 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. However, the PSI dated March 06, 2024 also could not be delivered to the Noticee at his last known address and it returned undelivered to SEBI..

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

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

14. Since the SCN and the two PSIs could not be served to the Noticee, in terms of Rule 7 of Adjudication Rules, the SCN and Hearing Notice were served to the Noticee by way of publication in newspapers where the Noticee was last known to have resided.

15. Pursuant to the newspaper publication, the Noticee, vide email dated November 26, 2024, *inter alia,* requested for further time to submit a reply to the SCN. Thereafter, vide email dated November 27, 2024, Noticee was granted time till December 01, 2024 to submit a reply to the SCN and also, granted an opportunity of hearing on December 02, 2024.

16. The authorised representative of the Noticee appeared for the hearing on December 02, 2024. Based on the request of the AR of the Noticee, Noticee was granted further time to submit a reply to the SCN.

17. Noticee, vide email dated December 24, 2024, replied to the SCN and *inter alia,* submitted the following:

"….

17.1. The investigation in the captioned matter has erroneously roped in my client as an entity in violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003, hereinafter be referred to as 'PFUTP Regulations'. In addition to the foregoing objections it is pertinent to mention herein that the term 'Illiquid' has otherwise a set of characteristics which may not be applicable to all the scrips uniformly. As such without particularly indenting the violation specifically, omnibus reference to trading in Illiquid' stock options may not entail, any liability as sought to be imposed upon my client.

17.2. However, the fact that the investigation / inquiry / SCN was initiated after a long delay of almost seven years of alleged incident/trading, have not augured well with both the Hon'ble Securities Appellate Tribunal and also Hon'ble Supreme Court of India in different instances. To illustrate the point further we rely upon the observations of the Hon'ble Securities Appellate Tribunal in the matter of khadwala Securities Ltd vide order dated 07.09.2012, with respect to the effect of delay upon dispensation of justice in a case wherein it was observed that:

"This Tribunal has held in several cases including Subhkam Securities Pvt Ltd vs Securities and Exchange Board of India decided on July 25, 2012 Appeal No 73 of 2012, Aditi Dalal vs Securities and Exchange Board of India decided on November 28, 2011 Appeal No 143 of 2011 that proceedings under Securities and Exchange Board of India Act require finalization within a reasonable period of time. Delay defeats justice and the very purpose for which the proceedings were initiated."

As such, in view of the observations above, it is evident that the investigation/inquiry/ SCN have been issued after a very long period of nearly seven years, which relegates my client to a significant disadvantage in terms of arranging for his defence through recollection of events and also arranging for documents in his defence. As such the notice seeking his reply and also an opportunity for hearing would be rendered illusionary in effect and the conclusion of the proceedings based upon response of my client without equipped with proper counter version of events seems foredrawn which is evidently violative of principles of Natural Justice in its true spirit.

17.3. It is apt to mention herein that the nature of generic allegations upon the trades is vague and arbitrary. The trades which have been apparently detected as reversal trades have been classified as fit for investigation based upon 'significant difference' in the sell and buy value without specifying the degree of difference between buy and sell values which have been considered as fit for investigation and subsequently for imposing liability under the PFUTP Regulations. As regards artificial volumes, it is submitted that unless declaration of any trade as violative of any Provision, Rule, Regulation Bye Laws or alike, it is peremptory to categorise the entire trades or part of trades as creating artificial volumes.

17.4. It is submitted that the trades were executed in terms of ask and bid prices of the stock options. It is apt to say that the online trading mechanism of BSE is transparent and the primary utilised for buy and sale. As such the entire buy / sale transaction were executed on BSE which, goes without saying, are completely in compliance with rules, regulations, bye laws and circulars issued by SEBI time to

time. As such any trade in compliance with all the governing laws and executed through an automated platform may not be categorised / classified as reversal trades liable for penalties under PFUTP Regulations. Considering the volume of trade my client made in proportion to the entire volume of trade under scrutiny neither my client is aware of nor involved in any price manipulation and above all absolutely incapable to effect market.

17.5. The said trades have been executed upon an open and transparent platform following all the guidelines, circulars, rules and regulations. It is submitted that no allegation pertains to my client in terms of creation of any false price in the stock options since all the trades were within the circuit filters of the day of the trade. Further all the said trades stood settled and cleared in terms of payin and payout as per BSE guidelines.

17.6. The allegation of trade /transaction as 'non genuine' is denied. It is submitted that the SCN under reference failed to contend that there was any type of collusion between the said counterparties/ brokers driven with malafides or any contact/ collusion whatsoever. As such the SCN vaguely alleges/ signifies connivance / connection between the counterparties without any credible evidence on record. The entire SCN fails to remotely refer to collusion between counterparties to the trade under scrutiny. As such in light of absence of any credible material on record it is premature to term the trade of my client as one punishable under PFUTP Regulations and also in absence of any specific material on record with respect to collusion / connivance, my client is incapacitated to respond, to that extent. The aforesaid response upon the trade being termed as 'artificial' draws from the observation of the Hon'ble Securities Appellate Tribunal Judgment in Jagruti Securities vs SEBI wherein the Hon'ble Securities Appellate Tribunal has observed in para 4 that:

> *"Artificial price, on the other hand, is a price determined by the buyer and the seller in a premeditated manner through collusion by manipulating the system of which we have seen many instances. Black's Law Dictionary (eight edition) defines the word 'artificial' as "Made or produced by a*

human or human intervention rather than by nature". If we substitute the word trading system' for 'nature' in this definition, it becomes clear that an artificial trade/price is the one that is executed or determined by human manipulation rather than through the operation of the system. As ac present advised, we are of the view that in an artificial trade there has to be collusion between the buyer and the seller and in the absence of any collusion, the trade cannot be termed as 'artificial'.

As such my client seeks fortification of his submission based upon observations of the Hon'ble Securities Appellate Tribunal in the Judgment referred to hereinbefore. light of the aforesaid Judgment, branding of the trade as 'artificial' without any credible material on record in relation to active role of the counterparties in price manipulation seems not in conformity with law, as settled, in this regards.

Moreover, it is also a matter of fact that the liquidity in the contracts under scrutiny was low and hence spreads were capable of being wide and hence the squaring off of the trades was at a price difference which appreciated well over a short span of time.

17.7. It is submitted that in terms of Risk Disclosure Document which deals with risk of low liquidity and risk of wider spread, it can be gauged that SEBI acknowledges the possibility of trades being executed at an unusual price difference. In light of the aforesaid document the SCN itself fails to consider trades executed by my client as genuine Illiquid Contract.

17.8. As such in light of the submissions made above it is prayed that Daksh Share Brokers Pvt Ltd may be absolved of any liability and the no inquiry held / pending inquiry may be dropped as sought to be undertaken / undertaken in terms of Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 in the matter of dealings in the Illiquid Stock Options at BSE.

…."

CONSIDERATION OF ISSUES AND EVIDENCE

18. 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?**

19. 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?

20. Before proceeding to the merits of the case, it is pertinent to deal with the preliminary contentions with respect to delay raised by Noticee. 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 the 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 v. 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".

21. A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided a 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.

22. 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 v. 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."*

23. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on September 27, 2021, SCN dated March 22, 2022 was issued to the Noticee. First PSI dated August 12, 2022 was issued to Noticee to inform about the second Settlement Scheme 2022. As the Noticee did not avail the settlement scheme, in the interest of natural justice, he was provided opportunity of hearing on July 03, 2023. Subsequently, the Noticee was informed regarding

the Settlement Scheme 2024 vide second PSI dated March 06, 2024. As the Noticee had not availed the third settlement scheme, he was provided an opportunity of personal hearing on December 02, 2024 vide notice dated November 26, 2024. Hence, there has been no delay as alleged by the Noticee.

24. Noticee has also contended that the allegations in the present case are vague and generic. Further, the Noticee has stated that the SCN has not specifically provided the violations allegedly committed by the Noticee. Here, I note that the SCN issued to the Noticee clearly indicates the specific non-genuine reversal trades which were entered by the Noticee on the same day with the same counterparty at a substantial price difference without any basis for significant change in the contract prices. Further, I find that the SCN provides all necessary documents in support of the allegations made therein. Adding on, the SCN issued to the Noticee explicitly provides the specific nature of the alleged violations in terms of different provisions of the PFUTP Regulations. In this context, I note that the SCN clearly lays out the clear allegations and provides details thereof, including supporting documents. Accordingly, this contention of the Noticee cannot be accepted.

25. 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 contracts at BSE. Reversal trades are considered to be those trades in which an entity reverses its 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.

26. From the documents on record, I note that the Noticee was one of the entities who had indulged in creating artificial volume of 17,000 units through two non genuine reversal trades in one stock options contract during IP. The summary of trades is given below:

Table No. 3

Contract name	Avg. buy rate (in Rs.)	Total buy volume (no. of units)	Avg. sell rate (in Rs.)	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
DRRL15APR3350.00PE	3	8,500	37.80	8,500	100	5.36

27. On March 31, 2015, the Noticee, at 12:45:04 hours, entered into a buy trade in a contract named viz, "DRRL15APR3350.00PE" with counterparty Ajay Kumar Mittal for 8,500 units at Rs. 3 per unit. On the same day, within a few seconds, at 12:45:13 hours, the Noticee entered into a sell trade with the same counterparty, for 8,500 units at Rs. 37.8 per unit. It is noted that while dealing in the said contract during the IP, the Noticee executed a total of two trades (one buy trade and one sell trade) with the same counterparty viz, Ajay Kumar Mittal 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 17,000 units, which made up 5.36% of the total market volume in the said contract during this period.

28. Noticee has contended that the trades of the Noticee were too minuscule to generate any such misleading appearance, and hence, an inference of fraud or

undue trade practices should not be drawn against the Noticee. In this regard, I note that the Noticee executed reversal trades which defy market rationality when looked at along with attending circumstances *in toto*. Further, I find it pertinent to mention that the framework of the extant regulations does not carve out any de minimis rule for any person on the basis of the volume of the transactions. Thus, the contention that the quantity of their trade was too minuscule to warrant any charge of fraud under PFUTP Regulations is misplaced.

29. Noticee has further contended that the trades executed were subject to regulatory supervision of BSE and were not questioned by the BSE at that time, so the impugned trades which were genuine. The obligation to ensure the genuineness of trades lies squarely on the entities executing the trades. Therefore, the Noticee is obligated to adhere strictly to the PFUTP Regulations, 2003, both in its word and its spirit. Thus, the contentions of the Noticee are not tenable.

30. Noticee has referred to the risk of lower liquidity and wider spreads mentioned in the Risk Disclosure Document (hereinafter referred to as "**RDD**"), and argued that RDD envisages the scenarios as in the present case, where trade may happen at a significant price difference with the same counterparty due to lower liquidity and wider spreads in the stock options. In this regard, it is important to note that the price of a stock option is based on several underlying parameters, and a change in price has to be justifiable based on a change in such parameters. It is noted that Noticee has not shown any credible reason for the wide variation of price in its reversal trades, which were undertaken in a very short span of time. Further, I note that RDD is in the nature of general advisory to investors who are dealing in derivatives markets, considering that derivative products are complex, risky and high leverage products. Such a document, in any case, does not either implicitly or explicitly permit the deliberate structuring of manipulative trades that lack economic rationale and run contrary to the dynamics of price discovery in option trading.

31. Noticee has further contended that it had no knowledge of counterparty to the trades and that it did not engage in any collusion with the counterparty. In this regard, I note that the non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a 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 predetermined price. Since these trades were done in illiquid option contracts, 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 predetermination 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.

32. It is noted that it is not mere coincidence that the Noticee could match its trades with the same counterparty with whom it had undertaken the 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 predetermined 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.

33. 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.*"

34. 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 a 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.

35. It is also relevant to refer to judgement of the Hon'ble Securities Appellate Tribunal in the matter of **Ketan Parekh v. 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."*

36. 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….."*

37. 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?

38. 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 v. 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 15HA 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?

39. 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.]

40. 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 two non-genuine trades entered by the Noticee in one 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

41. 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 **Rs. 5,00,000/- (Rupees Five Lakhs only**) on the Noticee (Daksh Share Brokers Private Limited) 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.

42. 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;

43. 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.

44. 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: 2025.03.27 15:52:10 +05'30'

Place: Mumbai **ASHA SHETTY**

Date: March 27, 2025 **ADJUDICATING OFFICER**