

**BEFORE THE ADJUDICATING OFFICER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**  
**[ADJUDICATION ORDER NO. Order/BM/DS/2022-23/16419]**

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**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  
**Rajendra Kumar Bubna HUF**  
**(PAN: AADHR1660L)**

In the matter of Trading in Illiquid Stock Options on BSE

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**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 observed that such large scale reversal of trades in stock options lead to 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 of 2,91,744 trades comprising 81.40% of all the trades executed in stock options segment of BSE during the IP were allegedly non genuine trades. The aforesaid alleged non-genuine trades resulted into creation of artificial volume in stock options segment of BSE during the IP. It was observed that Rajendra Kumar Bubna HUF (PAN – AADHR1660L) (hereinafter referred to as the

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*Adjudication Order in respect of Rajendra Kumar Bubna HUF in the matter of trading in Illiquid Stock Options at BSE*

“**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, 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, 2003”).

### **APPOINTMENT OF ADJUDICATING OFFICER**

3. The undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated September 27, 2021, under Section 19 read with Section 15-I(1) of the SEBI Act, 1992 (hereinafter referred to as “SEBI Act, 1992”) and Rule 3 of 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 Section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act, 1992.

### **SHOW CAUSE NOTICE, REPLY AND HEARING**

4. A Show Cause Notice dated October 20, 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 him and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 2 non-genuine trades in 1 Stock Options contract which resulted in artificial volume of total 104,000 units. Summary of dealings of the Noticee in the said 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      | IBRL15APR55.00PEW1 | 0.05               | 52000                           | 1.60                | 52000                            | 100                                                                                          | 18.18                                                                              | 100                                                                                                   | 5.73                                                                                        |

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

- The Noticee had executed alleged non genuine trades in 1 contract, wherein all the trades of Noticee in the said contract were allegedly non-genuine trades.
- No. of alleged non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the above contract, as 18.18% of the trades that happened in the said contract were due to non-genuine trades executed by the Noticee.
- 100% of volume generated by Noticee in the above contract was alleged to be artificial volume, and further, the percentage of alleged artificial volume generated by the Noticee in the above contract to the total volume from the market in said contract was 5.73%. Therefore, the Noticee allegedly generated artificial volume in the above contract.

7. The SCN with reference no. SEBI/HO/EAD/EAD-3/BM/DS/OW/2021/29091/1 was served on the Noticee via Speed Post Acknowledgement Due (SPAD) and via digitally signed email dated October 21, 2021. The proof of service is on record.
8. It was observed that Noticee did not submit his reply to the SCN till November 12, 2021. In the interest of natural justice, the Noticee was provided an opportunity of hearing vide hearing notice dated November 12, 2021 via SPAD and digitally signed email. The Noticee was advised to appear before the undersigned on November 17, 2021. However, the Noticee did not appear for the scheduled hearing.
9. Vide mail dated December 01, 2021, Noticee requested for provision and inspection of various documents including copy of investigation report and various internal documents. Noticee was issued another hearing notice dated December 01, 2021 via SPAD and digitally signed e-mail and he was advised to appear before the undersigned on December 08, 2021. In regard to Noticee's request for inspection of documents, the following was communicated to the Noticee vide the same hearing notice.

*"In your reply to the SCN vide letter dated November 30, 2021, you have requested for inspection of certain documents / records etc.*

*In this connection, you are hereby informed that all the information relied upon in the SCN have already been provided to you in the annexures to the said SCN, also mentioned below.*

- a. *Integrated trade log of all reversal trades of Noticee in the stock options segment of BSE during the period April 1, 2014 to September 30, 2015.*
- b. *Summary of all reversal trades.*

- *Further, your attention is drawn to the Hon'ble SAT Order in the matter of Mayrose Capfin Private Limited Vs. SEBI (decided on 30.03.2012) held that: "....the principles of natural justice require that the inquiry officer should make available such document and material to the delinquent on which reliance is being placed in the inquiry. It is not necessary for the inquiry officer to make available all the material that might have been collected during the course of investigation but has not been relied upon for proving charge against the delinquent. No prejudice can, therefore, be said to have been caused to the appellant on this count...."*
- *You may also note that Hon'ble SAT, in its order dated February 12, 2020, in the matter of Shruti Vora vs. SEBI had held that: "Reliance was also made of a decision of the Supreme Court in Union of India and Others vs E. Bashyan (1988) 2 SCC 196 which has no bearing to the controversy involved in the present context, in as much as, the said decision relates to a disciplinary proceedings wherein the Supreme Court observed that the inquiry report was required to be made available to the delinquent. An inquiry report is totally distinct and different from an investigation report. The inquiry report considers all the materials in the inquiry proceedings which form the basis of the final order and therefore the said report is required to be made available to the delinquent. In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied".*  
*"The learned counsel has also placed reliance upon a minority view of this Tribunal in Price Waterhouse vs Securities and Exchange Board of India decided by this Tribunal in Appeal No. 8 of 2011 on June 1, 2011 wherein it was observed that fairness demands that the entire material collected during the course of investigation should be made available for inspection to the person whose conduct was in question and that said material should*

*also be supplied. In our opinion, the said minority view is directly against the decision of the Supreme Court in Natwar Singh case (supra)".*

*"A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon."*

*In view of the above, your request for provision of copy of investigation report and other details does not hold any merit and hence cannot be acceded to."*

10. Vide mail dated December 07, 2021, Noticee confirmed his attendance for the hearing through authorised representative (hereinafter referred to as "AR"). He also mentioned that sufficient time was not given to him to submit reply to the SCN.
11. The personal hearing was conducted on scheduled date and time through video conferencing. During the course of hearing, AR was informed that sufficient time was provided to him to reply to the SCN in the instant matter and that this was the second opportunity of hearing being accorded to him as he failed to appear for the first opportunity provided to him, without prior notice of non-appearance. The AR requested for time till December 10, 2021 to submit reply to the SCN, which was granted by the undersigned. The AR was also informed that it was the final hearing and no further hearing shall be granted in the present matter.

12. Vide mail dated December 10, 2021, the Noticee submitted his reply to the SCN. Contentions made by him have been summarized below:

- *Noticee submitted that there was considerable delay in issuance of notice, and the delay has handicapped the Noticee to defend his case effectively in the absence of documents.*
- *Noticee submitted that the trades were made on the anonymous trading platform of BSE and he could not be aware about the counterparty. He further submitted that some trades were conducted by him through broker, and there is a possibility that the broker might have committed an error in the case of impugned transactions. Hence, the Noticee could not be held responsible for the mistake/ fraud committed by the broker using the account of notice.*
- *Noticee contended that SCN is vague, unclear, baseless and erroneous conclusions have been drawn therein, as Noticee did not undertake multiple transactions and artificial volume contribution was less than 6%, which is miniscule. Further, as all the stock options are settled in cash and there is no physical delivery of shares, it cannot be alleged that the impugned trades have created false and misleading appearance of trading in stock options, and also could not have impacted the prices.*
- *Noticee submitted that he was not related or linked to the counterparty and there is no connection shown in the SCN to establish any linkages.*
- *No evidence has been adduced in the SCN in respect of large scale reversal of trades and copy of investigation report has not been provided.*
- *Noticee submitted that there was no sign of caution/ alarm from BSE or SEBI, at the time of execution of impugned trades.*
- *Noticee also mentioned the mitigating factors to be taken into consideration by the Adjudicating Officer. These were about Reversal*

*Trade Prevention Check introduced by BSE with effect from March 14, 2016, which was not present at the time of execution of impugned trades; introduction of price reasonability check in January, 2016 by BSE; reduction in number of strikes in the Stock Options segment to curb trading in far out of the money contracts.*

- *The Noticee also relied on various case laws, including Hon'ble SAT's judgement in Jagruti Securities vs SEBI[2008 SCC online SAT 184:2008 SAT 184, S.P.J. Stock Brokers Pvt Ltd viz SEBI [2013 SCC On Line SAT 67: [2013] SAT17], HB Stockholding Ltd vs SEBI [2013 SCC On Line SAT 56 : [2013] SAT 44] and judgements of Hon'ble Supreme Court in Government of India vs. Citedal Fine Pharmaceuticals, Madras and Others IAIR 6 (1989) SC 1771 and Bhavnagar University v. palitana Sugar Mil1 (2004)Yo1.12 SCC 670.*

13. Further, Noticee was provided with a copy of extracts of Investigation Report vide mail dated March 28, 2022. Noticee was advised to make additional submissions, if any, on or before April 04, 2022. As no reply was received from the Noticee in this regard, Noticee was sent a reminder mail on April 07, 2022, wherein he was advised to make submissions on or before April 13, 2022. It was observed that no further reply was received from the Noticee even after additional time was granted to the Noticee through reminder mail communication. Hence, it was presumed that Noticee does not have any additional submissions to be made in the captioned matter.

### **CONSIDERATION OF ISSUES AND FINDINGS**

14. I have carefully perused the charges levelled against the Noticee, his 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?

14. 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 1 : Whether the Noticee has violated provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1) & 4(2)(a) of PFUTP Regulations, 2003?***

15. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, he 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 and manipulative.

16. I shall now proceed to deal with the transactions executed by the Noticee in the alleged non-genuine trades.

17. I note from the trade log of the Noticee that he had traded in one contract in the stock options segment of BSE during the IP. It is observed that the Noticee had allegedly executed 2 non-genuine trades in 1 contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of 104000 units in the said contract. 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      | IBRL15APR55.00PEW1 | 0.05               | 52000                           | 1.60                | 52000                            | 100                                                                                          | 18.18                                                                              | 100                                                                                                   | 5.73                                                                                        |

18. It is noted that the Noticee had allegedly executed non-genuine trades in said contract, wherein the percentage of alleged non-genuine trades of the Noticee in stock options contract to total trades in the contract was 18.18% in the aforesaid contract. Further, alleged artificial volume generated by Noticee in the contract amounted to 100% of total volume generated by him in the contract. It is also noted that alleged artificial volume generated by the Noticee contributed 5.73% of the total volume from the market in the said contract.

19. The details of squaring up done by the Noticee in the contract 'IBRL15APR55.00PEW1' are as given below :

| Trade Date | Client Name                  | CP Client Name               | Trade Time | Trade Rate (Rs.) | Traded Quantity | Buy/Sell by the Noticee |
|------------|------------------------------|------------------------------|------------|------------------|-----------------|-------------------------|
| 27/03/2015 | VIMLADEVI SHYAMSUNDER KHETAN | RAJENDRA KUMAR BUBNA HUF     | 10:58:30   | 1.60             | 52000           | Sell                    |
| 27/03/2015 | RAJENDRA KUMAR BUBNA HUF     | VIMLADEVI SHYAMSUNDER KHETAN | 14:48:05   | 0.05             | 52000           | Buy                     |

20. Noticee has contended that besides recording common, generic allegations, SEBI has not made observations on Noticee's specific role in alleged reversal in the SCN. As can be seen from the table, the Noticee on March 27, 2015 at 10:58:30 hrs (Order time of Noticee: 10:52:56 and Counterparty Order time: 10:58:30) entered into 1 sell trade with counterparty viz. Vimladevi Shyamsunder Khetan for 52000 units at the rate of Rs. 1.60 per unit in the contract 'IBRL15APR55.00PEW1'. Thereafter, on the same day, Noticee at 14:48:05 hrs (Order time of Noticee: 14:42:02 and Counterparty Order time: 14:48:05) entered into 1 buy trade with same counterparty for 52000 units at the rate of Rs. 0.50 per unit in the same contract. It is noted that while dealing in the said contract during the IP, the Noticee executed reversal trades with same counterparty viz. Vimladevi Shyamsunder Khetan on the same day, with significant price difference. Thus, the Noticee, through his dealing in the contract viz. 'IBRL15APR55.00PEW1' during the I.P., executed non genuine trades which was 18.18% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 104000 units which was 5.73% of the volume traded in the said contract from the market during the I.P.

21. 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 his counterparties 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 pre-determined price. Since these trades were done in illiquid option contract, 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 pre-determination in the prices by the counterparties while

executing the trades. Thus, it is observed that Noticee had indulged in reversal trades with his counterparty in the stock options segment of BSE and the same were non-genuine trades.

22. Noticee has *inter alia* contended that the instant SCN has been issued after 6 years of the execution of impugned trades, and the delay has handicapped the Noticee to defend his case effectively. In this regard, the Noticee relied on judgements of Hon'ble SAT in *Jagruti Securities vs SEBI* [2008 SCC online SAT 184:2008 SAT 184, S.P.J. Stock Brokers Pvt Ltd viz SEBI [2013 SCC On Line SAT 67: [2013] SAT17]. Firstly, 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 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 Vs 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*".

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

As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on September 23, 2021, SCN was issued on October 20, 2021. In compliance with principles of natural justice, after receipt of reply, an opportunity of personal hearing was scheduled on November 17, 2021 and thereafter on December 08, 2021 and upon conclusion of hearing, reply to the SCN was received on December 10, 2021.

23. Secondly, I note that there are no timelines prescribed in the SEBI Act, 1992 for the purpose of identifying trades as non-genuine. In this regard, I feel it is pertinent to note that, in the matter of SEBI Vs 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.”*

24. Thirdly, SEBI is the apex regulator in the securities market with overarching authority over all market intermediaries and persons trading in the securities market. 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”*

I note that there was no delay the way it has been argued by the Noticee and he has also not specified what prejudice has been caused to him, so the contentions of Noticee in this regard are without merits.

25. Further, in regard to Noticee’s request for copy of investigation report, he was provided with copy of extracts of investigation report vide mail dated March 28, 2022.

26. Noticee also contended that the trades of the Noticee were too miniscule to generate any such misleading appearance because the impugned trades did not induce other investors to trade in the said stock options contracts. I note that the Noticee executed reversal trades which defy market rationality when looked along with attending circumstances in toto. Therefore, Noticee’s trades, irrespective of the quantum of such trades, were manipulative and intended to create misleading appearance of trading, so the contentions of Noticee in this regard are liable to be rejected. I note that the impugned stock option contracts were illiquid, as stated in the SCN, and also that Noticee’s trades in the contract viz. “IBRL15APR55.00PEW1” contributed 5.73% to the total market volume generated during the IP. Noticee’s trades, irrespective of the quantum of such trades, contributed substantially to the volume generated in the contract.

27. Noticee has 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 cleared were genuine. 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 and the Noticee is bound to comply PFUTP Regulations, 2003. Thus, the contentions of the Noticee are not tenable.

28. Noticee has also contended that there was neither any mechanism to deter nor a note of caution by BSE about matching trades with same counterparty on the same day during the IP. I note that instant adjudication proceedings levy the impugned allegations against Noticee, and that absence of any preventive mechanism cannot be a ground to absolve Noticee from his obligation to ensure genuineness of trades executed on exchange platform.

29. Noticee has further contended that he had no knowledge of counterparty to the trades and that he did not engage in any collusion with the counterparty as alleged. He also submitted that trades of Noticee were made on anonymous trading platform of BSE and he could not be aware about the counterparty. In regard to the aforesaid contentions, I note that it is not mere coincidence that the Noticee could match his trades with the same counterparty with whom he had undertaken 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 pre-determined price. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a manner. I note in matters dealing with violation of PFUTP Regulations, 2003, the reason as regards execution of non-genuine trades might not be immediately forthcoming. However, the correct test instead, is one of preponderance of probabilities. 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-“...According to us, knowledge of who the 2<sup>nd</sup> 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...”

30. The Hon'ble Supreme Court further 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.”

The observations made in the aforesaid judgments 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, I am convinced 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 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

31. I note the following from the judgement 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.*

32. I also 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.....”*

33. 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 Hon'ble Supreme Court judgement 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), 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.”*

34. Noticee has contended that the decision of investors was not affected because of reversal trades executed by him. I note that the SCN issued to the Noticee did not allege that on account of the trading of the Noticee in the options, there was adverse impact caused to the third party. Instead the SCN alleged the execution of non-genuine/ reversal trades in the illiquid stock options at BSE, which has already been detailed above. Therefore, I do not find any merit in the contentions of the Noticee in this regard. 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 judgement 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 be direct 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.”*

Therefore, I note that contentions of Noticee in this regard are without merits.

35. Noticee has also contended that volume contributed by reversal trades to the total contract volume was insignificant, and could not be termed manipulative and deceptive. I note that the impugned stock option contract was illiquid, as stated in the SCN, and also that Noticee's trades in said contract contributed 5.73% 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 his impugned trades.

36. 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 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 No 2: Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act, 1992 ?***

37. 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, 2003 and in terms of the judgement of 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 under the provisions of Section 15 HA 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 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?***

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

*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.]*

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, suffered by the investors due to such violations on part of the said Noticee. However, the Noticee has entered into two non-genuine trades which demonstrates the violation of PFUTP Regulations, 2003.

**ORDER**

39. 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:

| <b>Name of the Noticee</b>                    | <b>Violation provisions</b>                                                           | <b>Penalty</b>                              |
|-----------------------------------------------|---------------------------------------------------------------------------------------|---------------------------------------------|
| Rajendra Kumar<br>Bubna HUF<br>PAN:AADHR1660L | Regulations 3(a), (b), (c),<br>(d), 4(1) and 4(2)(a) of<br>PFUTP Regulations,<br>2003 | ₹ 5,00,000/-<br>(Rupees Five Lakhs<br>only) |

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

40. 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](http://www.sebi.gov.in) on the following path, by clicking on the payment link:

**ENFORCEMENT → Orders → Orders of AO → PAY NOW**

41. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to “The Division Chief (Enforcement Department 1 DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.”. The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Noticee
- Name of the case / matter

- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

42. 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.

43. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Rajendra Kumar Bubna HUF and also to the Securities and Exchange Board of India.

**Date: May 18, 2022**

**Place: Mumbai**

**BARNALI MUKHERJEE  
ADJUDICATING OFFICER**