BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OFINDIA

ADJUDICATION ORDER NO. EAD-7/BJD/NJMR/2018-19/2150

UNDER SECTION15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT,1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES,1995

In respect of

Poonam Drums and Containers Private Ltd.,
(PAN: AACP0477D)
206, 2nd Floor
Damji Shamji Industrial Complex
9, LBS Marg, Kurla (West)
Mumbai – 400070.

In the matter of Illiquid Stock Options at BSE

BACKGROUND

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") leading to creation of artificial volume. Accordingly, SEBI conducted an investigation into the trading activities of certain entities in Illiquid Stock Options at BSE (hereinafter, referred to as "investigation") for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as "Investigation Period").

2. It was observed that during the investigation period, total 2,91,643 trades comprising substantial 81.38% of all the trades executed in Stock Options Segment of BSE were found to be non-genuine trades. The aforesaid non-genuine trades resulted into creation of artificial volume to the tune of 826.21 crore units or 54.68% of the total market volume in Stock Options segment of BSE during the investigation period.

3. It was observed that the said non- genuine trades were not restricted to any specific contract or between any specific set of entities. It was observed that Poonam Drums and Containers Private Ltd., (hereinafter referred to as

"Noticee") was one of the various entities which was indulged in execution of non-genuine trades in Stock Options Segment of BSE during the investigation period. The following points narrate the dealings of the Noticee during the investigation period and the allegations against it for execution of non-genuine trades.

4. As regards to all the dealings of the Noticee in the Stock Options segment of BSE during the investigation period, it was observed that the Noticee had traded in 23 unique contracts, from which it has allegedly executed non-genuine trades in 23 contracts wherein it executed total 68 non-genuine trades, which resulted in artificial volume of total 54,92,500 units.

5. Summary of dealings of the Noticee in 23 Stock Options contracts in which the Noticee allegedly executed non-genuine trades during the investigation period are as follows:

Sl. No	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (no. of units)	Avg. Sell Rate (₹)	Total Sell Volume (no. of units)	Number of non-genuine trades executed by Entity in the Contract	Total number of trades executed by the Entity in the Contract	Total number of trades executed in the contract	% of Non-Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non-Genuine trades of Entity 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	ALBK15JUL80.00CE	11.50	60000	6.50	60000	2	2	10	100%	20%	100%	38%
2	APLT15JUL190.00CE	10.70	138000	6.02	138000	3	3	3	100%	100%	100%	100%
3	ARVI15AUG290.00CEW2	15.10	165000	6.50	165000	2	2	2	100%	100%	100%	100%
4	BHEL15JUL280.00PE	11.00	40000	3.50	40000	2	2	2	100%	100%	100%	100%
5	CRGL15JUL200.00PEW4	7.95	156000	3.83	156000	4	4	4	100%	100%	100%	100%
6	DISH15JUL90.00CEW3	14.25	104000	8.40	104000	2	2	15	100%	13%	100%	33%
7	DLFL15JUL110.00CE	8.00	68000	4.30	68000	2	2	22	100%	9%	100%	4%
8	EXID15JUL145.00CE	11.00	34000	5.00	34000	2	2	2	100%	100%	100%	100%
9	FEDB15SEP50.00CEW2	8.66	60000	5.40	60000	2	3	14	67%	14%	27%	6%
10	IDFC15AUG135.00CEW3	15.42	52000	9.61	52000	4	4	4	100%	100%	100%	100%
11	IDFC15AUG150.00PEW2	3.60	242000	1.91	242000	3	3	3	100%	100%	100%	100%
12	IFCI15SEP26.00PE	6.00	536000	4.00	536000	12	14	27	86%	44%	67%	38%

Sl. No	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (no. of units)	Avg. Sell Rate (₹)	Total Sell Volume (no. of units)	Number of non-genuine trades executed by Entity in the Contract	Total number of trades executed by the Entity in the Contract	Total number of trades executed in the contract	% of Non-Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non-Genuine trades of Entity 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
13	JSWE15AUG70.00CEW2	5.57	514000	2.45	514000	5	5	5	100%	100%	100%	100%
14	LNTF15AUG80.00PEW3	9.00	32000	6.00	32000	2	2	6	100%	33%	100%	16%
15	MCRS15AUG210.00CEW2	8.40	252000	3.61	252000	3	3	3	100%	100%	100%	100%
16	MSSL15AUG330.00CEW2	13.50	182250	8.50	182250	2	2	2	100%	100%	100%	100%
17	OBNK15JUL150.00CE	16.20	61000	7.04	61000	3	3	3	100%	100%	100%	100%
18	PNBK15AUG155.00CE	7.15	16000	0.50	16000	2	2	8	100%	25%	100%	7%
19	PNBK15AUG155.00PEW3	5.00	34000	2.00	34000	2	2	2	100%	100%	100%	100%
20	SYND15JUL80.00CE	14.20	70000	8.50	70000	3	3	3	100%	100%	100%	100%
21	SYND15JUL90.00CE	14.00	40000	9.00	40000	2	2	2	100%	100%	100%	100%
22	UCOB15JUL45.00CE	9.60	84000	6.00	84000	2	2	14	100%	14%	100%	10%
23	VOLT15JUL310.00PE	8.00	26000	0.20	26000	2	2	10	100%	20%	100%	12%

6. From the above table, the following is observed as regards to dealings of the Noticee:

   a) The Noticee had executed non-genuine trades in 23 contracts, wherein in respect of 14 contracts, all the trades were non-genuine trades.

   b) The number of non-genuine trades of the Noticee had significantly contributed to the total number of trades from the market in the above contracts, as a substantial 9% to 100% of the trades that happened in the aforementioned contracts were due to non-genuine trades executed by the Noticee.

   c) A substantial 4% to 100% of volumes generated by the Noticee in each of the above contracts were artificial volume, and further artificial volume generated by it also contributed to significant contribution of the total volume from the market in the said contracts.

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

7. In view of the foregoing, it was alleged that the Noticee, indulged in execution of reversal of trades in Stock Options with same entities on the same day. Such trades are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore alleged to be manipulative, deceptive in nature. Thus, it was alleged that the Noticee had violated the provisions of Regulation 3(a), (b), (c), (d), 4(1) and 4(2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003.

APPOINTMENT OF ADJUDICATING OFFICER

8. Pursuant to investigation, SEBI, after being satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations as mentioned above inter-alia in respect of the Noticee, had appointed the undersigned as the Adjudicating Officer vide Order dated April 3, 2018, under section 19 read with section 15I(1) of the SEBI Act, 1992 and Rule 3 of SEBI(Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, referred to as "SEBI Adjudication Rules") to conduct adjudication proceedings in the manner specified under rule 4 of SEBI Adjudication Rules, 1995 read with section 15I (1) and (2) of SEBI Act, and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of SEBI Adjudication Rules 1995 and Section 15HA of SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

9. A Show Cause Notice (hereinafter referred to as "SCN") bearing ref. no. SEBI/HO/EAD-7/BJD/NJMR/23907/2018 dated August 28, 2018 was sent to the Noticee under Rule 4 of SEBI Adjudication Rules to show cause as to why an inquiry be not held against it in terms of Rule 4 of the SEBI Adjudication Rules and penalty be not imposed under Section 15HA of SEBI Act, 1992 for the violations alleged to have been committed by it. I note that the SCN sent to the Noticee's address at Mumbai returned undelivered with the remarks *"left".* Therefore, in terms of Rule 7 (b) of SEBI Adjudication Rules, the SCN along with the annexures were sent through digitally signed email to the

Noticee at its Email ID: poonamdrums@vsnl.net on December 4, 2018. Vide the aforesaid email, the Noticee was given 14 days to furnish its reply to the charges alleged in the SCN. The email sent to the Noticee did not bounce. Since the Noticee failed to furnish its reply within the time period, in the interest of natural justice and in terms of Rule 4 (3) of SEBI Adjudication Rules, the Noticee was given an opportunity of personal hearing on January 10, 2019, which was communicated to the Noticee on December 21, 2018 through digitally signed email. The notice of hearing sent through digitally signed email in terms of Rule 7 (b) of SEBI Adjudication Rules, did not bounce.

10. The Noticee vide email dated December 21, 2018 furnished its new address for correspondence. On behalf of the Noticee, Jurismatrix LLP, Advocates *(Authorized Representative)* vide email dated January 6, 2019 requested for 3 weeks to file its reply to the charges alleged in the SCN, besides seeking adjournment of personal hearing scheduled on January 10, 2019. The Noticee was given time till January 21, 2019 to furnish its reply to the SCN and to avail an opportunity of personal hearing on January 24, 2019, which was communicated vide email on January 7, 2019. I note that the Noticee vide letter dated January 21, 2019 submitted its reply to the charges alleged in the SCN, which is summarized hereunder:

(a) We most humbly submit that the investigation period pertains to the period 01.04.2014 to 30.09.2015. We are surprised to receive the SCN after 3 years there from especially in the light of the fact that not a single warning / alert / alarm were raised, either by the BSE or by SEBI. It is most respectfully submitted that therefore the SCN suffers from serious latches. The exercise of issuance of the SCN for more than 3 years is totally unreasonable and ought to be set aside.

(b) That we are not in position to recollect and explain the logic behind our trading decisions in each stock option, collate the data fully and offer our clarification effectively.

(c) We crave leave to rely on Order dated September 7, 2012 passed in the matter of Khandwala Securities Ltd., by the Hon'ble SAT and Order of the Hon'ble Supreme Court of India in Manasaram Vs S P Pathak and others (Civil Appeal No. 1262 (N) of 1978) as regards finalization of cases within a reasonable period of time.

(d) It may be further appreciated that there is no allegation against us in the matter of creation of any false price in the stock options since all the trades were within circuit filters of the day of the trade. Further, all our trades stood settled and cleared in terms of pay-in and pay-out as per BSE guidelines.

(e) We are neither aware no involved not have participated nor have means to verify and comment on trades of other entities who were apparently counterparties to our trades. We submit that squaring off of our trades with a difference in values were based on our understanding of the market and hence could not have led to generation of artificial volumes, as alleged.

(f) That, the Noticee has no relation / connection with any person / entity alleged in the Notice and the Notice has also failed to bring out any connection / connivance or meeting of minds between the Noticee and such other persons / entities. Thus, the SCN lacks credible evidence and needs to be dropped forthwith.

(g) It is further submitted that, in order to establish charges of fraudulent trading or violation of SEBI (PFUTP) Regulations, it is a settled principle of law that the parties to these trades should collude amongst themselves. In this context, reliance is placed by the Noticee on Hon'ble SAT Orders in the matter of Jagruti Securities Ltd., Vs SEBI, SPJ Stock Brokers Pvt., Vs SEBI and HB Stockholdings Ltd., Vs SEBI.

(h) We most humbly submit that we are neither aware of counterparties nor their trades. We have traded on blind trading mechanism of BSE and the identity of counterparty could never have been known to us. Assuming that our trades have matched with the same 23 parties, we most humbly submit that such matching of our trades resulting in an apparent reversal of trades was merely a coincidence.

(i) Since the SCN itself is issued on the premise that the stock options were illiquid, the probability of matching of orders with same parties resulting in reversal is indeed very high and no adverse inference may be drawn there from. Assuming while denying that the alleged reversal of trades was an outcome of matched trades, it will be logical to assume and conclude that only brokers are in a position to match alleged trades and it was impossible for us as an entity to enter into alleged trades.

(j) We therefore deny, since our trades were reversed on the same day with same counterparties at a substantial price difference without any basis for significant change in the contract price indicates that these trades are non-genuine in nature which eventually resulted in generating artificial volume.

(k) In terms of Clauses 1.2 and 1.3 of Risk Disclosure Document (RDD), which deals with Risk of low liquidity and Risk of wider, it can be construed that SEBI is well aware of the possible losses due to lower liquidity and wider spreads. The SCN also records that the contracts in which we dealt were illiquid. It is not disputed that liquidity in the contracts recorded in the SCN

was low and spreads were bound to be wide so we were constrained to square off our trades at a price difference, which is also appreciated by the RDD issued by SEBI.

(l) *That owing to the aforesaid submissions, the Noticee submits that it did not indulge in any fraudulent and unfair trade practice and the trades executed by it were genuine.*

11. The Authorized Representative vide email dated January 22, 2019 sought for adjournment of personal hearing scheduled on January 24, 2019 due to indisposition of its Advocate. Accordingly, the request of the Noticee was considered favourably and the hearing was rescheduled to January 30, 2019, which was later adjourned to February 14, 2019 based on a request received from the Authorized Representative. On the scheduled date of hearing i.e., February 14, 2019, Ms. Mamta Chaoji Patil, Advocate, Juris Matrix Partners LLP appeared on behalf of the Noticee and reiterated the submissions made by the Noticee vide its letter dated January 21, 2019.

CONSIDERATION OF ISSUES AND FINDINGS

12. After perusal of the material available on record, I have the following issues for consideration viz.,

    I. Whether the Noticee has violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003?

    II. Whether the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act?

    III. If so, what quantum of monetary penalty should be imposed on the Noticee?

FINDINGS

13. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticee, I record my findings hereunder.

ISSUE I: Whether the Noticee has violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003?

14. Before moving forward, it is pertinent to refer to the relevant provisions of SEBI (PFUTP Regulations), 2003 which reads as under:

Regulation 3 of SEBI (PFUTP) Regulations: - Prohibition of certain dealings in securities

3. 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 thereunder.

Regulation 4 of SEBI (PFUTP) Regulations: - 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;

15. It has been alleged that the Noticee had indulged in execution of reversal of trades in Stock Options with same entities on the same day. Such trades are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volume in stock options and therefore alleged to be manipulative, deceptive in nature.

16. I note that reversal trades have been considered as those trades in which an entity reverse its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversals trades are non-genuine trades as they are not executed in normal course of trading, lacks basic trading rationale, and lead to false or misleading appearance of trading in terms of generation of artificial volume, hence were deceptive and manipulative. Artificial volume is considered to be the volume (no. of units) reversed in both legs of said reversal trades while keeping out the volume, if any, which is not reversed.

17. I note that the Noticee had executed 68 non-genuine trades in 23 unique contracts on 12 trading days in the months of July, August and September, 2015. The details of non-genuine trades executed by the Noticee are furnished hereunder.

Sl. No	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (no. of units)	Avg. Sell Rate (₹)	Total Sell Volume (no. of units)	Number of non-genuine trades executed by Entity in the Contract	Total number of trades executed by the Entity in the Contract	Total number of trades executed in the contract	% of Non-Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non-Genuine trades of Entity 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	ALBK15JUL80.00CE	11.50	60000	6.50	60000	2	2	10	100%	20%	100%	38%
2	APLT15JUL190.00CE	10.70	138000	6.02	138000	3	3	3	100%	100%	100%	100%
3	ARVI15AUG290.00CEW2	15.10	165000	6.50	165000	2	2	2	100%	100%	100%	100%
4	BHEL15JUL280.00PE	11.00	40000	3.50	40000	2	2	2	100%	100%	100%	100%
5	CRGL15JUL200.00PEW4	7.95	156000	3.83	156000	4	4	4	100%	100%	100%	100%
6	DISH15JUL90.00CEW3	14.25	104000	8.40	104000	2	2	15	100%	13%	100%	33%
7	DLFL15JUL110.00CE	8.00	68000	4.30	68000	2	2	22	100%	9%	100%	4%
8	EXID15JUL145.00CE	11.00	34000	5.00	34000	2	2	2	100%	100%	100%	100%
9	FEDB15SEP50.00CEW2	8.66	60000	5.40	60000	2	3	14	67%	14%	27%	6%
10	IDFC15AUG135.00CEW3	15.42	52000	9.61	52000	4	4	4	100%	100%	100%	100%
11	IDFC15AUG150.00PEW2	3.60	242000	1.91	242000	3	3	3	100%	100%	100%	100%
12	IFCI15SEP26.00PE	6.00	536000	4.00	536000	12	14	27	86%	44%	67%	38%
13	JSWE15AUG70.00CEW2	5.57	514000	2.45	514000	5	5	5	100%	100%	100%	100%

Sl. No	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (no. of units)	Avg. Sell Rate (₹)	Total Sell Volume (no. of units)	Number of non-genuine trades executed by Entity in the Contract	Total number of trades executed by the Entity in the Contract	Total number of trades executed in the contract	% of Non-Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non-Genuine trades of Entity 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
14	LNTF15AUG80.00PEW3	9.00	32000	6.00	32000	2	2	6	100%	33%	100%	16%
15	MCRS15AUG210.00CEW2	8.40	252000	3.61	252000	3	3	3	100%	100%	100%	100%
16	MSSL15AUG330.00CEW2	13.50	182250	8.50	182250	2	2	2	100%	100%	100%	100%
17	OBNK15JUL150.00CE	16.20	61000	7.04	61000	3	3	3	100%	100%	100%	100%
18	PNBK15AUG155.00CE	7.15	16000	0.50	16000	2	2	8	100%	25%	100%	7%
19	PNBK15AUG155.00PEW3	5.00	34000	2.00	34000	2	2	2	100%	100%	100%	100%
20	SYND15JUL80.00CE	14.20	70000	8.50	70000	3	3	3	100%	100%	100%	100%
21	SYND15JUL90.00CE	14.00	40000	9.00	40000	2	2	2	100%	100%	100%	100%
22	UCOB15JUL45.00CE	9.60	84000	6.00	84000	2	2	14	100%	14%	100%	10%
23	VOLT15JUL310.00PE	8.00	26000	0.20	26000	2	2	10	100%	20%	100%	12%

18. Before I proceed further, it is necessary to understand what an Option Contracts is and various factors which influence the price of the Options. Options are financial derivative sold by an option writer to an option buyer. The contract offers the buyer the right, but not the obligation, to buy (call option) or sell (put option) the underlying asset at an agreed-upon price during a certain period of time or on a specific date. The factors which influence the Options prices are underlying price, strike price, time until expiration, volatility, interest rates and dividends. There are various market based models (Black and Scholes Model) which throw an indicative price of the Option after inputting the various parameters mentioned above. I note that the seller of option contract will be the writer of the contract where the risk involved would be unlimited, as theoretically writer of options is obliged to honor the contract should the buyer exercise such option. Similarly, buyer of Option will have limited risk to the extent of premium paid. Therefore, both buyer and seller of options should ideally deal in options contracts considering various market parameters as mentioned above.

19. With above background in mind, I shall now proceed to deal with the transactions executed by Noticee in some of the instances of alleged non-genuine trades.

I. Scrip Name: CRGL15JUL200.00PEW4, Trade Date: 22/07/2015

CLIENTNAME	CP_CLIENTNAME	TRADE_TIME	TRADE_RATE	TRADED_QTY
POONAM DRUMS AND CONTAINERS PRIVATE LIMITED	SHAILAJA FINANCE LIMITED	13:52:12.487223	7.95	156000
SHAILAJA FINANCE LIMITED	POONAM DRUMS AND CONTAINERS PRIVATE LIMITED	13:52:19.768572	5.1	2000
SHAILAJA FINANCE LIMITED	POONAM DRUMS AND CONTAINERS PRIVATE LIMITED	13:52:27.065638	4.6	2000
SHAILAJA FINANCE LIMITED	POONAM DRUMS AND CONTAINERS PRIVATE LIMITED	13:52:39.893778	3.8	152000

(a) I note from the above table that during the investigation period, a total number of 4 trades were executed in the "**CRGL15JUL200.00PEW4**" contract 22/07/2015, wherein the Noticee was party to all of the said trades. While dealing in the said contract on 22/07/2015 the Noticee at 13:52:12 hrs entered into 1 buy trade with counterparty viz., Shailaja Finance Ltd., for 1,56,000 units at the rate of ₹ 7.95 per unit. Thereafter, on the same day, within 7 seconds from the above trade, the Noticee between 13:52:19 hrs and 13:52:39 hrs entered into 3 sell trades with the same counterparty for total 1,56,000 units each at an average price of ₹ 3.83 per unit.

(a) From the above, it is noted that while dealing in the said contract during the investigation period, the Noticee executed total 4 reversal trades (1 buy trade + 3 sell trades) with the same counterpart viz., Shailaja Finance Ltd., on the same day for the same quantity.

(b) Thus, the Noticee, through its dealing in the contract viz, "**CRGL15JUL200.00PEW4**" during the investigation period, executed 4 non-genuine trades which is 100% of the total trades from the market in the said contract during the investigation period, and thereby, the

Noticee generated artificial volume of 3,12,000 units which is 100% of the volume traded in the said contract from the market during the investigation period.

II. Scrip Name: ARVI15AUG290.00CEW2, Trade Date: 11/08/2015

CLIENTNAME	CP_CLIENTNAME	TRADE_TIME	TRADE_RATE	TRADED_QTY
POONAM DRUMS AND CONTAINERS PRIVATE LIMITED	AGRO COMMODITY PVT LTD	12:28:54.718721	15.1	165000
AGRO COMMODITY PVT LTD	POONAM DRUMS AND CONTAINERS PRIVATE LIMITED	12:29:05.453062	6.5	165000

(b) I note from the above table that during the investigation period, total 2 trades for 3,30,000 units were executed in the "**ARVI15AUG290.00CEW2**" contract on 11/08/2015 wherein the Noticee was party to all of the said trades. While dealing in the said contract on 11/08/2015, the Noticee at 12:28:54 hrs entered into 1 buy trade with counterparty viz., Agro Commodity Pvt., Ltd., for 1,65,000 units at the rate of ₹ 15.10 per unit. Thereafter, on the same day, within 11 seconds from the above trade, the Noticee at 12:29:05 hrs entered into 1 sell trade with the same counterparty for total 1,65,000 units each at ₹ 6.50 per unit.

(c) From the above, it is noted that while dealing in the said contract during the investigation period, the Noticee executed total 2 reversal trades (1 buy trade + 1 sell trade) with the same counterparty viz., Agro Commodity Pvt., Ltd., on the same day for the same quantity.

(d) Thus, the Noticee, through its dealing in the contract viz, "**ARVI15AUG290.00CEW2**" during the investigation period, executed 2 non-genuine trades which is 100% of the total trades from the market in the said contract during the investigation period, and thereby, the Noticee generated artificial volume of 3,30,000 units which is 100% of the volume traded in the said contract from the market during the investigation period.

20. From the above pattern of trades, I note that the Noticee had bought and sold option contracts with the same counter parties and also reversed its trades

within seconds from its earlier buy / sell trades, at substantial price difference. Such pattern of dealings suggests beyond doubt that they were not driven by market factors as none of the parameters (underlying stock price, volatility, etc.,) for Option pricing, as mentioned above paragraphs, have undergone any change during the currency of trades. I note that the underlying stock price did not change to substantiate corresponding changes in the option price in a span of less than one minute. I also note that similar modus operandi as mentioned above was observed in respect of the remaining 21 contracts which were non-genuine. Therefore, I conclude that aforesaid trades of Noticee were non-genuine and have created false or misleading appearance of trading in terms of artificial volume in stock options and therefore manipulative, deceptive in nature.

21. It is summarized from the above findings that the Noticee had executed non-genuine trades in 23 contracts, wherein in respect of 14 contracts, all the trades were non-genuine trades and contributed to 100% artificial volumes. The number of non-genuine trades of the Noticee had contributed to the total number of trades from the market in the above contracts, which was in the range of 9% to 100% of the trades that happened in the aforementioned contracts were due to non-genuine trades executed by the Noticee. The volumes generated by the Noticee in each of the above 23 contracts were artificial volume, and have contributed in the range of 4% to 100% of the total volume from the market in said contracts. Non-genuine trades executed by the Noticee in above contracts had significant differential in buy rates and sell rates considering that the trades were reversed on same day.

22. I note that derivative contracts by its very nature derives its value from various factors including underlying price. The transactions of the Noticee as mentioned in above paras clearly demonstrates that option contracts bought / sold were immediately reversed within span of few seconds / minutes at substantially different price, though there was no corresponding price changes in the underlying stock price. Further analysis of such trades also indicates that price differentials have been deliberately structured for manipulative purpose as one party to the contract had deliberately foregone profitable

proposition at the time of executing trade. For example, the Noticee bought 70,000 units of call option contract (Right to Buy) of "SYND15JUL80.00CE" on July 29, 2015 with the strike price of ₹ 80 and premium of ₹ 14.20. This indicates that Noticee expects the price of underlying stock to rise substantially before the expiry on July 30, 2015, while the Option writer holds opposite wise i.e. seller does not expect the price of underlying to go much above the strike price. The Noticee will incur profit (IN THE MONEY) if the underlying price of the scrip is more than ₹ 94.20 {Strike Price (₹ 80) + Premium (₹ 14.20)}. I note that the weighted average price of Syndicate Bank (SYND) on equity segment on July 29, 2015 was ₹ 88.68. At the time of contract, Options bought by the Noticee was deep out of money to the extent of i.e. ₹ 5.52 (difference of Strike Price + Premium – Spot Price). I am of the view that any rational investor who deals in derivatives market would compare the market price of the option contract with theoretical price of the options which accounts for relevant factors like underlying price, volatility, time to expiry etc. Therefore, no rational investor would buy a deep out of money option just one day before expiry as the possibility of such large movement is unlikely and therefore such options could expire worthless and buyer would incur loss of premium paid i.e., ₹ 14.20 each on 70,000 units. I note that the Noticee immediately reversed the contract by selling the options within 12 seconds to the same counterparty at an average price of ₹ 8.50 without any change in market conditions. Such a pattern of trading clearly demonstrates that the Noticee at the time of buying options contract did not take market parameters into consideration but had malafied intent as the price of buying and selling options were completely away from fair market prices. Had market been liquid with large number of investors, the manipulative scheme would not have been possible as the Noticee would not be able to square off its position as there would be no buyers for such contracts. The fact the counterparties are same corroborates that the trades were not genuine and executed for manipulative purpose. I also note that loss made by the Noticee was exactly same to the profit made by the counterparty which ratifies the manipulative scheme of operations.

23. I note that the thumb rule of trading in stock market is to buy shares at low price and sell shares at higher price. However, in the instant case, the Noticee

had bought the units of Contracts at high price, which he had sold back at reasonably low price, for same quantity. Considering the fact that all these reversal transactions were carried out through a screen based trading platform on a segment with hundreds of different contracts, the placement of orders repeatedly within a time span of few seconds / minutes and a significantly high percentage of matching of these orders, appear to be practically impossible unless there is a prior understanding or a pre-meditated plan between the two entities executing them. The repeated sell/buy of illiquid stock options by the Noticee and subsequent reversal trades with the same set of entities for the same quantity, within a short span of time with a significant difference in buy and sell value of stock options, in itself, exhibits abnormal market behaviour and defies economic rationality. I note from the above trading pattern of the Noticee that it was deliberately making repeated loss through its reversal trades in stock options which does not make any economic sense and it is a blatant misuse of trading platform for creating artificial volume in the illiquid stock options. I note that the rationale for such transactions entered by the Noticee is not genuine and legitimate as the behaviour exhibited by the Noticee defies the logic and basic economic sense. I note that no reasonable and rational investor will keep making repeated losses and still continue its trading endeavours.

24. 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.

25. The non-genuine and deceptive transactions of these entities 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.

26. Further, with respect to the reversal of trades carried out by the Noticee, I note that the Hon'ble Supreme Court in the matter of SEBI vs. Rakhi Trading Private Ltd., in Civil appeals no., 1969 of 2011 with Civil Appeal Nos., 3174-3177 of 2011 and Civil Appeal No., 3180 of 2011 decided on February 8, 2018 had observed that *"the price discovery system itself was affected by synchronization and rapid reverse trade, which also had the impact of excluding other investors from participating in the market. The Supreme Court, therefore found that the traders 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".* The Apex Court also observed that "*considering the reversal transactions, quantity, price and time and sale, parties being persistent in the number of such trade transactions with huge price variations, it will be too naïve 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."*

27. Keeping in mind the dicta of the Hon'ble Supreme Court as reproduced above; I see no reason to take a different view in the present case. In view of the foregoing, I hold that the Noticee had indulged in execution of reversal trades in Stock Options with same entities on the same day, which are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volumes.

28. The Noticee in its submissions had contended that the SCN was issued after 3 years of the transactions and therefore the SCN should be set aside. In this connection, I deem it appropriate to refer to the observations made by Hon'ble SAT in the matter of Vaman Madhav Apte & Ors. Vs. SEBI vide Order dated March 04, 2016, which reads as follows

"Argument of the appellants that the proceedings initiated against the appellants suffer from gross delay and laches and, therefore, the impugned order is liable to be quashed and set aside is without any merit, because firstly, neither the SEBI Act nor the regulations framed thereunder prescribe any time limit for initiating proceedings against the persons who have violated the securities laws. Secondly, neither the SEBI Act nor the regulations framed thereunder provide that if there is delay in initiating proceedings, no action can be taken against the person who has committed violations of the securities laws."

29. In view of the aforesaid observations of the Hon'ble SAT, I am not inclined to take a different view and hold that the SCN is not liable to be set aside.

30. The Noticee submitted that Stock Exchanges have provided in its *Risk Disclosure Document (RDD)* that there could be risks of low illiquidity and risk of wider price spread while dealing in derivatives segment. The Noticee also submitted that *"since stock exchange have recognised that there could be lesser liquidity and wider spreads in options contracts the trades executed by them at wider price difference and less liquidity cannot be said to be non-genuine and manipulative".* I am not inclined to accept the submission of Noticee as RDD is a document in the nature of general advisory to investors dealing in derivatives markets considering that derivatives products are complex, risky and high leverage products. Such a document in any case does not either implicitly or explicitly permit deliberate structuring of manipulative trades which lack economic rationale and run contrary to the dynamics of price discovery in option trading. Therefore, the contention of the Noticee devoid of any merit.

31. Further, the Noticee contended that the SCN does not provide an iota of evidence as to how we are related to the counter parties. In this context, I note that in the screen based trading, the manipulative or fraudulent intent can be inferred from various factors such as conduct of the party, pattern of transactions, etc., 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, Hon'ble SAT has observed 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."

32. Further, I would like to rely on the judgement of Hon'ble Supreme Court in the matter of SEBI vs. Rakhi Trading Private Ltd., in Civil appeals no., 1969 of 2011 with Civil Appeal Nos., 3174-3177 of 2011 and Civil Appeal No., 3180 of 2011 decided on February 8, 2018, wherein the Apex Court upheld that "*the entities were engaged in a fraudulent and unfair trade practice while dealing in Options and hence were liable for violation of SEBI (PFUTP) Regulations".* The Hon'ble Apex Court has also observed that in the absence of direct proof of meeting of minds, the test should be one of preponderance of probability and also stated that the conclusion has to be gathered various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time between the two and such other relevant factors.

33. In line with the aforesaid judgements of Hon'ble SAT and Hon'ble Supreme Court, I note from the foregoing findings that the trading pattern of the Noticee in terms of volume of reversal trades, proximity of buy/sell and subsequent reversal evidences the indulgence of the Noticee beyond a reasonable doubt of the manipulative intent in creation of artificial volume. Further, consistent pattern of dealings by Noticee only in such options contracts which are illiquid clearly demonstrates that the manipulative intent to use stock exchange platform to carry out non-genuine trades with the aim to execute such trades for various manipulative purposes.

34. In this regard, I would like to rely on the judgement of Hon'ble Supreme Court in the matter of SEBI vs. Rakhi Trading Private Ltd., in Civil appeals no., 1969

of 2011 with Civil Appeal Nos., 3174-3177 of 2011 and Civil Appeal No., 3180 of 2011 decided on February 8, 2018, where Apex Court stated at Para 35 and Para 41 of that said Order that *“The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in pre-planned and rapid reverse trades, it is not genuine; it is an unfair trade practice”. “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.”*

35. From the foregoing, it is established that the Noticee by indulging in reversal trades on the stock exchange platform which are manipulative / unfair / fraudulent / non-genuine, in nature, had created artificial volumes in the contracts. In view of above, I conclude that the Noticee had violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003.

ISSUE -2: Does the violation, if any, attract monetary penalty under Section 15HA of SEBI Act.?

36. Pursuant to detailed analysis as brought out above, it is established that reversal trades are not normal transactions and it clearly demonstrates beyond reasonable doubt that the Noticee had intentionally executed these trades and manipulated the volume by artificial trading pattern in 23 contracts. Out of the 23 contracts, in respect of 14 contracts, all the trades were non-genuine trades, which contributed to 100% artificial volume.

37. I am of the view that the misuse of stock options as shown above not only displays an unreal picture of market activity to other investors but also defeats the basic premise of screen based electronic trading system and price discovery mechanism by repeated execution of pre decided reversal

trades at irrational / arbitrary prices. Moreover, the impact of such trading on the traded volume and the price of stock options contracts is huge. Such activity deliberately or otherwise damages market integrity apart from presenting wrong picture of liquidity to gullible investors which could affect their trading/investment decisions. Options as financial instruments, ordinarily, provide hedging avenues to investors. The trading pattern of the Noticee in the instant matter was abnormal and was designed to create artificial volumes in the illiquid stock options, fail to justify any of the normal strategies of hedging / speculation / arbitrage. In my view, the abuse of such financial instruments, which are made available to the investors for the purpose of protection of their investment portfolios from the risks of adverse price movement, cannot be tolerated and needs to be dealt with strictly.

38. I find that the Noticee by indulging in execution of reversal trades in Stock Options with same entities on the same day, had created artificial volume, leading to false and misleading appearance of trading in the illiquid stock options at BSE and therefore violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1), and 4 (2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003. Accordingly, the Noticee is liable for monetary penalty under Section 15HA of SEBI Act, the provisions of which are furnished hereunder.

Section 15HA of SEBI Act - Penalty for fraudulent and unfair trade practices

"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 monetary penalty that can be imposed taking into consideration the factors mentioned in Section 15J of SEBI Act?

39. While determining the quantum of monetary penalty under Section 15HA of SEBI Act, I have considered the factors stipulated in Section 15-J of SEBI Act, which reads as under:

Section 15J - Factors to be taken into account by the Adjudicating Officer

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.

40. I note from the facts of the case that the trades of the Noticee were reversed within few minutes of such trades, with the same counter party, at such option prices which no rational investor would undertake, as explained in above paras. Consequent to such manipulative trades, both the parties of the trades could structure and generate profits / loss in their accounts wherein profit / loss made by one entity was exactly equal to the loss / profit made by the counterparty.

41. Considering the above, I am of the view that it will be appropriate to take into account the payoff of transactions between the two parties together, rather than viewing it independently. Therefore, in respect of the non-genuine trades carried out by the Noticee which resulted in creation of artificial volume in Illiquid Stock Options, it is not possible to quantify the amount of disproportionate gain or unfair advantage made by the Noticee. Further, there is also no material on record to assess the amount of loss caused to investors as a result of the Noticee's default. The persistent trading pattern of the Noticee, which was fraudulent and deceptive, affects the normal price discovery mechanism in the securities market. People who indulge in manipulative, fraudulent and deceptive transaction, or abet the carrying out of

such transaction which are fraudulent and deceptive should be suitably penalized for such acts of omissions and commissions.

ORDER

42. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the SEBI Adjudication Rules, 1995, I hereby impose a penalty of ₹ 10,00,000/- (Rupees Ten Lakhs Only) on the Noticee i.e., Poonam Drums and Containers Private Ltd., under Section 15HA of the SEBI Act, 1992, for indulging in execution of reversal trades in Stock Options with same entities on the same day, thereby creating artificial volume, leading to false and misleading appearance of trading in the illiquid stock options at BSE

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

44. 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 e-payment facility into Bank Account the details of which are given below:

Account No. for remittance of penalties levied by Adjudication Officer

Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No	31465271959

45. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the General Manager, Enforcement Department-1, DRA-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

46. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee i.e., Poonam Drums and Containers Private Ltd., and also to SEBI.

Date: 15 February 2019
Place: Mumbai

B J DILIP
Adjudicating Officer