BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/MC/VS/2021-22/15731]

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 –

Milestone Viniyog Private Limited (PAN: AABCB1983H) having address at 3AB, 3rd Floor, Bishnu Residency 193, Netaji Subhash Chandra Bose Road, Kolkata - 700040

In the matter of Illiquid Stock Options at BSE.

BACKGROUND

1. The Securities and Exchange Board of India (hereinafter referred to as "***SEBI***"), conducted an investigation into the trading activity in illiquid Stock Options at Bombay Stock exchange (hereinafter referred to as "**BSE**") for the period between April 1, 2014 to September 30, 2015 (hereinafter referred to as, "**Investigation Period** after observing large scale reversal of trades in Stock Options segment of the BSE.

2. Pursuant to investigation, it was observed that during the investigation period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. The reversal trades involved squaring off transactions, but with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly led to generation of artificial volumes.

3. Milestone Viniyog (P) Ltd. ("**the Noticee**") was one such client whose reversal trades involved squaring off transactions with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly created false and misleading appearance of trading and resulted into generation of artificial volumes, leading to allegations that the Noticee had violated Regulation 3(a),(b),(c),(d) and Regulation 4(1), 4(2)(a) SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter, referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

4. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer (hereinafter referred to as "**AO**") under section 15-I(1) of the SEBI Act read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as the "**Adjudication Rules**") vide order dated June 21, 2021 to inquire into and adjudge under Section 15HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations, 2003, by the Noticee. The appointment of the AO was communicated vide order dated July 27, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice No. EAD5/MC/VV/21007/2021 dated August 25, 2021 (hereinafter be referred to as, the "**SCN**") was issued to the Noticee under Rule 4 of the Adjudication Rules read with section 15I of the SEBI Act, to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticee under Section 15HA of the SEBI Act for the alleged violations of Regulations 3(a), (b), (c), (d) and 4(1), (2)(a) of the PFUTP Regulations.

6. The allegations levelled against the Noticee in the SCN are summarized as below:
   a) The Noticee was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating

artificial volumes in the Stock Options Segment of BSE during the investigation period.

b) The Noticee was alleged to have engaged in 8 such reversal trades in 3 unique contracts, which led to generation of artificial volume of 680000 units. These trades of the Noticee involved three counterparties, Priyanka Singhania, Neha Singhania and Manish Chirania on two different dates i.e. 07/11/2014 and 24/03/2015, at different prices. Details of all the reversal trades of the Noticee in Stock Option Segment of BSE during investigation period were given in Annexure 2 to the SCN.

c) The trades entered into by the Noticee were reversed on the same day with same counterparty at a substantial price difference without any basis for significant change in the contract price which indicates that these trades were artificial and are non- genuine in nature.

d) A summary of dealings of Noticee in 3 Stock Options contract in which Noticee allegedly executed reversal trades during the investigation period, provided in the SCN is reproduced below:

S. No	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	Total vol 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	ANBK14NOV100.00CEW2	2.07	152000	0.05	152000	304000	100	100
2	JISL14NOV95.00CEW2	1.45	68000	0.05	68000	136000	100	100

3	SBIL15MAR270.00CE	7.30	120000	3.00	120000	346250	100	69.31

7. The Noticee had entered into 8 reversal trades on 2 days viz i.e. 07/11/2014 and 24/03/2015 through three contracts with three counterparties. The 8 reversal trades entered into by the Noticee were reversed on the same day with the same counterparty, at a substantial price difference without any basis for significant change in the contract price which indicates that these trades were artificial and non- genuine in nature.

8. Noticee by indulging in execution of aforesaid non-genuine reversal trades, was alleged to have violated Regulation 3(a), (b), (c),(d), 4(1), 4(2)(a) of PFUTP Regulations, which are reproduced as follows:-

*"**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"

9. A time period of 14 days from the date of receipt of the SCN was granted to the Noticee to present its reply to the SCN.

10. Vide e-mail dated 29.09.2021 the Noticee sought made the following submissions:-
    a) The present director was not actively participating as a director on board of the company during the period under investigation by yourselves. Since the other director was his brother, most transactions were dealt by him.
    b) The erstwhile director (for the period investigated) unfortunately died on 1st May 2021, due to Covid-19.
    c) The current director lost his Brother as mentioned above, Mother and Father on 1st of May 2021, death certificates attached, as such was still in a state of mental shock.
    d) Even the present director/s are unable to fathom the reason and or necessity of such breaches as allegedly done by the erstwhile directors.

11. Subsequently, vide Hearing Notice dated 21.10.2021 the Noticee was provided an opportunity of hearing by videoconferencing through WebEx on 23.11.2021.

12. Vide e-mail dated 21.11.2021 the Noticee submitted that –
    a) The directors at the time of the violation were no longer directors of the Company, they had expired due to Covid.
    b) Death certificates of the said directors were submitted
    c) The current directors on the Board of the Company did not intend to violate the law or keep penalties unresolved
    d) However, due to Covid19 pandemic, the business had faced a tremendous setback and hence Noticee requested a minimum 50% waiver of penalty

proposed, with some time to pay the balance 50% and settle the issue amicably

e) The Noticee confirmed its participation in the hearing scheduled on 23.11.2021, and submitted that Director Mr. Mrinal Kanti Paul and Chartered Accountant Mr. Rajesh Agarwal were Authorised Representatives of the Company

13. During the hearing conducted through WebEx on 23.11.21, the Authorised Representatives of the Noticee reiterated the submissions made in reply dated 29.09.2021.

14. In the light of the allegations contained in the SCN, the submissions of the Noticee in respect of the allegations made in the SCN and relevant material available on record, I hereby proceed to decide the case on merits.

CONSIDERATION OF ISSUES AND FINDINGS

15. The issues arising for consideration in the instant proceedings are:-

I. Whether reversal trades in illiquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?

II. If yes, whether Noticee is liable for imposition of monetary penalty under Section 15HA of SEBI Act?

III. If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

ISSUE I Whether reversal trades in illiquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?

16. The allegation that the Noticee carried out reversal trades is directly supported by evidence from the trade log records in Annexure 2 of the SCN. On 07.11.2014 the Noticee was seen to have indulged in 6 reversal trades in two unique contracts, and on 24.03.2015 it carried out 2 reversal trades in one unique contract. To illustrate, in Stock option “ANBK14NOV100.00CEW2”, on 07.11.2014, the Noticee at 10:59:17 hrs entered a buy order for 152000 units of the said contract at a rate of Rs. 2.1 per unit with counterparty viz. Priyanka Singhania, who entered a sell order at 10:57:26 hrs for 4000 units at a rate of Re. 1 per unit. This trade of the Noticee was not synchronised as the time difference between buy and sell orders was more than a minute. Further, buy and sell order rates and quantities did not match. In the second impugned trade, the Noticee once again entered a buy order at 10:59:17 hrs for 152000 units at Rs. 2.1 per unit, whereas the counterparty Priyanka Singhania entered a sell order at 10:57:58 hrs for 148000 units of the same contract at the same rate as the Noticee i.e. Rs. 2.1, thus ensuring that the Noticee was able to buy 152000 units of the said contract. In the second leg of the reversal trade in the said contract, it was seen that at 13:27:02 hrs Priyanka Singhania entered a buy order for 152000 units of the said contract at a rate of Rs. 0.05, which was synchronised with a sell order of the Noticee entered at 13:26:59 hrs, and the buy and sell client’s order rates and quantities were synchronised. Thus, 152000 units in the contract were first bought from and then sold to the same counterparty client by the Noticee, within three hours, at a loss, and at prices which appeared to have varied without any justification.

17. In the second set of reversal trades on the same day, Noticee bought 68000 units in the contract named “JISL14NOV95.00CEW2” from counterparty client Neha Singhania by entering a buy order at 11:08:49 hrs for 68000 units of the said contract at a rate of Rs. 1.45, whereas Neha Singhania entered a sell order at 11:07:16 hrs for 4000 units of the said contract at a rate of Rs. 1.4. At nearly the same time, the Noticee entered another buy order at 11:08:49 hrs for 68000 units of the said contract at a rate of Rs. 1.45, which corresponded with a sell order of Neha Singhania for 64000 units at a rate of Rs. 1.45. At 13:27:40 hrs, the Noticee sold the 68000 units it bought from Neha Singhania back to her, in a

synchronised trade wherein Noticee entered sell order at 13:27:40 hrs at a rate of Rs. 0.05 , which was matched by the counterparty Neha Singhania's buy order entered at 13:27:42 hrs at a rate of Rs. 0.05 for 68000 units.

18. In the third and last reversal trade carried out on 24.03.3015, the Noticee sold 120000 units of the contract "SBIL15MAR270.00CE" through sell order entered at 14:54:58 hrs at a rate of Rs.3 to one Manish Chirania, who entered buy order at 14:54:57 hrs for the same quantity at the same rate. The said sale of units by the Noticee was reversed within one second through a buy order entered by the Noticee at 14:53:14 at a rate of Rs. 7.3 for the same quantity, which was matched in terms of price, rate and quantity by sell order placed by Manish Chirania.

19. The manner of placing buy and sell orders in the trades carried by Noticee were in a synchronized manner, executed within seconds of each other, resulting into reversal of the trades within a short time on the same day, with 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.

20. The price of a particular option contract is the premium price, and for a given strike price, the premium cannot vary widely within minutes without significant movement in the underlying price or in other factors which determine option price. Entering of orders synchronized in terms of rate, quantity and time at unusual prices which had little to do with market movement of the underlying scrip strongly indicate that the orders were entered into consequent to a prior meeting of minds with the counterparty, as ordinary and unrelated counterparties would not have entered orders at such rates. Further, no reasonable justification has been given for the price variation in the option price.

21. I take note of the submission of the Noticee that its present director was not a director at the time of commission of the violation, and that the directors-in-charge at the time of the impugned trades have since passed away. However,

the Noticee in the present SCN is the Company and not its directors. I cannot ignore that a company as a legal entity with perpetual succession and common seal is distinct from its members, shareholders and directors. A Company is a juristic person which can sue and be sued in its own name. The allegations in respect of violations committed by a company do not abate with the death of its members or its directors. The construct of separate personality of a company which originated with the judgment of *Salomon v. Salomon* ([1896] UKHL 1, [1897] AC 22) has been applied repeatedly by the Hon'ble Supreme Court of India as well, in cases such as *Life Insurance Corporation of India v. Escorts Ltd. & Ors.,* (1986) 1 SCC 264 and is trite law. Therefore, in the context of the established legal position, I am unable to accept the contention of the Noticee that the penalty which has accrued to the Company should be waived on account of death of its then directors.

22. The volume contributed by the Noticee through the 8 synchronised and reversal trades in the abovementioned contract made up 89.77% of the total market volume for the three impugned contracts during the investigation period. I note that while synchronized trades may occur by accident in a liquid stock, execution of such synchronized trades in an illiquid market with anonymous trading can only happen if there is prior meeting of minds with a view to execute trades.

23. By engaging in such trades, the Noticee violated provisions of Regulation 4(2)(a) of PFUTP Regulations which states that dealing in securities will be deemed to be a fraudulent and unfair trade practice if it involves "indulging in an act which creates false or misleading appearance of trading in the securities market".

24. I find it relevant to note here that in the matter of *Securities and Exchange Board of India v. Rakhi Trading Private Limited* (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 08, 2018), which was a similar case involving execution of reversal trades in index options, the Hon'ble Supreme Court held that "... *the traders thus having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of PFUTP Regulations*..."

25. In view of the above, I find that the Noticee, by engaging in non-genuine transactions which created a misleading impression of trading in respective contracts, dealt in the stock options contracts in a fraudulent manner in violation of Regulation 3(a) and 4(1) and 4(2)(a) of the PFUTP Regulations, 2003.

ISSUE II If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HA of the SEBI Act?

and

ISSUE III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

26. Since the violation of Regulation 3(a), 4(1) and 4(2)(a) of PFUTP Regulations has been established against the Noticee, as brought out in the foregoing paragraphs, the Noticee is liable for monetary penalty under Section 15HA of SEBI Act which is reproduced as follows:

SEBI Act: 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.*

27. While determining the quantum of penalty under Section 15HA of SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

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.

28. As established above, the trades by the Noticee were non-genuine in nature and created a misleading appearance of trading. Investigation has not shown the amount of profit/loss of the counterparties to the trades as a result of the non-genuine trades. However, considering that the violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trades are such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the two counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, it is not possible from material available on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counterparties or the consequent loss caused to investors as a result of the default.

29. The Noticee has contributed to artificial volumes in 3 contracts on 2 days during the Investigation Period. I note that while the violation was not repetitive in nature, the AO can exercise discretion for determining penalty depending on facts and circumstances of the case, subject to the minimum penalty prescribed by statute.

30. Therefore, taking into account the facts and circumstances of this matter, I am of the view that a penalty of Rs. 5,00,000 (Rupees Five Lakhs only) under Section 15HA of the SEBI Act will be commensurate with the violations committed by the Noticee.

ORDER

31. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 5,00,000/-

(Rupees Five Lakhs only) on Noticee i.e. Milestone Viniyog Private Limited, under Section 15HA of the SEBI Act for violation of Regulation 3 (a), 4(1) and 4(2)(a) of PFUTP Regulations.

32. 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 SEBI website www.sebi.gov.in on the following path, by clicking on the payment link-

ENFORCEMENT ⟶ Orders ⟶ Orders of AO ⟶ PAY NOW

33. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department –Division of Regulatory Action – I of SEBI.

34. The Noticee shall provide the following details while forwarding DD/ payment information:

    a) Name and PAN of the entity (Noticee)
    b) Name of the case / matter
    c) Purpose of Payment –Payment of penalty under AO proceedings
    d) Bank Name and Account Number
    e) Transaction Number

35. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

MANINDER CHEEMA Digitally signed by MANINDER CHEEMA Date: 2022.03.30 16:26:00 +05'30'

DATE: MARCH 30, 2022 **MANINDER CHEEMA**

PLACE: MUMBAI **ADJUDICATING OFFICER**