BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/BS/LD/2023-24/27000)

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

(Late) Shri Hari Krishan
(**PAN: AABHH3271H**)
In the matter of dealings in Illiquid Stock Options at the BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted an investigation into large scale reversal of trades in Stock Options segment of Bombay Stock Exchange (hereinafter referred to as 'BSE') during the period of April 01, 2014 to September 30, 2015 (hereinafter referred to as '**Investigation Period'/'IP**') after observing large scale reversal of trades in the Stock Options segment of the BSE.

2. Pursuant to investigation, it was observed that a total of 2,91,744 trades comprising 81.40% of all the trades executed in the stock options segment of BSE during the IP were non genunine trades. The aforesaid non-genuine trades resulted into creation of artificial volume in stock options segment of BSE during the IP. It was observed that Shri Hari Krishan (PAN – AABHH3271H) (hereinafter referred to as '**Noticee**') was one among the entities who indulged in reversal trades, which allegedly created false and misleading appearance of trading thereby generated artificial volumes in the Stock Options Segment of BSE during the IP. Such trades were observed to be non-genuine in nature and created false and misleading appearance of trading in terms of artificial volumes in stock options and therefore were alleged to be manipulative, deceptive in nature. In view of the same,

SEBI initiated adjudication proceeding against the Noticee for violation of the provisions of Regulations 3(a), (b), (d), (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 had initiated adjudication proceedings against 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 (hereinafter referred to as 'PFUTP Regulations'), in the matter of trading in illiquid stock options at BSE. SEBI vide order dated March 25, 2022, appointed Ms. Yogita Shrikant Jadhav as Adjudicating Officer under Section 19 read with sub-section (1) of section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules 1995 (hereinafter referred to as 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. Vide order dated March 17, 2022, the matter was transferred to the Shri Suraj Mohan M., General Manager. Thereafter the matter was transferred to Shri Sahil Malik, Chief General Manager. On transfer of Shri Sahil Malik, the matter was subsequently transferred to me, vide communique dated April 21, 2023.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice No.SEBI/HO/IVD/ID14/ISO-9/SMM/35661/1/2022 dated August 05, 2022 (hereinafter be referred to as, the **SCN**) was served upon the Noticee, in terms of Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against her for the alleged violation of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of PFUTP Regulations, 2003 and why penalty should not be imposed under section 15HA of the SEBI Act, for the aforesaid violations alleged to have been committed by Noticee. In the SCN, the Noticee was

also 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. It was also stated in the SCN that in case, Noticee does not wish to avail of the facility under the SEBI Settlement Scheme, 2022, reply to the SCN was to be filed within 30 days of the receipt of the SCN. The SCN was duly served to the Noticee through Speed-Post. AD and email. The records in the file show that the Noticee did not avail the Settlement Scheme.

5. In reply to the SCN, vide letter dated October 11, 2022, Shri Daya Kishan Rastogi, stated to be son of the late Noticee has submitted a notarised copy of the death certificate of the Noticee, issued by the Government of Uttar Pradesh, Morabadad Municipal Corporation. I note that the name mentioned in the death certificate is “Hari Kishan Rastogi” and the date of death is 15/05/2016.

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

7. 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 actio 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 Securities Appellate Tribunal 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 November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates.”*

8. 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* him and the SCN dated August 05, 2022 issued against him is disposed of accordingly.

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.

Date : May 31, 2023 **BIJU S.**

Place : Mumbai **Adjudicating Officer**