BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/GR/PU/2021-22/14460]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of

Godghate Sugandha Sitarampant

(PAN: BDOPG1954R)

In the matter of Trading 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 Bombay Stock Exchange (hereinafter referred to as "**BSE**"). SEBI also observed that such large scale reversal of trades in stock options resulted in creation of artificial volume at BSE. In view 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 "**IP**").

2. Pursuant to investigation, it was observed that total 2,91,643 trades comprising substantial 81.38% of all the trades executed in stock options segment of BSE during the IP were non genuine trades. The aforesaid non-genuine trades resulted into creation of artificial volume to the tune of 826.21crore units or 54.68% of the total market volume in stock options segment of BSE during the IP. It was observed that Godghate Sugandha Sitarampant (PAN-BDOPG1954R) (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 observed 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 as well as deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for the violation of 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, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. In this regard, SEBI, after being satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations as mentioned above inter-alia in respect of the Noticee, had appointed the undersigned as Adjudicating Officer ('**AO**'), conveyed vide communique dated April 26, 2021, under Section 19 read with Section 15-I(1) of the SEBI 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 "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with Section15-I (1) and (2) of the SEBI Act, and if satisfied that penalty is liable, may impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of the SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated September 16, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against her and why penalty should not be imposed under Section 15HA of the SEBI Act, 1992 for the alleged violations specified in the SCN.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 4 non genuine trades in 2 Stock Options contracts which resulted in artificial volume of total 1,62,000 units. Summary of dealings of the Noticee in 2 Stock Options contracts, in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

S. No.	Contract Name	Avg. Buy Rate (Rs)	Total Buy Volume (No. of units)	Avg. Sell Rate (Rs)	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1	APLT15APR140.00CEW2	12.5	56000	23.25	56000	100	5.71	100	10.94
2	RCAP15MAY450.00PEW3	32	25000	54.35	25000	100	7.41	100	10.1

6. From the above table, following was noted as regards the dealings of the Noticee:

   (a) The Noticee had executed non genuine trades in 2 contracts, wherein all trades of Noticee in the said 2 contracts were non genuine trades.

   (b) The number of non-genuine trades of the Noticee had significantly contributed to total number of trades from the market in the above contracts, as 5.71% to 7.41% of the trades that happened in the two contracts were due to non-genuine trades executed by the Noticee.

   (c) The entire 100% of volume generated by Noticee in all of the above contracts was artificial volume, and further, the percentage of artificial volume generated by the Noticee in the above contracts to the total volume from the market in said contracts was in the range of 10.1% to 10.94%. Therefore, substantial volume has been generated by the Noticee in each of the above contracts were artificial volume.

   (d) Non genuine trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

7. The SCN with reference number SEBI/HO/EAD/EAD-4/P/OW/2021/24227/1 was issued to the Noticee via Speed Post Acknowledgement Due (SPAD) and also via email dated September 20, 2021, both of which were duly delivered to the Noticee. With regard to the same, the Noticee vide email dated September 25, 2021 requested for additional time for submitting reply to the SCN. Thereafter, vide e-mail dated the October 06, 2021, an opportunity of personal hearing was

granted to the Noticee on October 26, 2021. In response, Vide letter dated October 16, 2021, the Noticee filed her preliminary submissions in the matter and also sought adjournment of the personal hearing scheduled on October 26, 2021. Accordingly, vide e-mail dated the October 25, 2021, another opportunity of personal hearing was granted to the Noticee on November 02, 2021. During the course of hearing, the Authorized Representative (**AR**) reiterated the submissions made vide letter dated October 16, 2021 and further the AR has requested for additional time to make post hearing submissions in the matter. As per the request of the AR, time was granted till November 12, 2021. Subsequently, vide letter dated November 08, 2021, the Noticee had submitted its detailed reply in the matter. The summary of the reply submitted in the matter is as under:

- The Noticee has inter-alia contended that there is an inordinate delay in issuance of the SCN.
- The Noticee has requested for the entire records pertaining to the investigation and sought for inspection of said documents in addition to the request for cross examination of BSE, stating that the failure to do so would result in the contravention of the Principles of Natural justice.
- The allegation of creation of artificial volume without any resultant profit cannot bring the alleged trades within the ambit of the PFUTP Violations.
- The element of fraud is missing in the case as there was no inducement and the trades were executed in the normal course of the business and there is nothing illegal or deceptive about their nature.

- The allegations made in the SCN are general and vague.
- Reversal trades are not recognized as unlawful/illegal at the relevant time, the brokers were not aware of the counter brokers. There were no prevention checks nor warning issued either from the Exchange's end or from SEBI.
- Considering intra-day trading (where by rate and sell rate were within the permissible range) as reversal is flawed. The very fact that trading in Stock options that are illiquid means that the same party in the first leg (buy) of transaction was likely to be counter party in the second leg (sell) and premium is bound to be outcome of dynamics.
- Matching of orders with the same party or price differential between buy rate and sale rate do not, in the absence of any linkage/connection between parties, make the trades non-genuine or artificial.
- BSE could have put upfront checks and rejected out-rightly or annulled them after market hours and not accepted them for settlement purposes. Even SEBI was aware of trading on BSE and monitoring them. Having not taken any objection then, it is improper to consider our trading as non-genuine after a number of years - it is retrograde.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the charges levelled against the Noticee, her reply and the documents / material available on record. The issues that arise for consideration in the present case are:

    (a) Whether the Noticee has violated provisions of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?

(b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?

(c) 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, 1992?

9. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003 as below:

PFUTP Regulations, 2003

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 recognized 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 recognized 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 recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

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. I: Whether the Noticee has violated the provisions of Regulations 3(a), (b), (c), (d) , 4(1) and 4(2)(a) of the PFUTP Regulations, 2003?

10. I now proceed to consider the matter on merits. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, she had executed reversal trades which were allegedly non-genuine 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 & manipulative.

11. I note from the trade log of the Noticee that she had traded in 2 unique contracts in the stock options segment of BSE during the IP. It is observed

that the Noticee had executed 4 non-genuine trades in 2 contracts. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of 1,62,000 units in the said 2 contracts. Summary of non-genuine trades of the Noticee is as follows:

S. No.	Contract Name	Avg. Buy Rate (Rs)	Total Buy Volume (No. of units)	Avg. Sell Rate (Rs)	Total Sell Volume (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Noticee in the contract to Total trades in the Contract	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1	APLT15APR140.00CEW2	12.5	56000	23.25	56000	100	5.71	100	10.94
2	RCAP15MAY450.00PEW3	32	25000	54.35	25000	100	7.41	100	10.1

12. It is noted that the Noticee had executed non-genuine trades in 2 contracts, wherein the percentage of non-genuine trades of the Noticee in stock options contracts to total trades in the contracts were in the range of 5.71% to 7.41% in the aforesaid contracts. Further, artificial volume generated by Noticee in the contracts amounted to the entire 100% of total volume generated by her in both the contracts. It is also noted that artificial volume generated by the Noticee contributed significantly viz. 10.1% to 10.94% of the total volume from the market in the said contracts. Non-genuine trades executed by the Noticee in the above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on the same day.

13. I also note from the trade log that the trades executed by the Noticee in a contract were squared up within a short span of time with her counterparties.

Trade Date	Client Name	CP Client Name	Trade Time	Trade Rate (Rs.)	Traded Quantity
30/03/2015	GODGHATE SUGANDHA SITARAMPANT	ADARSH CREDIT CO OP SOCIETY LIMITED	09:44:00.756972	12.15	56000
30/03/2015	ADARSH CREDIT CO OP SOCIETY LIMITED	GODGHATE SUGANDHA SITARAMPANT	09:58:46.182082	23.25	56000

14. From the above table, I note that, the Noticee on March 30, 2015 at 09:44:00.756972 hrs had entered into 1 buy trade with counterparty viz. Adarsh Credit Co-Op Society Ltd. for 56,000 units at the rate of Rs 12.15 per unit in the contract "APLT15APR140.00CEW2". Thereafter, on the same day, the Noticee at 09:58:46.182082 hrs entered into 1 sell trade with same counterparty for 56,000 units at the rate of Rs. 23.25 per unit in the same contract. It is noted that while dealing in the said contract during the I.P., the Noticee executed reversal trades with same counterparty viz. Adarsh Credit Co-Op Society Ltd. on the same day and with significant price difference in buy and sell rate. Thus, the Noticee, through her dealing in the contract viz. "APLT15APR140.00CEW2" during the I.P., executed non genuine trades which was 5.71% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 1,12,000 units which was 10.94% of the volume traded in the said contract from the market during the I.P.

15. 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 short span of time, the Noticee reversed the position with the counterparties with significant price difference. I further note from the trade log of the Noticee that the time taken for reversing the non-genuine trades ranged from 00 seconds to 14 minutes, on the same day. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non-genuineness of these trades executed by the Noticee. 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 pre-determined price. Since these trades were done in illiquid option contracts, there was no trading in the said contract and hence, there was no price discovery in the strictest terms. The wide variation in prices of the said contracts, within a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Thus, it is observed that the Noticee had indulged in reversal trades with her counterparties in the stock options segment of BSE and the same were non-genuine trades.

16. It is observed from the reply submitted by the Noticee that it has been *interalia* contended that the instant SCN has been issued after 6 years of the execution of impugned trades, causing serious prejudice to the Noticee. In this regard, I note that there is no provision under SEBI Act which prescribes a time limit for taking cognizance of a breach of the provision of SEBI Act and Rules and Regulations made there under. Further, as per

Section 11C of SEBI Act, SEBI can initiate investigation at any point of time, for any period of alleged violation or any period of alleged transactions. I also note that the investigations relating to the PFUTP Regulations, 2003 are complex (considering the volume of transactions, connections and examination of trading of shares, etc.,) and time consuming process, which may require detailed analysis of the case facts. In this regard, I note that the Hon'ble SAT in the matter of **Pooja Vinay Jain vs SEBI** (Appeal No. 152 of 2019 decided on March 17, 2020) held that, "*The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same*".

17. I also note that the Hon'ble SAT in the matter of **Bipin R Vora vs SEBI** (decided on March 22, 2006) held that, "*As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market*".

18. In view of the above, and considering the facts and circumstances, I note that there was no delay in the issuance of SCN in the matter as argued by

the Noticee, so the contentions of the Noticee in this regard are without merits.

19. The Noticee has further contended that the allegations to have been violated specified in the instant SCN are general and vague. I note that the Noticee has been alleged to have executed non-genuine reversal trades, leading to creation of false or misleading appearance of trading in terms of artificial volume in the stock options and resulting in violation of Regulations 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003. I note that the aforesaid charges against the Noticee and the provisions of PFUTP Regulations, 2003 alleged to be violated as stated above have been cogently spelt out in the SCN served on the Noticee as well as in the paras 11 to 15 above, therefore, the contentions of the Noticee in this regard are liable to be rejected.

20. The Noticee has further contended that she was not aware of the counterparties to both buy and sell trades. I note that, it is not a mere coincidence that Noticee could match her trades with the same counterparties with whom she had undertaken first leg of the respective trades. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a fashion. Here I would like to rely on the judgment of Hon'ble Supreme Court in **SEBI v Kishore R Ajmera (AIR 2016 SC 1079)** decided on February 23, 2016, wherein it was held that - "…*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..."

21. Further, the Hon'ble Supreme Court had held in the same matter that – *"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."*

22. I note in this regard that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entities. However, I note that the trading behaviour of the Noticee makes it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level. In this context, I deem it appropriate

to refer to the judgement of the Hon'ble SAT order dated July 14, 2006, in the matter of **Ketan Parekh vs. SEBI (Appeal no. 2/2004)**, wherein the Hon'ble SAT has held that - *"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn.".* Therefore, the contention of the Noticee in this regard is liable to be rejected.

23. Further, the Noticee has also contended that the essential requirement to constitute fraud is to induce another person to deal in securities and trades were executed in the normal course of the business. In this regard, I note the following from the judgment of the Hon'ble SAT in the matter of **Ketan Parekh vs SEBI** (supra): *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.*

24. Further, I place my reliance on the judgment of Hon'ble Supreme Court in the matter of **SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018)**, in which the Hon'ble SC held 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…..".* In view of the abovementioned judgements and paras 11 to 15 above, I reject the contentions of Noticee in this regard.

25. Noticee has contended that the decision of investors was not affected because of reversal trades executed by her. Also that, there was no effect on prices of the derivative contracts or the underlying scrips in the cash market because of Noticee's trades, and that market wise price and volume data of the Exchange does not reveal any such manipulative and deceptive effect. I note that the impugned reversal trades, which were carried out with prior meeting of minds as inferred from the case facts, affected the price discovery and execution of trades as per market mechanism on the stock options segment of BSE. In this regard, I further note the following from the judgment of the Hon'ble SC in the matter of **SEBI vs Rakhi Trading Pvt**

Ltd (supra):*“……….According to SAT, only if there is market impact on account of sham transactions, could there be violation of the PFUTP Regulations. We find it extremely difficult to agree with the proposition. As already noted above, SAT has missed the crucial factors affecting the market integrity, which may bedirect or indirect. The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery system itself is affected. Except the parties who have pre-fixed the price nobody is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market.”*

26. Further, the Hon’ble SAT in its judgement dated September 14, 2020 in the matter of **Global Earth Properties and Developers Pvt. Ltd.** relied upon the aforesaid judgement of Hon’ble SC and held that,

“*It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade. In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price.*” Considering the abovementioned judgements and the fact that the Noticee has executed 4 non genuine transactions in the matter, I note that the contentions of Noticee in this regard, are liable to be rejected.

27. The Noticee has contended that matching of orders with the same party or price differential between buy rate and sale rate do not, in the absence of any linkage/connection between parties, make the trades non-genuine or artificial. I note that the buy orders placed by Noticee in both the impugned contracts were at a very low price, and were matched in very short time by sell order placed by counterparty. Further, the same counterparties, on the same day, placed a sell order at a higher price without any market logic or substantial change in price of underlying scrip, which were again matched by buy orders placed by Noticee. Further, the allegation against the Noticee is that she executed reversal trades in illiquid stock options segment, and that she executed such trades with substantial price difference without any material change in fundamentals of the underlying scrip, so that when the attending circumstances were considered in toto, her trades were found to be non-genuine. On that basis, it is observed that such trading pattern, undertaken were defying market logic and intended to create misleading appearance of trading. Therefore, the contentions of the Noticee in this regard are without merits.

28. The Noticee has inter-alia contended that, she has requested for the entire records pertaining to the investigation and sought for inspection of said documents in addition to the request for cross examination of BSE and failure to provide the same will be in contravention of the Principles of Natural Justice. With regard to the same, it is observed that the Hon'ble SAT in the matter of **Anant R Sathe Vs. SEBI (Appeal No. 150 of 2020)** vide Order dated July 17, 2020, reaffirmed the principle elucidated in

the judgment of Shruti Vora's case, which has been reproduced herein above and held that: "*the Authority is required to supply the documents that they rely upon while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in his defence*". Considering the fact that all the documents relied upon while issuing the SCN dated September 16, 2021, in the matter were duly provided to the Noticee along with the said SCN and no statement of BSE has been relied upon, in the matter, I note that the principles of natural justice have been complied with and the contentions in this regard are without merits

29. The Noticee has also contended that considering intra-day trading as reversal is flawed. The very fact that trading in Stock options that are illiquid means that the same party in the first leg (buy) of transaction was likely to be counter party in the second leg (sell) and premium is bound to be outcome of dynamics, besides the volume contributed by the reversal trades to the total contract volume was insignificant, and could not be termed manipulative and deceptive. I note that the impugned stock option contracts were illiquid, as stated in the SCN, and irrespective of the fact that the trades executed were intra-day, it is observed that the Noticee's trades in such contracts viz. RCAP15MAY450.00PEW3 and APLT15APR140.00CEW2 had contributed substantially i.e. 10.1% and 10.94% respectively, to the total market volume generated during the IP. This points to the contribution of Noticee, irrespective of quantum of reversal trades or volume generated, in the creation of misleading

appearance of trading through her impugned trades. There may not be a threshold as regards allegations of artificial volume applicable universally, so that in the instant matter, artificial volume has been alleged to be generated through reversal trades carried out by Noticee based on consideration of attending circumstances in toto. I note that Noticee executed reversal trades, which defy market rationality when looked along with attending circumstances. Therefore, the Noticee's trades were manipulative and intended to create misleading appearance of trading, so that contentions of Noticee in this regard are liable to be rejected.

30. Further, the Noticee has also contended that the trades executed were subject to regulatory supervision of BSE and SEBI, and could have put upfront checks and rejected out-rightly or annulled them after market hours and not accepted them for settlement purposes. Having not taken any objection then, it is improper to consider our trading as non-genuine after a number of years. Additionally, the Noticee also contended that reversal trades were not recognized as unlawful/illegal at the relevant time. I note that stock exchanges merely provide a platform for carrying out the trades and the clearing corporation affiliated with exchange handles the confirmation, settlement and delivery of transactions, however, the obligation to ensure genuineness of trades as regards instant considerations lies squarely on the Noticee. Thus, that the absence of any preventive mechanism cannot be a ground to absolve Noticee from her obligation to ensure genuineness of trades executed on exchange platform. Further, I also note that, the considerations in the present matter are limited

to allegations levelled only against the Noticee. Therefore, I reject the contentions of Noticee in this regard.

31. Therefore, the trading behaviour of the Noticee confirms that such trades were not normal and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not genuine trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts. In view of the above, I find that the allegation of violation of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established.

Issue 2: Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act, 1992?

32. Considering the finding that the Noticee as mentioned above has executed non-genuine trades resulting in the creation of artificial volume, thereby violating provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 and in terms of the judgment of the Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC)** decided on May 23, 2006 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…"*, I am convinced that it is a fit case for

imposition of monetary penalty on the Noticee under the provisions of Section 15HA of the SEBI Act, 1992 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 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, 1992?

33. While determining the quantum of penalty under Section 15HA of the SEBI Act, 1992, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which reads as under:-

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, 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 of an adjudicating officer 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.

34. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, and suffered by the investors due to such violations on part of the said Noticee. However, the Noticee has entered into 4 non-genuine trades in 2 stock option contracts which demonstrates the repetitive nature of default on her part.

35. Therefore, I note that the Noticee had indulged in execution of reversal trades in stock options contracts in the IP which were non-genuine and created false and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of Regulation 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

ORDER

36. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act, 1992 and in exercise of power conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under Section 15HA of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Violation provisions	Penalty
Godghate Sugandha Sitarampant PAN: BDOPG1954R	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	Rs 5,00,000/- (Rupees Five Lakh only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

37. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

Enforcement → Orders → Orders of AO → Pay Now

38. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-1), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400051". The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Notice
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

39. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under Section 28A of the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

40. 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 the Securities and Exchange Board of India.

Date: December 13, 2021 **G. RAMAR**

Place: Mumbai **ADJUDICATING OFFICER**