BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO.: Order/AT/DG/2022-23/15824]

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

In respect of:

BANWARI LAL ARORA HUF [PAN: AAAHB9543D]
504 KRISHNA TOWERS CIVIL LINES,
KANPUR UTTAR PRADESH INDIA 208001

In the matter of dealings in Illiquid Stock Options at the Bombay Stock Exchange

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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 "**Investigation Period**").

2. Pursuant to investigation, it was observed that a total of 2,91,744 trades comprising a substantial 81.41% of all the trades executed in stock options segment of BSE during the Investigation Period were non-genuine trades. It was observed that **Banwari Lal Arora HUF** (hereinafter, referred to as "**Noticee**"), bearing PAN – AAAHB9543D was one among the various entities who indulged in execution of reversal trades in stock options segment of BSE during the Investigation Period.

3. Such trades were observed to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore were alleged to be manipulative, deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for 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

4. The undersigned was appointed as the Adjudicating Officer in the matter, conveyed vide communique dated July 06, 2021, under Section 19 read with Section 15 I(1) of the Securities and Exchange Board of India 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

Sections 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

5. A Show Cause Notice bearing reference no. SEBI/HO/IID/AT/DS/2021/22088/1 dated September 02, 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 the Noticee and why penalty should not be imposed on the Noticee under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

6. It was, *inter-alia*, alleged in the SCN that the Noticee had executed two non-genuine trades in one stock option contract which resulted in artificial volume of total 50,000 units. The summary of dealings of the Noticee in the Stock Option contract, in which the Noticee allegedly executed trades that were not genuine during the Investigation Period is as follows:

Contract Name	**Avg. Buy Rate (Rs.)**	**Total Buy Volume (no. of units)**	**Avg. Sell Rate (Rs.)**	**Total Sell Volume (no. of units)**	**% 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**
DRRL15APR3300.00CE	160	25000	180.5	25000	100%	36.23%

7. From the above *table*, the following is noted as regard to the dealings of the Noticee:
    a. The Noticee had executed two trades in one unique contract, wherein all the trades of Noticee in the said contract were reversed with the same counterparty on the same day.
    b. The trades executed by the Noticee in the above contract had noticeable difference in the buy and sell rates considering that the trades were reversed on same day within eighteen seconds.
    c. The entire volume (50,000 units) generated by the Noticee in the above contract was artificial volume, and further, the artificial volume generated by the Noticee also contributed to 36.23% of total market volume (1,38,000) in the said contract during this period.

8. The SCN dated September 02, 2021 was served on the Noticee via Speed Post Acknowledgement Due (SPAD) to the aforementioned address. However, the SPAD returned undelivered. Therefore, SEBI Lucknow Local Office (LLO) was requested to serve the SCN via hand delivery/ affixture. However, SEBI LLO informed the undersigned vide email dated April 08, 2022 that the SCN could not be served via hand delivery/affixture. Thereafter, SCN was served on the Noticee vide newspaper publication dated March 23, 2022, in due compliance with Rule 7 of the Adjudication Rules, 1995. Further, vide the aforesaid publication dated March 23, 2022, the Noticee was also granted an opportunity of personal hearing on April 04, 2022. However, the

Noticee has neither submitted any response to the SCN nor availed the opportunity of personal hearing granted to him.

9. Considering the above, I am of the view that principles of natural justice have been duly complied with, as SCN and hearing Notice were duly served upon the Noticee and sufficient opportunity was also granted to the Noticee to reply to the SCN and appear for hearing.

10. It is observed that the Noticee has neither filed any reply to the SCN nor has availed the opportunity of personal hearing despite service of notices upon it. In the facts and circumstances of this case, I am of the view that the Noticee has nothing to submit and in terms of Rule 4(7) of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995. The matter can be proceeded *ex-parte* on the basis of material available on record.

11. In this regard, it is pertinent to note that the Hon'ble Securities Appellate Tribunal (SAT) in the matter of **Classic Credit Ltd. vs. SEBI** (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, observed that, *"......the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them"*.

12. Further, the Hon'ble SAT in the matter of **Sanjay Kumar Tayal & Others vs. SEBI** (Appeal No. 68 of 2013 decided on February 11, 2014), has also, inter alia, observed that: *"........... appellants have neither filed reply to show cause notices issued to them*

nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."

13. Additionally, the same position reiterated by the Hon'ble SAT in the matter of **Dave Harihar Kirtibhai vs SEBI** (Appeal No. 181 of 214 dated December 19, 2014), wherein the Hon'ble SAT observed as under:

    "...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal..."

14. In view of the absence of response of the Noticee to the SCN and Hearing Notice and the above observations made by the Hon'ble SAT, I find no reason to take a different view and accordingly, I deem it appropriate to proceed against the Noticee ex parte, based on the material available on record.

15. While deciding the case, I also cannot lose sight of settled position of law that the charge should be established with valid reasons and in accordance with law. I, therefore, deem it necessary to examine the charge based upon the trades of the Noticee and the supporting material as provided in the SCN.

CONSIDERATION OF ISSUES AND FINDINGS

16. I have perused the charges levelled against the Noticee 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?*

17. 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 manipulative, fraudulent or an unfair trade practice in securities markets.

(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) Knowingly indulging in an act which creates false or misleading appearance of trading in the securities market;"

18. The allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation Period, the Noticee had executed reversal trades in the same contract on the same day with the same counterparty within eighteen seconds, which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in the stock option contract at BSE. Reversal trades are those trades

in which an entity places its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day.

These reversal trades are alleged to be non-genuine trades as they:

- 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.

19. I note from the trade log of the Noticee that the Noticee had executed two non-genuine trades in one unique contract in the stock options segment of BSE during the Investigation Period which resulted in the creation of artificial volume of a total of 50,000 units in the said contract. A summary of the non-genuine trades of the Noticee executed on March 27, 2015 in the said contract is as follows:

Buy Client Name	Sell Client Name	Buy Order Time	Sell Order Time	Trade Time	Buy Order Rate	Sell Order Rate	Trade Rate	Buy Order Qty	Sell Order Qty	Traded Qty
Santosh Infratech Private Limited	Banwari Lal Arora HUF	15:11:11.72	15:11:10.95	15:11:11.72	180.5	180.5	180.5	25000	25000	25000
Banwari Lal Arora HUF	Santosh Infratech Private Limited	15:11:29.77	15:11:29.52	15:11:29.77	160	160	160	25000	25000	25000

20. I note from the trade log that the orders by the Noticee and the counter-party were placed within a gap of less than one second, both for the buy and sell trades. Further, the trade executed by the Noticee in the contract was squared up within a short time span of 18 seconds with the same counter-party. To illustrate, the Noticee, at 15:11:11.72 hours on March 27, 2015, entered into a sell trade with the counterparty, viz., Santosh Infratech Private Limited, for 25,000 units at Rs. 180.50 per unit which was reversed with a buy trade on the same day at 15:11:29.77 hours (within eighteen

seconds of the sell trade) for 25,000 units at Rs. 160 per unit, with the same counterparty. Thus, while dealing in the said contract during the Investigation Period, the Noticee executed the reversal trade with same counterparty on the same day with noticeable price difference in buy and sell price which indicates that these trades were non-genuine in nature.

21. Thus, the Noticee, through his dealing in the said contract, viz., “DRRL15APR3300.00CE” executed non-genuine trades in the said contract during the Investigation Period, and thereby generated an artificial volume of 50,000 units, which made up 36.23% of total market volume (1,38,000 units) in the said contract during this period.

22. The fact that the transactions executed by the Noticee are not genuine is evident from the trade log of the Noticee which reveals that the trades executed by the Noticee in the above contract had a noticeable difference in the buy rate and sell rate, considering that the trades were reversed with the same counterparty in a matter of just eighteen seconds. Such a short span of time taken for reversing the trades in an illiquid stock option contract and the wide variation in prices of the said contract makes it evident that these trades executed by the Noticee were not genuine and indicates a prior meeting of minds with a *mala fide* intent to execute the reversal trades at a pre-determined price.

23. Further, I observe that it cannot only be a coincidence that in both the buy trade and the sell trade, the time gap between the orders of the Noticee and the counter-party was less than one second and the Noticee could also match his reversal trades with the same counterparty with whom he had undertaken the first leg of the respective trade. This is but an outcome of a meeting of minds and a deliberate attempt to deal in such a fashion.

24. In this context, I place reliance on the judgment of Hon'ble Supreme Court in the matter in respect of **SEBI vs. Rakhi Trading Private Limited** (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble Supreme Court 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….."*

25. Further, the Hon'ble SAT, in its judgement dated September 14, 2020 in the matter of **Global Earth Properties and Developers Pvt. Ltd**. relied upon the aforesaid judgement of Hon'ble Supreme Court 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."

26. I note that while direct evidence may not be forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entity, there is guidance from the aforesaid Order of the Hon'ble Supreme Court where it lays emphasis on the 'preponderance of probabilities' in each case to arrive at a decision considering the following:

    - the isolated trade and reversal in the same option contract,
    - the same counter party being involved in both the trades,
    - the gap between the trade and the reversal being just a few seconds and
    - the noticeable difference in the buy and sell rate within same day.

    I cannot but conclude that the trades have been executed with an ulterior motive to create artificial volume and are not genuine.

27. Considering the aforesaid factors, I conclude that the trading behaviour of the Noticee has resulted in creating an appearance of artificial trading volume in the contract. 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.

28. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of Section 15HA of the SEBI Act, 1992 which reads as under:

"Penalty for fraudulent and unfair trade practices.

***15HA**. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."*

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

"Factors to be taken into account by the adjudicating officer.

***15J.** While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and *(c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."*

30. 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 had entered into non-genuine trades, which created a false and misleading appearance of trading volumes in the respective contract at pre-meditated prices, thereby leading to violation of Regulations 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

ORDER

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

Name of the Noticee	Provisions violated	Penalty
Banwari Lal Arora HUF **(PAN – AAAHB9543D)**	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	Rs. 5,00,000/- (Rupees Five Lakh only)

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

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 website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT → Orders → Orders of AO → PAY NOW.

33. The Noticee shall forward the aforesaid Demand Draft / payment confirmation details to the Division Chief, Enforcement Department (EFD), Division of Regulatory Action - VI [EFD-DRA-6] SEBI Bhavan-II, Plot No.C7-A,' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 and also send an email to tad@sebi.gov.in with the following detail:

1. Case Name:	
2. Name of Payee/ Noticee:	
3. Date of payment:	
4. Amount Paid:	
5.Transaction No:	
6. Bank Details in which payment is made:	
7. Payment is made for: (like penalties /disgorgement/recovery/Settlement amount and legal charges along with order details)	

34. 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.

35. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this Order is being sent to the Noticee and also to the Securities and Exchange Board of India.

APARNA THYAGARAJAN Digitally signed by APARNA THYAGARAJAN Date: 2022.04.08 14:52:47 +05'30'

Date: April 08, 2022 **APARNA THYAGARAJAN**

Place: Mumbai **ADJUDICATING OFFICER**