BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/PM/NS/2022-23/16079

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

In respect of:

Ritika Enclave Pvt. Ltd.

PAN: AADCR6071J

In the matter of *Dealings in Illiquid Stock Options at the BSE*

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, the "***SEBI***") conducted investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter be referred to as, the "***BSE***") for the period April 01, 2014 to September 30, 2015 (hereinafter be referred to as, the "***Investigation Period***") after observing large scale reversal of trades in the Stock Options segment of the BSE.

2. The investigation revealed that during the Investigation Period, a total of 2,91,744 trades comprising 81.40% of all the trades executed in the BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. It was observed that Ritika Enclave Pvt. Ltd., (hereinafter be referred to as, the "***Noticee***") was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price. The aforesaid reversal trades allegedly resulted into generation of artificial volumes, leading to allegations that the Noticee had violated the provisions of Regulation 3(a), (b), (c), (d) and Regulation 4(1), 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter be referred to as, the "***SEBI PFUTP Regulations***").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter be referred to as, the "***SEBI Act***") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter be referred to as, the "***SEBI Adjudication Rules***") *vide* order dated June 21, 2021, to inquire into and adjudge under Section 15HA of the SEBI Act, against the Noticee for the alleged violation of aforesaid provisions of SEBI (PFUTP) Regulations. The appointment of the AO was communicated *vide* order dated July 27, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated October 08, 2021 (hereinafter be referred to as, the "***SCN***") was served upon the Noticee under Rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against it under Section 15HA of the SEBI Act for the alleged violation of the provisions of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of the PFUTP Regulations.

5. The allegations levelled against the Noticee in the SCN are summarized as below:
    a. That 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 Stock Options segment of the BSE during the Investigation Period.
    b. The Noticee engaged in 6 instances in one unique contract which led to generation of artificial volume in these unique contracts.
    c. The trades entered by the Noticee were reversed on the same day with the same counterparties at a substantial price difference without any basis for significant change in the contract price, which indicates that these trades are artificial and are non-genuine in nature.

d. A summary of dealings of the Noticee in one Stock Options contract in which the Noticee executed non-genuine reversal trades during the Investigation Period are as under:

Table 1: Summary of trading of the Noticee in Illiquid Stock Options on BSE

Sl. No.	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (no. of units)	Avg. Sell Rate (₹)	Total Sell Volume (no. of units)	% of Artificial trades of the Noticee in the contract to Total trades in the contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1.	BAJT15MAR2010.00PE	14	52875	1	52875	37.5	22.58

e. By indulging in execution of aforesaid non-genuine reversal trades, the Noticee has violated Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of the SEBI (PFUTP) Regulations, text of which is reproduced as under:

*"**SEBI (Prohibition of Fraudulent and Unfair Trading Practices Related to Securities Markets) 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 thereunder;

(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 or 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;

….."

6. The Noticee vide letter dated December 15, 2021 and email dated January 24, 2022 submitted its reply to the charges alleged in the SCN, which is reproduced as follows:

a) *We totally deny the allegation raised against us in the SCN. We as an Investor/Client used to trade in the stock market both in cash and Derivative segment and have both incurred a loss as well as Profit at times which is evident from our books of accounts.*

b) *At the outset, it is submitted that there is considerable delay in the issuance of notice (08.10.21) and the date of alleged transaction (s) (17.03.2015) i.e., there is a delay of more than six years in the initiation of the proceedings under the SEBI Act r.w. Rules issued thereunder. Due to immense delay, the noticee is not in a position to rebut the allegations effectively in the absence of documentary evidences. The Noticee as a businessman is required to preserve the documents relating to the financial transactions for three years only as provided in section 149 of the Income tax Act, 1961. In the circumstances, the Noticee is handicapped to defend his case effectively in the absence of documents and is constrained to submit his rebuttals on the basis of the facts stated in the SCN.*

c) *We had taken this trade from the trading terminals having online mechanism on the anonymous trading platform of the Stock Exchange and by no stretch of imagination we would be aware about the counterparty. Further, we understand that we look at the trend in the market, orders available in the system, etc., and enter orders in the electronic trading platform of the stock exchange and no wrong can be attributed to us to warrant any kind of violation. The Noticee humbly submits that he, on few occasions, has undertaken certain stock market transactions through a registered broker of a recognized stock exchange but has not indulged ever into any fraudulent and/or unfair trade practices pertaining to stock market transactions and / or otherwise. It is submitted that the modus operandi adopted by the Noticee while trading in stocks is by way of placing orders telephonically to the stock broker and not through punching of saudas directly in the terminal. Therefore, there is a possibility that the broker might have committed an error as far as the transaction in question is concerned. Further, the noticee cannot be held responsible for the mistake/fraud committed by the broker using the account of the noticee, if any.*

d) *We executed trades independently based on commercial wisdom in ordinary course of business and no adverse inference should be drawn of the above. Amount received from stock market operations has always been used in the ordinary course of business and no adverse vide can be taken of the same.*

e) *No justification has been provided for selection of certain investigation period; we have traded in around total 1 Contract for 52875 units were executed in the said contract wherein we were party to 6 of the said trades during investigation to warrant any kind of creation of artificial volume. It is submitted that the Notice's six trade out of 2.92 lakh appx trades are a drop in the ocean. In the absence of multiple transactions and / or voluminous transactions, inference of fraud and / or undue trade practices cannot be drawn. SCN is vague, unclear, baseless and erroneous conclusions have been drawn.*

f) *We had traded in stock options on anonymous and electronic trading platform of stock exchange which is provided by stock exchange and approved by SEBI. We are not aware about any nuances of order matching mechanism. Orders have matched on price time priority basis, hence, allegation that our trades matched with same entity by design and not as per the trading mechanism is illogical, arbitrary and goes against the principles on which electronic trading was Started.*

g) *All the trades in the stock options were settled in cash through the stock exchange mechanism. Unlike the Cash segment, there is no physical delivery of shares. Therefore, the alleged trading in the stock options cannot be alleged to have created any false or misleading appearance of trading in stock options.*

h) *It may be noted that we are not related or connected in any manner whatsoever to the alleged counter party. We do not have any link/ nexus/ relationship/ connection / dealing / collusion/ arrangement or agreement with the counter party. Even there is nothing in the Notice, to even remotely connect us to the alleged counter parties to our trades. Same completely destroys the allegation of execution of reversal trades.*

i) *No alert / warning / caution, etc of any sort was issued by BSE / SEBI at the time of carrying out of such trades despite BSE and SEBI having state of the art surveillance system.*

j) *No nexus with counterparty is shown, hence, criteria to issue SCN is arbitrary, subjective, illogical, etc and in violation of natural justice.*

k) *It is well settled that in order to establish the allegation of reversal trades nexus between the parties has to be brought on record. Unless some connection between the parties is established, it cannot be alleged that the alleged reversal trades were carried out with a view to generate artificial volume in the market.*

l) *No evidence has been adduced in the SCN regarding large scale reversal of trades and our trading leading to creation of artificial volume and wrong doing.*

m) *We have not been provided with copy of investigation report which is in gross violation of natural justice, equity and fair play.*

n) *Electronic trading system do not allow the transacting parties to know their counter party, and we never knew that our trades are in nature of reversal trades before receiving the SCN and scrutinising the annexures thereto. SCN do not providence that we are related to counterparties.*

o) *Our trades have all traits of being genuine and therefore cannot be categorized as non-genuine. Trades were executed on anonymous platform, without any knowledge of counterparty, at price ranges that were permitted by the exchange and SEBI and the obligations arising out of it have been settled through the clearing mechanism of the exchange.*

p) *Without prejudice to the aforesaid, following mitigating factors be also taken into consideration: -*

a) *Introduction of Reversal Trade Prevention Check ("RTPC") for the Stock Options segment of BSE with effect from March 14, 2016. In this measure, the second leg (latest leg) of a reversal trade is automatically cancelled by the Exchange at the time of order matching in an on-line real time manner in the trading system."*

b) *Introduction of Price Reasonability Check ("PRC") functionality in the Stock Options segment of BSE in January 2016.*

c) *Discontinuation of weekly stock options contracts with effect from March 03, 2016 as it was observed that the contracts that were used by the entities for exchanging their positions were mostly weekly contracts.*

d) *Reduction in number of strikes in the Stock Options segment to curb trading in far Out of The Money contracts. It is only now after the Impugned Trades BSE had taken steps to prevent occurrences of reversal/non-genuine on its exchange platform. Currently, as a result of systemic changes introduced by BSE, occurrence of such reversal / non-genuine has become a thing of the past. Thus, the impugned trades which are inter alia off shoot of systemic default, are no longer possible in light of systemic changes made by BSE in its systems*

q) *It is submitted that in the facts of the case no penalty under Section 15HA of the SEBI Act is warranted. Further, while considering our submissions, following factors be taken into consideration:*

(a) That the price in the options segment has not impacted or influenced the price of the scrips in the Cash Segment;
(b) That all the impugned trades were executed through the stock exchange and settled in cash through its mechanism, therefore the impugned trades cannot be said to be artificial trades creating a misleading appearance of trading;

(c) That there is no evidence to allege that there was market manipulation;
(d) That the alleged violations, if any, are not deliberate and intentional and in contumacious disregard of provisions of law;
(e) That the alleged violations have not caused any loss to any investor and have also not adversely affected the investors or the securities market in any manner. Further, it may be noted that there are no investor complaints in this regard;
(f) That as result of alleged violations we have not made any unfair gain

r) We deny that it was part of any scheme, plan, device, artifice employed in any case and further deny that it committed a fraud on the securities market.

s) We further claim that alleged trades by it have not caused any loss to any investor and has also not adversely affected any market participant or the securities market in any manner. No gain or unfair advantage was undertaken, alleged violation is not repetitive hence, present case does not warrant imposition of penalty."

t) Thus in view of the facts stated, arguments advanced and authorities cited, it is humbly prayed that the present proceedings be quashed since no primary violation of any PFUTP Regulations is made out against the Noticee and the genuineness of the trades has also been explained. Therefore, the question of holding an inquiry against the Noticee in terms of Rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 and imposing penalty for the alleged violation does not arise.

7. After considering the facts and circumstances of the case, the undersigned granted an opportunity of personal hearing to the Noticee on December 14, 2021 *vide* Notice of Hearing dated December 07, 2021. In view of the prevailing circumstances owing to Covid-19 pandemic, the hearing was scheduled through video conferencing on Webex platform. On the scheduled date of hearing, the Authorized Representative of the Noticee appeared before me through video conference and reiterated the submissions made vide letter dated October 16, 2021 and sought time till December 20, 2021 to make additional submissions which was acceded to. Further noticee has submitted his additional reply vide letter dated January 24, 2022.

CONSIDERATION OF ISSUES AND FINDINGS

8. The issues that arise for consideration in the instant matter are:

Issue No. I Whether the trading in illiquid Stock Options done by the Noticee during the Investigation Period were in violation of Regulations 3(a), (b), (c), (d) and 4(1) & 4(2)(a) of the PFUTP Regulations?

Issue No. II If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act?

Issue No. 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 SEBI Adjudication Rules?

9. As stated in preceding paragraphs, the position/trades entered into by the Noticee were squared up within a short span. The striking feature of the trades of the Noticee was that all the positions/trades were squared with the same counterparty with whom Noticee had originally traded/created position. The squaring up of the position/trade was at the substantial variation of price from the original position/trade. Thus, it was alleged that the Noticee had indulged in reversal trades. The said allegation was supported with evidence from the trade log containing records of all trades and reversal trades carried out by the Noticee in the Stock Options segment of the BSE during the Investigation Period and was also provided to the Noticee along with the SCN. On perusal of the details of trades carried out by the Noticee, it is observed that the Noticee took positions and then squared it up in six instances in one unique option contract during the Investigation Period.

10. To illustrate, on March 17, 2015, the Noticee sold in the aforesaid contract of (a) 17625 units at 12:35:48 (Buy order placed at 12:35:46; Sell Order placed at 12:35:46) to Anup Kumar Ganeriwal HUF, (b) 17625 units at 12:35:47 (Buy order placed at 12:35:47; Sell Order placed at 12:35:46) to Trishla Devi Jain, (c) 17625 units at 12:35:46 (Buy order placed at 12:35:46; Sell Order placed at 12:35:46) to Shiw Mohan Jaiswal at an average price of ₹1. On the same day

the Noticee reversed his position by buying 52875 units to the same counterparties at an average price of ₹14.Thus, the position of the Noticee was squared up at an average difference of ₹13. The entire volume of 105750 units in the said option contract was arising out of the trades done by the Noticee.

11. Before moving forward, I note that Noticee have raised the preliminary issue with regard to delay in issue of show cause notice, while the alleged trades were executed more than six years ago from the date of issuance of show cause notice. In this regard, 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". complying with the directions of Hon'ble SAT, SEBI came out with a Settlement Scheme (hereinafter referred to as "Scheme") in terms of Regulation 26 of SEBI (Settlement Proceedings) Regulations 2018 in the concerned matter, wherein one-time opportunities were provided to the entities including the Noticee against whom adjudication proceedings were approved for trading in illiquid stock options. vide public notice dated July 27, 2020 SEBI informed about launching of the aforesaid Scheme and the modalities for availing the benefit of the Scheme. The public notice was also made available on the website of the BSE. In addition to the same, all the entities including the Noticee were intimated through email and letters. In terms of the scheme, any entity desirous of availing the benefit of the scheme could avail the same by filling up the

respective requisite details and paying the applicable settlement amount through the online platform made available on SEBI's website. However, the Noticee has not availed the aforesaid scheme of SEBI. As can be seen from the aforesaid facts, pursuant to appointment of Adjudicating officer on July 27, 2021. SCN was issued on October 08, 2021. In compliance with principles of natural justice, after receipt of reply, personal hearing was scheduled on December 14, 2021 and upon conclusion of hearing, time given till December 20, 2021 to make any additional submissions. In view of the same I am unable to accept this submission of noticee in relation to delay.

12. I also note that there are no timelines prescribed in the SEBI Act, 1992 for the purpose of identifying trades as non-genuine and for initiating the adjudication proceedings thereof. In this context I find it relevant to refer to the order passed by Hon'ble SAT in the case of Metex Marketing Pvt. Ltd. vs. SEBI (order dated June 4, 2019) wherein Hon'ble SAT held that: "This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating proceedings for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation."

13. Further it is relevant to refer to the order passed by Hon'ble SAT in the case of Hemant Sheth & Ors vs. SEBI (Appeal No. 521 of 2021, DoD: 07.01.2022) held that:

"….. Insofar as the delay is concerned, we find that after the observation made by the WTM in its order of May 10, 2013 SEBI took action and appointed the AO dated July 4, 2013. No doubt the show cause notice was issued in January 2016 but the delay in the issuance of the show cause notice in the instant case will not vitiate the proceedings initiated against the appellants in the peculiar facts and circumstances of the case. Consequently, we are not inclined to quash the proceedings only on the ground of inordinate delay as asserted by the learned counsel for the appellant."

14. I note that noticee in its reply contended about non supply of investigation report pursuant to which notice was issued. In this regard it is stated that all documents, records which have been relied upon i.e. integrated trade log of noticee, summary of reversal trades have already been issued along with show cause notice.

15. Here I would like to place reliance on in the recent ruling of Hon'ble SAT in the case of Shruti Vora Vs. Securities and Exchange Board of India, in Appeal Number 28 of 2020 decided on February 12, 2020 held that "…*The contention that the appellant is entitled for copies of all the documents in possession of the AO which has not been relied upon at the preliminary stage when the AO has not formed any opinion as to whether any inquiry at all is required to he held cannot be accepted. 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*…"

16. Also, Hon'ble SAT in its aforesaid order dated February 12, 2020 held that "….In the instant case, the show cause notice relies upon certain documents which have been made available. I am, therefore, of the view that since the copies of the relevant and relied upon material which is the trade log containing the trades of the Noticee were given to him along with the SCN, no prejudice is caused to the Noticee on this account. I, therefore, do not find any merit in the contentions of the Noticee.

17. Coming to merits of the case, from the reply of the Noticee, I note that the Noticee has not disputed execution and subsequent reversal of trades as alleged in the SCN. However, the Noticee, in its reply, has contended that the transactions were carried out by it at an anonymous platform provided by the BSE, without any knowledge of counterparty, at price ranges that were

permitted by the exchange and SEBI and the obligations arising out of it have been settled through the clearing mechanism of the exchange. I have considered the aforementioned contentions of the Noticee. In this regard, it may be noted that the Noticee was given details of its trades in the BSE options segment and the details of the trades, which are alleged to be reversed and manipulative. Further, I find it relevant to refer to the decision of the Hon'ble Supreme Court in the matter of ***Securities and Exchange Board of India*** v. ***Kishore R. Ajmera*** [(2016) 6 SCC 368: AIR 2016 SC 1079] wherein, the Supreme Court has held, "*…According to us, knowledge of who the 2nd 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 conclusions on the said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming.* The *test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned….*"

18. The Hon'ble Supreme Court, has further 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 gathered from various circumstances like that volume of trade effected; the period of persistence in trading in a particular scrip; the particulars of buy and sell orders, namely the volume thereof; the proximity of time between the two and such relevant factors…*".Placing reliance of the observation of the Hon'ble Supreme Court in the aforementioned matter, I cannot accept the submission of the Noticee that transactions were genuine on account of them being carried out on an anonymous platform of the exchange wherein, the Noticee had no knowledge of the counterparty. The manner of placement of the orders in both legs signify that the orders were entered in a premeditated manner and were not genuine in any manner.

19. At this juncture, I also find it relevant to refer to the decision of the Supreme Court 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 dated February 08, 2018) wherein, the Hon'ble Supreme Court while cumulatively analyzing the reversal transactions 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"* The Court further stated that *"……quantity, time and significant variation of prices, without major variation in the underlying price of the securities clearly indicate that Respondent's trades are not genuine and hand only misleading appearance of trading in the securities market…..*".

20. Applying the ratio of the Supreme Court in the matter of ***Kishore R. Ajmera*** (*supra*) and ***Rakhi Trading*** (*supra*), I am of the view that execution of trades in an illiquid market with such precision in order placement indicates a prior meeting of mind with a view to execute the reversal trades at a pre-determined price. The Noticee has failed in explaining the rationale for the trading as mentioned in Table 1 wherein it has taken a position at a particular price and squared it up at significant price difference without any substantial variation in the price of underlying. Since, the option contracts were done in illiquid contracts (as the strike price was far away from the market price of underlying), there was no trading in the said contract and hence no price discovery. The only reason for the wide variation in prices of the same contract, within minutes and some, even seconds, was pre-determination in the prices by both counterparties 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 to carry out trades at pre-determined prices. It is not possible to comprehend the reason for which the Noticee would enter into an option contract with a strike price very far away from the current market price

of the underlying except for the fact that it wanted to execute non-genuine trades.

21. I further note that the Supreme Court in the matter of ***Rakhi Trading*** (*supra*), has held that, "*Regulation 2(1)(c) defines fraud. Under Regulation 2(1)(c)(2) a suggestion as to a fact which is not true while he does not believe it to be true is fraud. Under Regulation 2(1)(c)(7), a deceptive behaviour of one depriving another of informed consent or full participation is fraud. And Under Regulation 2(1)(c)(8), a false statement without any reasonable ground for believing it to be true is also fraud. In a reverse dealing in securities, with predetermined arrangement to book loss or gain between pre-arranged parties, all these vices are attracted."* I am of the considered view that the scheme, plan, device and artifice employed by the Noticee in this case of executing reversal trades in illiquid stock options contracts at irrational, unrealistic and unreasonable prices, tantamount to fraud on the securities market in as much as it involves non-genuine/ manipulative transactions in securities and misuse of the securities market. The non-genuine and deceptive transactions of the Noticee are, prima-facie, covered under the definition of 'fraud' and the dealings of the Noticee as discussed herein above were "fraudulent", as defined under regulation 2(1)(c) of the SEBI (PFUTP) Regulations, 2003 and prohibited under the provisions of Regulations 3(a), (b), (c) and (d) and 4(1) and 4(2)(a) SEBI (PFUTP) Regulations, thereof.

22. The Noticee contended that he executed trades by way of placing orders telephonically to the stock broker and not through punching of saudas directly in the terminal. In this regard I note that Noticee has not disputed executing the impugned trades, which generated artificial volume as demonstrated by the trade log, that sufficiently proves the charges made in the SCN as regards the violation of PFUTP Regulations, 2003. I note that impugned trades were carried out from the noticee's PAN link trading account, therefore the obligation to ensure genuineness of trades primarily lies on the Noticee. Thus, the Noticee's contentions do not establish any denial of the charges made in the SCN.

23. Noticee has inter alia contended that there was no nexus between Noticee and the counterparties. In this regard, Noticee relied upon judgement of Hon'ble

SAT in the matters of Jagruti Securities vs SEBI, Nishith M. Shah HUF v. SEBI, Labhu Gohil vs Securities and Exchange Board of India and Ramod Kumar Agrawal (HUF) vs Adjudicating Officer [2009] 95 SCL 274, Subhkam Securities Private Limited vs Securities and Exchange Board of India (Appeal No. 73 of 2012 decided on July 25, 2012) and Dhvani Darshan Kothari & Anr. vs Securities and Exchange Board of India. I note 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 Hon'ble SAT order dated July 14, 2006, in the case 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."*

24. Noticee further contended that no alert, warning, caution etc of any sort was issued by BSE at the time of carrying out of such trades despite Reversal Trade Prevention Check ("RTPC") and Price Reasonability Check ("PRC") functionality introduced in the Stock Options segment of BSE in 2016. In this regard, I note that since noticee had executed the trades, therefore Noticee was obligated to ensure genuineness of the trades executed by him on the exchange platform. The aforesaid obligation was mandatory not withstanding any warning or list of illiquid contracts issued by BSE.

25. Noticee has contended that its trades created only miniscule volume which comprised low percentage of total market volume and were not sufficient to contribute artificial volume to the market. I note that Noticee's trades in the impugned contract contributed 22.58% to the total market volume generated during the IP in said contract. Noticee's trades contributed entirely to the volume

generate in the said contract, which indicates that the impugned contract was thinly traded and that Noticee contributed entirely to artificial volume in such contract during the IP

26. Considering the synchronized manner of placing buy and sell orders within seconds of each other, reversing of the trades within a short span of time with widely varying prices of the two legs of trade in the same contract without any basis for such wide variation, I find that the reversal trades executed by the Noticee were *non-genuine* in nature and created an impression of genuine trading volumes in respective contracts. I am of the view that by engaging in such trades, the Noticee has violated provisions of Regulation 4(2)(a) of the PFUTP Regulations, which states that dealing in securities will be deemed to be a fraudulent or unfair trade practice if it involves "*indulging in an act which creates false or misleading appearance of trading in the securities market*".

27. I once again find it relevant to place reliance on the decision of the Supreme Court in ***Rakhi Trading*** (*supra*) wherein, the Supreme Court while decision upon a case involving execution of reversal trades in index options, observed, "*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 the PFUTP Regulations*."

28. Noticee has prayed that a lenient view be taken in the present matter. In this regard, Noticee has placed reliance on Hon'ble Supreme Court in the matter of Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Pabari, AO Order dated 26th February, 2021 in the matter of Octant Interactive Technologies Limited, AO Order dated 29th March, 2019, in the matter of Sangam Advisors Ltd. I note that Hon'ble SAT in the matter of Radha Malani vs SEBI (Appeal No. 698 of 2021) vide Order dated November 24, 2021 has upheld the Adjudication Order dated September 06, 2021 wherein the case facts involved one reversal trade in one contract. Thus, I find no merit in the above contention of the Noticee. Further, I note from the facts of the instant case that the Noticee has indulged in multiple reversal trades in a single contract.

29. In view of the aforesaid findings, I find that the Noticee, by engaging in such non-genuine transactions, created a misleading impression of trading in respective contracts while dealing in Stock Options contracts in a fraudulent manner I am of the considered view that the aforesaid act of the Noticee is in clear violation of Regulation 3(a), (b), (c), (d), 4(1) and 4(2) (a) of the SEBI (PFUTP) Regulations.

30. It is pertinent to refer to the decision of the Apex Court in the matter of ***SEBI vs Shri Ram Mutual Fund*** (Appeal Civil 9523-9524 of 2003) dated May 23, 2006, wherein it 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 therefore, the intention of the parties committing such violation becomes immaterial".*

Issue No. II **If yes, whether the violation, on the part of the Noticee would attract monetary penalty under Section 15HA of the SEBI Act?**

&

Issue No. 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?**

31. Since violation of Regulation 3(a), (b), (c), (d), 4(1) and 4(2) (a) of the SEBI (PFUTP) Regulations by the Noticee is established, I am of the view that the same warrants imposition of monetary penalty upon the Noticee under Section 15HA of the SEBI Act, text of which is produced as under :

> ***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."

32. While determining the quantum of penalty under Section 15HA of the 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.

33. As established in the preceding paragraphs, the trades carried out by the Noticee were non-genuine in nature and created a misleading appearance of trading. As brought out earlier, such trades were carried out by the Noticee in illiquid stock options contracts where there was negligible participation by the public. Investigation has shown amount of profit / loss of the counterparties to the trades as a result of such non-genuine trades.it is not possible from the 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.

ORDER

34. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹5,00,000/- (Rupees Five Lakhs only) upon the Noticee i.e. Ritika Enclave Pvt. Ltd, under Section 15HA of the SEBI Act for violation of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the SEBI (PFUTP) Regulations.

35. The said penalty imposed on the Noticee, as mentioned above, is commensurate with the violation committed by the Noticee and acts as a deterrent factor for the Noticee and others in protecting the interest of investors.

36. The Noticee shall remit / pay the said amount of penalty within 45 days from the date 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

37. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, SEBI, in the format as given in table below:

Case Name	
Name of Payee	
Date of payment	
Amount Paid	
Transaction No	
Bank Details in which payment is made	
Payment is made for	Penalty

38. Copies of this Adjudication Order are being sent to the Noticee and to SEBI in terms of Rule 6 of the SEBI Adjudication Rules.

Date: April 21, 2022
Place: Mumbai

PRASANTA MAHAPATRA
ADJUDICATING OFFICER