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CHIEF GENERAL MANAGER AND ADJUDICATING OFFICER

ENQUIRIES AND ADJUDICATION DEPARTMENT - 2

SEBI/HO/EAD2/NH/RJ/2023/39136/1

September 18, 2023

✓ **Mr. Amar Nath Das**

PAN: AMNPD2486Q

110 Dolui Para Uttarpara Hooghly
712245

Mr. Rajesh Kumar Agarwal

PAN: AFFPA4486E

301/B, G.T. Road, 3rd Floor,
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Show Cause Notice under Rule 4(1) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 in the matter of dealings in Illiquid Stock Options (ISO) at BSE

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had initially conducted Adjudication Proceedings against Aconite Commotrade Private Limited (hereinafter referred to as 'ACPL') in the matter of dealings in Illiquid Stock Options (ISO) at BSE. A show cause notice ref EAD1/SBM/VS/21309/2021 dated August 30, 2021 was issued to ACPL for alleged violations of 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 (hereinafter referred to as 'PFUTP Regulations'). Thereafter an Adjudication Order ref Order/SBM/VS/2021-22/13632 dated September 30, 2021 (hereinafter referred to as 'Order dated September 30, 2021') was passed against ACPL and disposed of the proceedings against it

inter-alia stating the following in the said order:

“ ..



11. ... Therefore, in view of the facts and circumstances noted in the preceding paragraphs and also the fact that the Noticee's name has been struck-off from the RoC list and also 'dissolved' as on October 25, 2019 as per the RoC notification, I conclude that the present adjudication proceedings initiated against the Noticee vide SCN dated August 30, 2021 cannot be proceeded with.

ORDER

12. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby dispose of the Adjudication Proceedings initiated against the Noticee viz. Aconite Commotrade Private Limited vide SCN dated August 30, 2021.

..”

2. It is noted by SEBI that the Section 248(7) of the Companies Act, 2013, *inter alia*, provides as under:

“Companies Act, 2013

248. ...

(7) The liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved under sub-section (5), shall continue and may be enforced as if the company had not been dissolved.” (Emphasis added)

3. In this context, SEBI re-examined the violations alleged to have been committed by ACPL and re-initiated Adjudicating Proceedings by appointing the undersigned as the Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act**') read with SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') (Copy of communication appointing undersigned as Adjudicating Officer is placed at **Annexure 1**). The



following is *inter-alia*, noted by SEBI, in this regard (Relevant extracts of note ref number 2022/31420 is enclosed as **Annexure 2**):

"9.7 Struck off by RoC:

a. It is observed that ... companies viz., ... Aconite Commotrade Private Limited (PAN: AAHCA5280G) ... that executed non-genuine trades during IP have been struck off by RoC

b. As per section 248(7) of the Companies Act, 2013, liability, if any, of every director, manager or other officer who was exercising any power of management, and of every member of the company dissolved, shall continue and may be enforced as if the company had not been dissolved.

c. Since the company ceases to exist, adjudication proceedings may be initiated against the then directors of the company. Details of then directors of ... companies is as given below:

Table C

Sl. No.	Name of company	PAN of company	Directors of the company at the time of violation	PAN of directors
.....				
5	Aconite Commotrade Private Limited	AAHCA5280G	Amar Nath Das (DIN:02049102)	AMNPD2486Q
			Rajesh Kumar Agarwal (DIN: 01713563)	AFFPA4486E

...

Brief of Allegations made in the investigation report

- SEBI had conducted an investigation into large scale reversal of trades in Stock Options segment of the BSE during the period of April 01, 2014 to September 30, 2015 (Copy of relevant portion of Investigation Report is placed at **Annexure 3**). Pursuant to investigation, it was observed in the report that during the investigation period, there were trades executed in BSE Stock Options Segment involving reversal of buy and sell positions by clients and counterparties in the

same contract (refer Paragraph 6 of Investigation Report/**Annexure 3**). The reversal trades involved squaring off trades (either buy or sell), with significant difference in the price.

5. In this context, it is observed that ACPL is one among the entities which had indulged in reversal trades, and allegedly created false and misleading appearance of trading thereby generated artificial volumes in the Stock Options Segment of BSE during the investigation period. The trades entered in the unique contracts were reversed on the same day with same counterparties, at a price difference which had no underlying basis and without an intention of performing it or there being a change of ownership/rights in the contracts. These factors allegedly indicate that the said trades were artificial and non- genuine in nature.
6. The trading details of ACPL including the trade dates, name of the counterparties, time, price and volume are available in columns **B, E/G, M, P** and **Z** respectively of the Reversal Trade Data placed at **Annexure 4**. Additionally, a summary of ACPL reversal trades in the Stock Options contracts executed during the investigation period is placed at **Annexure 5**.
7. In view of the above, it is alleged that ACPL herein, by indulging in execution of non-genuine reversal trades in Stock Options, created false and misleading appearance of trading in securities market during the investigation period and thereby, violated provisions of Regulation 3(a),(b),(c),(d), 4(1) and 4(2)(a) of PFUTP Regulations.
8. As noted earlier, in terms of the provisions of Section 248(7) of the Companies Act, 2013, every director, manager or other officer of the company who was exercising any power of management and every member of the company dissolved under Section 248(5) shall continue to remain liable for their act and conduct in such capacity qua the affairs of the company, as if the company is not dissolved.

9. It is noted that Mr. Amar Nath Das and Mr. Rajesh Kumar Agarwal, (hereinafter collectively referred to as '**the Noticees**'/ '**you**') were the directors of ACPL when APPL had executed the aforesaid alleged reversal trades.

The copy of Annual Return (Form No. MGT-7) for FY 2014-15 containing details of the directors of APPL is enclosed as **Annexure 6**.

10. Therefore, the violations alleged to have been committed by ACPL, as mentioned in previous paragraphs if established, make you who were the then director of ACPL, liable for monetary penalty under section 15HA of the SEBI Act, which reads as below:

"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." (Emphasis added)

11. In the view of the observations made in the pre paragraphs, the Noticees being the then directors of ACPL, are therefore, called upon to show cause as to why an inquiry should not be held against them for the violations alleged to have been committed by ACPL and why penalty, if any, should not be imposed on them under the provisions of Section 15HA of the SEBI Act.

12. The reply of the Noticees to the SCN, along with the supporting enclosures and documents if any, should reach the undersigned or through email at hariharan@sebi.gov.in and rishij@sebi.gov.in, in pdf and MS Word format within 15 (fifteen) days from the date of receipt of this notice, failing which it shall be presumed that you have no reply to submit and the matter would be further proceeded with on the basis of the evidence available on record in terms of sub-



rule 7 of Rule 4 of the Adjudication Rules. You may also indicate whether you desire a personal hearing in the matter.

13. You are further advised to furnish the following information through email at the earliest:

Sr. No.	Particulars
1.	Present Address for Communication
2.	Mobile Numbers
3.	Email IDs
4.	Scan Copy of PAN Card

14. You are also advised to keep the undersigned informed about the change in your correspondence address, if any, till the conclusion of the proceedings.

15. You may also note that a settlement mechanism is provided under the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018. If you wish to avail the benefit of the settlement process, you may apply for the same in the manner provided in the said regulations after intimation to the undersigned.

16. Further, the material/documents available on record and relied upon in the instant matter, based on which the aforementioned allegations have been made against the Noticees, are mentioned below and enclosed as Annexures.

Annexure 1	Copy of the communication appointing the Adjudicating Officer.
Annexure 2	Copy of the relevant extracts of office note dated July 27, 2022.
Annexure 3	Relevant Extract of Investigation Report.
Annexure 4	Details of all the reversal trades of ACPL.
Annexure 5	Summary of reversal trades of ACPL.
Annexure 6	Copy of Annual Return (Form No. MGT-7) for FY 2014-15 containing details of the directors of ACPL.


N HARIHARAN
ADJUDICATING OFFICER



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NEELAKANT
A IYER

Digitally signed by
HARIHARAN
NEELAKANTA IYER
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