**BEFORE THE ADJUDICATING OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**[ADJUDICATION ORDER NO. Order/BM/UR/2022-23/25016]**

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

In respect of

**NAVNEET GARODIA HUF**
**PAN: AADHN5807M**

In the matter of Trading in Illiquid Stock Options on BSE

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## BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**"). SEBI observed that such large scale reversal of trades in stock options led to creation of artificial volume at BSE. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in illiquid stock options at BSE for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as "**IP**").

2. Pursuant to investigation, it was observed that total of 2,91,744 trades comprising 81.40% of all the trades executed in stock options segment of BSE during the IP were non genuine trades. The aforesaid non-genuine trades resulted into creation of artificial volume in stock options segment of BSE during the IP. It was alleged that Navneet Garodia HUF (PAN- AADHN5807M) (hereinafter referred to as the "**Noticee**") was one of the various entities who indulged in execution of reversal

trades in stock options segment of BSE during the IP. Such trades were alleged to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore were allegedly 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**").

**APPOINTMENT OF ADJUDICATING OFFICER**

3. The undersigned was appointed as the Adjudicating Officer **(**hereinafter referred to as "**AO")** vide Order dated November 12, 2021 under Section 19 read with Section 15(I) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act"**) 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 inquire into and adjudge in the manner specified under Rule 4 of Adjudication Rules read with Section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act, 1992.

**SHOW CAUSE NOTICE, REPLY OF THE NOTICEE AND HEARING**

4. Show Cause Notice No. EAD-3/BM/UR/37190/2022 dated August 06, 2022 (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 them and why penalty should not be imposed under section 15HA of the SEBI Act, 1992, for the aforesaid alleged violations.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 4 non genuine trades in 2 Stock Options contract which resulted in artificial volume of total 282000 units. Summary of dealings of the Noticee in the said Options contracts,

in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

| S. No. | Contract Name | Avg. Buy Rate (Rs) | Total Buy Volume (No. of units) | Avg. Sell Rate (Rs) | Total Sell Volume (No. of units) | % of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract | % of Non Genuine trades of Noticee in the contract to Total trades in the Contract | % of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract | % of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract |
|---|---|---|---|---|---|---|---|---|---|
| 1 | CESC15APR640.00CE | 1.3 | 25000 | 9.3 | 25000 | 100 | 16.67 | 100 | 5.75 |
| 2 | JSWE15MAR120.00CE W2 | 0.5 | 116000 | 3.1 | 116000 | 100 | 8.7 | 100 | 4.45 |

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

The Noticee had executed alleged non genuine trades in 2 contract, wherein all the trades of Noticee in the said contract were allegedly non-genuine trades. The details of trades in both the contracts are as below:

**Contract Name: "CESC15APR640.00CE"**

(a) No. of alleged non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the above contract, as 16.67% of the trades that happened in the said contract were due to non-genuine trades executed by the Noticee.

(b) 100% of volume generated by Noticee in the above contract was alleged to be artificial volume, and further, the percentage of alleged artificial volume generated by the Noticee in the above contract to the total volume from the market in said contract was 5.75%. Therefore, the Noticee allegedly generated artificial volume in the above contract.

**Contract Name: "JSWE15MAR120.00CEW2"**

(a) No. of alleged non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the above contract, as 8.7% of the trades that happened in the said contract were due to non-genuine trades executed by the Noticee.

(b) 100% of volume generated by Noticee in the above contract was alleged to be artificial volume, and further, the percentage of alleged artificial volume generated by the Noticee in the above contract to the total volume from the market in said contract was 4.45%. Therefore, the Noticee allegedly generated artificial volume in the above contract.

7. The SCN with reference no. EAD-3/BM/UR/37190/2022 was served on the Noticee via digitally signed email dated August 06, 2022. The proof of service is on record.

8. The aforesaid SCN was served to the Noticee which along with indicating the nature of offence alleged to have been committed by the Noticee, also intimated to the Noticee regarding the SEBI Settlement Scheme, 2022. The intimation regarding settlement scheme given to the Noticee is as follows:

   a. SEBI has framed the SEBI Settlement Scheme, 2022 pursuant to the Order dated May 13, 2022 passed by the Hon'ble Securities Appellate Tribunal, wherein the following directions were issued to SEBI:

   *"**17**. We are, thus, of the opinion that SEBI should reconsider and seriously give a thought in coming out with a fresh scheme under Clause 26 of the Settlement Regulations, 2018. Such scheme can be a onetime scheme for this class of person.* ***The terms of settlement should be attractive so that***

***it could attract the noticees / entities to come forward and settle the matter which will ameliorate the harassment of penalty proceedings to the noticees and at the same time would help to clear the backlog of these pending matters before various AOs.**" (Emphasis Supplied)*

b. In compliance with the above directions of the Hon'ble Securities Appellate Tribunal, SEBI has introduced a onetime settlement scheme called the SEBI Settlement Scheme, 2022, in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options. The said scheme proposes payment of Settlement Amount as per the details given below:

| **S No** | **Number of Contracts*** | **Settlement Amount (Rs.)** |
|---|---|---|
| 1 | 1-5 | 1,00,000/- |
| 2 | 6-50 | 2,00,000/- |
| 3 | 51 and above | 5,00,000/- base amount + 10,000 per contract |

** You may refer to the relevant Annexure/table of the SCN which contains a summary of the contracts you entered to determine the applicable slab for settlement.*

c. The period of the SEBI Settlement Scheme, 2022 will commence on August 22, 2022 and will close on November 21, 2022, so as to provide an opportunity for settlement to the entities who have executed reversal trades in the stock options segment of BSE during the period April 01, 2014 to September 30, 2015, against whom enforcement proceedings have been initiated and are pending. In case you wish to avail the benefit of the said Scheme, you may access the details of the said Scheme, which would be available on the website of SEBI i.e. www.sebi.gov.in, during the said period.

d. Necessary application for settlement may be filed within the validity period of the scheme and payment of the settlement amount shall be made online. Additionally, for any clarification in regard to settlement scheme, you may refer to the FAQs at SEBI website or send email to scheme2022@sebi.gov.in

e. In case you do not wish to avail of the facility under the SEBI Settlement Scheme, 2022, the adjudication proceedings in respect of the allegations contained in Part A of the SCN shall resume. Accordingly, an inquiry shall be held against you in terms of Adjudication Rules read with section 15-I of the SEBI Act, and penalty, if any, shall be imposed under section 15HA of the SEBI Act. In such case, you are called upon to file your reply within 30 days of receipt of this Show Cause Notice.

f. Pursuant to that, vide public notice dated November 21, 2022, it was advertised/informed that "*Considering the interest of entities in availing the Scheme, the competent authority has extended the period of the Scheme till January 21, 2023*"

9. However, it was observed that Noticee did not avail the SEBI Settlement Scheme. In view of which, the adjudication proceeding against the Noticee was resumed.

10. It was observed that Noticee did not submit its reply to the SCN till February 23, 2023. In the interest of natural justice, the Noticee was provided an opportunity of hearing vide hearing notice dated February 24, 2023 via SPAD and digitally signed email. The Noticee was advised to appear before the undersigned on March 15, 2023. The personal hearing was conducted on scheduled date and time through video conferencing. During the course of hearing, Noticee made oral submissions and informed that he would be making its written submissions by March 20, 2023. The Noticee was also informed that it was the final hearing.

11. Vide email dated March 20, 2023, Noticee submitted that due to unforeseen medical reasons of his mother, he was not able to prepare the reply to SCN. Noticee requested an extension of one week to file its reply to the SCN. Vide email dated March 23, 2023, Noticee was informed that its request for the extension of hearing is acceded to and it is being provided with final opportunity to file its reply by March 27, 2023.

12. Vide email dated March 26, 2023, the AR of the Noticee filed the reply to the SCN and it further requested another opportunity of hearing. In this regard, vide email dated March 27, 2023, Noticee was informed that it is being provided with final opportunity of hearing on March 27, 2023 at 03:30 PM. The hearing in the matter was completed on the scheduled day and time. The minutes in this regard are on record.

13. Vide letter dated March 24, 2023, the Noticee submitted its reply to the SCN. Contentions made by him have been summarized below:

    a *Noticee submitted that it is a regular investor in the Stock Market since last ten years. It invests in cash, derivatives and F & O segment and it normally invests in the securities market based on news, market rumours, research and* its *understanding of the market.*

    b *Noticee submitted that the investigation period is April 01,2014 to September 30,2015. However, no justification/ reason has been given in the SCN for selection of the said investigation period. Further, as is observed from Annexure 2 of the SCN, it had carried out trading in only 2 days of the total Investigation period to warrant any kind of creation of artificial volume. This shows that SCN is vague, unclear, baseless and erroneous conclusions have been drawn on the basis of surmises and conjectures.*

    c *Noticee submitted that he dealt in the stock options on the anonymous and electronic trading platform of the stock exchange wherein the buyer and seller are not known and this platform is provided by stock exchange and approved by SEBI. The order matching mechanism is provided by the stock exchange and it is unaware about the nuances of the same since the same is regulated by SEBI. The platform of the electronic trading is designed in such a manner that the trade will happen when a buy order and sell order matches on price time priority, which has happened in the instant case also. Hence, the allegation that my trade matched with same entity by design and not as per the trading mechanism is illogical, arbitrary and goes against the principles on which the electronic trading was started.*

d *Noticee submitted that no alert/ warning/caution etc. of any sort was issued by BSE/SEBI at the time of carrying out such trades despite BSE & SEBI having state of the art surveillance system. It is SEBI's own case that such kind of trades were carried out for a period of nearly one and a half years and it is quite surprising that no alert of any kind was generated with any regulatory authorities to warrant any kind of action at that time.*

e *Noticee submitted that SEBI has failed to show any nexus between him and counter party and therefore the criteria on the basis of which SCN is issued is arbitrary, subjective, illogical, random, without any basis and prejudiced. This is in gross violation of principles of natural justice, equity and fair play.*

f *Noticee submitted that by* its *trading market integrity has not been affected, no harm has been caused to any investor, it has not indulged in any act which has the effect of creating false or misleading appearance of trading in securities market, market equilibrium has not been disturbed etc.*

g *Noticee submitted that* its *trades have all traits of being genuine and therefore cannot be categorised as non-genuine. These trades were executed on the anonymous platform of the Exchange, without any knowledge of counter party, 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.*

h *Noticee denied being part of any scheme, plan, device; artifices employed in any case and further denied that it had committed a fraud on the securities market. It further denied that it had used and employed a pre meditated manipulative device or contrivance while dealing in securities market and indulged in non-genuine and deceptive transactions.*

i *In regard to aforesaid submissions, Noticee relied upon following judgements:*

*In* ***Jagruti Securities vs SEBI****. [2008 SCC OnLine SAT 184 : 2008 SAT 184], the Hon'ble Sat has gone ahead to record in para 4 "…. we are of the view that in an artificial trade there has to be collusion between the buyer and the seller and in the absence of any collusion, the trade cannot be termed as 'artificial'."*

***S.P.J. Stock Brokers Pvt. Ltd. vs Securities and Exchange Board of India*** *[2013 SCC OnLine SAT 67 : [2013] SAT 17] "13. Unless some connection between appellant and counterparties with whom appellant traded is established, it is difficult to hold that trades in question were carried out with a view to manipulate market by creating false volumes resulting in upsetting market equilibrium."*

***HB Stockholdings Limited vs SEBI*** *[2013 SCC OnLine SAT 56 : [2013] SAT 44] "17. ... It may be noted that synchronization of trades is not per se illegal. It is actionable only if it is illegitimate and is the outcome of a mischievous meeting of minds among certain parties. For this purpose, the counter party, namely, Gloria Investment Limited has already been exonerated by the Respondent. Moreover, no cogent and convincing reasons are forthcoming from a reading of the SCN or the impugned order to sustain such a charge of synchronization or creation of artificial volumes against the Appellants.*

## CONSIDERATION OF ISSUES AND FINDINGS

14. I have carefully perused the charges levelled against the Noticee, its reply and the documents / material available on record. The issues that arise for consideration in the present case are:
    (a) Whether the Noticee has violated provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?
    (b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?
    (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

15. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003 as below:

***PFUTP Regulations, 2003***

***3. Prohibition of certain dealings in securities***

*No person shall directly or indirectly—*

*(a) buy, sell or otherwise deal in securities in a fraudulent manner;*

*(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*

*(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*

*(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

***4. Prohibition of manipulative, fraudulent and unfair trade practices***

*(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.*

*(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—*

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

***Issue No 1 : Whether the Noticee has violated provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1) & 4(2)(a) of PFUTP Regulations, 2003?***

16. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, it had executed reversal trades which were allegedly non-genuine and the same had resulted in generation of artificial volume in stock option contracts at BSE. Reversal trades are considered to be those trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversal trades are alleged to be non-genuine trades as they are not executed in the normal course of trading, lack basic trading rationale, lead to false or misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive and manipulative.

17. In the instant matter, I note that pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 which was confirmed vide Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to stock options segment of BSE which was completed in the year 2018. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock option segment during the investigation period. The proceedings initiated vide the aforementioned Interim Order were disposed of vide Final Order dated April 05, 2018 also considering that appropriate action was initiated against the said 14, 720 entities in a phased manner.

    During the course of hearing in the case of *R. S. Ispat Ltd Vs SEBI*, the Hon'ble Securities Appellate Tribunal (SAT), vide its Order dated October 14, 2019, *inter alia* observed that "*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options".*

    A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided one-time opportunity for settlement of proceedings in the Illiquid Stock Options matter. The said scheme was kept open from August 01, 2020 till December 31, 2020. Adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement.

Further, another settlement scheme was introduced pursuant to the order of Hon'ble SAT dated May 12, 2022. The details of SEBI settlement scheme is given at paragraph 8 above.

As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on November 12, 2021, SCN was issued on August 06, 2022, which also gave details regarding SEBI Settlement scheme, 2022. As Noticee did not avail the SEBI Settlement Scheme, 2022, adjudication proceedings were resumed against the Noticee. Pursuant to which, in compliance with principles of natural justice, an opportunity of personal hearing was scheduled on March 15, 2023 and upon conclusion of the hearing, reply to the SCN was received on March 26, 2023. Further, another opportunity of hearing was provided to the Noticee on March 27, 2023, which was completed on the scheduled day and time.

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

19. I note from the trade log of the Noticee that he had traded in two contract in the stock options segment of BSE during the IP. It is observed that the Noticee had allegedly executed 4 non-genuine trades in 2 contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of 282000 units in the said contract. Summary of non-genuine trades of the Noticee is as follows:

| S. No. | Contract Name | Avg. Buy Rate (Rs) | Total Buy Volume (No. of units) | Avg. Sell Rate (Rs) | Total Sell Volume (No. of units) | % of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract | % of Non Genuine trades of Noticee in the contract to Total trades in the Contract | % of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract | % of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract |
|---|---|---|---|---|---|---|---|---|---|
| 1 | CESC15APR640.00CE | 1.3 | 25000 | 9.3 | 25000 | 100 | 16.67 | 100 | 5.75 |
| 2 | JSWE15MAR120.00CE W2 | 0.5 | 116000 | 3.1 | 116000 | 100 | 8.7 | 100 | 4.45 |

20. It is noted that the Noticee had allegedly executed non-genuine trades in aforesaid two contracts, wherein the percentage of alleged non-genuine trades of the Noticee in stock options contract to total trades in the contract was 16.67% for contract "**CESC15APR640.00CE**" and 8.7% for the contract "**JSWE15MAR120.00CEW2**". Further, alleged artificial volume generated by Noticee in both the contracts amounted to 100% of total volume generated by him in the contract. It is also noted that alleged artificial volume generated by the Noticee contributed 5.75% for contract "**CESC15APR640.00CE**" and 4.45% for the contract "**JSWE15MAR120.00CEW2**".

21. The details of squaring up done by the Noticee in the contract "**CESC15APR640.00CE**" are as given below :

| Trade Date | Client Name | CP Client Name | Trade Time | Trade Rate (Rs.) | Traded Quantity | Buy/Sell by the Noticee |
|---|---|---|---|---|---|---|
| 31/03/2015 | NAVNEET GARODIA HUF | THAKKAR SURESH PRABHULAL | 12:17:08.580193 | 1.3 | 25000 | Buy |
| 31/03/2015 | THAKKAR SURESH PRABHULAL | NAVNEET GARODIA HUF | 12:17:12.780472 | 9.3 | 25000 | Sell |

22. The details of squaring up done by the Noticee in the contract "**JSWE15MAR120.00CEW2**" are as given below :

| Trade Date | Client Name | CP Client Name | Trade Time | Trade Rate (Rs.) | Traded Quantity | Buy/Sell by the Noticee |
|---|---|---|---|---|---|---|
| 23/02/2015 | MAHAKALESHWAR MINES & METALS PRIVATE LIMITED | NAVNEET GARODIA HUF | 11:29:06.937472 | 3.1 | 116000 | Sell |

| | | | | | | |
|---|---|---|---|---|---|---|
| 23/02/2015 | NAVNEET GARODIA HUF | MAHAKALESHWAR MINES & METALS PRIVATE LIMITED | 11:29:01.137328 | 0.5 | 116000 | Buy |

23. I note from the trade log details which is given above, that the trades executed by the Noticee in a contract were squared up within few seconds, with its counter-party. For instance, as can be seen from the table 2 above, for the contract "**JSWE15MAR120.00CEW2**", the Noticee on February 23, 2015 at 11:29:01 hrs (Order time of Noticee: 11:29:01 and Counterparty Order time: 11:29:01) entered into 1 buy trade with counterparty viz. Mahakaleshwar Mines & Metals Private Limited for 116000 units at the rate of Rs. 0.5 per unit. Thereafter, on the same day, Noticee at 11:29:06 hrs (Order time of Noticee: 11:29:06 and Counterparty Order time: 11:29:06) entered into 1 sell trade with same counterparty for 116000 units at the rate of Rs. 3.1 per unit in the same contract. It is noted that while dealing in the said contract during the I.P., the Noticee executed reversal trades with same counterparty viz. Mahakaleshwar Mines & Metals Private Limited on the same day, with significant price difference. Thus, the Noticee, through its dealing in the contract viz. '**JSWE15MAR120.00CEW2'** during the I.P., executed non genuine trades which was 8.7% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 232000 units which was 4.45% of the volume traded in the said contract from the market during the I.P.

24. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time, the Noticee reversed the position with its counterparties with significant price difference on the same day. The fact that the transactions in a particular contract were reversed with the same counterparties indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. Since

these trades were done in illiquid option contract, there was negligible trading in the said contract and hence, there was no price discovery in the strictest terms. The wide variation in prices of the said contract, within a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Thus, it is observed that Noticee had indulged in reversal trades with its counterparty in the stock options segment of BSE and the same were non-genuine trades.

25. Noticee submitted that the investigation period is April 01,2014 to September 30,2015. However, no justification/ reason has been given in the SCN for selection of the said investigation period. Further, as is observed from Annexure 2 of the SCN, it had carried out trading in only 2 days of the total Investigation period to warrant any kind of creation of artificial volume. This shows that SCN is vague, unclear, baseless and erroneous conclusions have been drawn on the basis of surmises and conjectures.

In regard to aforesaid contention of the Noticee, I note that, the scope of Investigation was to examine all entities who had indulged in executing reversal trades in BSE's Stock Options segment during April 01, 2014 to September 30, 2015. It was observed that the generation of artificial volume by reversal trades / non-genuine trades was not restricted to any specific contract or between any specific set of entities. This execution of reversal trades was a market wide phenomenon that existed in BSE's Stock options segment during the IP and 14720 entities were identified who facilitated or who were part of execution of such reversal of trades. Thus, due to involvement of such huge number of entities the Investigation Period is not limited to the trades of Noticee but it involves 14720 entities which trades during the Investigation period.

In regard to the contention of Noticee that SCN is vague, I find that, SCN issued to the Noticee has clearly spelt the specific nature of violations that have been alleged against it in terms of different provisions of the PFUTP Regulations, 2003. Therefore, it is observed that specific allegations were unambiguously conveyed to the Noticee and further, opportunity was given to the Noticee for tendering its response thereto. It is, therefore, incumbent on the part of the Noticee to explain its position with the support of relevant evidence in response to various allegations made against it in the SCN.

26. Noticee submitted that it dealt in the stock options on the anonymous and electronic trading platform of the stock exchange wherein the buyer and seller are not known and this platform is provided by stock exchange and approved by SEBI. The order matching mechanism is provided by the stock exchange and he is unaware about the nuances of the same since the same is regulated by SEBI. The platform of the electronic trading is designed in such a manner that the trade will happen when a buy order and sell order matches on price time priority, which has happened in the instant case also. Hence, the allegation that his trade matched with same entity by design and not as per the trading mechanism is illogical, arbitrary and goes against the principles on which the electronic trading was started. In regard to the aforesaid contentions, I note that, it is not mere coincidence that the Noticee could match its trades with the same counterparty with whom he had undertaken first leg of the respective trades. The fact that the transactions in a particular contract were reversed with the same counterparty for the same quantity of units, indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a manner. I note in matters dealing with violation of PFUTP Regulations, 2003, the reason as regards execution of non-genuine trades might not be immediately forthcoming. However, the correct test instead, is one of preponderance of probabilities. Here I would like to rely on the judgment of **Hon'ble Supreme Court in SEBI v Kishore R Ajmera** (AIR 2016 SC 1079) decided on February 23, 2016, wherein it was held that-*"...According to us, knowledge of who the 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 final conclusions on the said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be*

*forthcoming...in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*

27. The Hon'ble Supreme Court further held in the same matter that – *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof, the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion."*

28. The observations made in the aforesaid judgments of Hon'ble Supreme Court apply with full force to the facts and circumstances of the present case. Therefore, applying the ratio of the above judgments, I am convinced that the execution of trades by the Noticee in the illiquid options segment with such precision in terms of order placement, time, price, quantity etc. and also the fact that the transactions were reversed with the same counterparty clearly indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. The only reason for the wide variation in prices of the same contract, within short span of time was a clear indication that there was pre-determination in the prices by both the counterparty when executing the

trades. Thus, the nature of trading, as brought out above, clearly indicates an element of prior meeting of minds and therefore, a collusion of the Noticee with its counterparty to carry out the trades at pre-determined prices

29. I note the following from the judgement of the Hon'ble SAT in the matter **of Ketan Parekh vs SEBI**- "*In other words, if the factum of manipulation is established it will necessarily follow that the investors in the market had been induced to buy or sell and that no further proof in this regard is required. The market, as already observed, is so wide spread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and law can never impose on the Board a burden which is impossible to be discharged. This, in our view, clearly flows from the plain language of Regulation 4 (a) of the Regulations."*

30. I also place my reliance on the judgment of Hon'ble Supreme Court in the matter of **SEBI v Rakhi Trading Private Limited** (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble SC held that - *"Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade transactions with huge price variations, it will be too naive to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the board's circular. The impugned transactions are manipulative/deceptive device to create a desired loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities…."*

31. Further, the Hon'ble SAT in its judgement dated September 14, 2020 in the matter of **Global Earth Properties and Developers Pvt Ltd** relied upon the Hon'ble Supreme Court judgement in the matter of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), and held that, "*It is not a mere coincidence that the Appellants could match the trades with the counter party with whom it 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.*"

32. Noticee submitted that by its trading market integrity has not been affected, no harm has been caused to any investor, it has not indulged in any act which has the effect of creating false or misleading appearance of trading in securities market, market equilibrium has not been disturbed etc.

33. I note that the impugned reversal trades, which were carried out with prior meeting of minds as inferred from the case facts, affected the price discovery and execution of trades as per market mechanism on the stock options segment of BSE. In this regard, I further note the following from the judgement of the Hon'ble SC in the matter of SEBI vs Rakhi Trading Pvt Ltd (supra):

*"……….According to SAT, only if there is market impact on account of sham transactions, could there be violation of the PFUTP Regulations. We find it extremely difficult to agree with the proposition. As already noted above, SAT has missed the crucial factors affecting the market integrity, which may bedirect or indirect. The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery system itself is affected. Except the parties who have pre-fixed the price nobody is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market."*

34. Therefore, the trading behaviour of the Noticee confirms that such trades were not normal indicating that the trades executed by the Noticee were not genuine

trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established.

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

35. Considering the findings that the Noticee as mentioned above has executed non-genuine trades resulting in the creation of artificial volume, thereby violating the provisions of Regulation 3(a), (b), (c) & (d) & Regulation 4(1) and 4(2)(a) of the PFUTP Regulations, 2003 and in terms of the judgement of Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shri RAM Mutual Fund**[2006] 68 SCL 216(sc) decided on May 23, 2006 held that '' "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant..."* I am convinced that it is a fit case for imposition of monetary penalty under the provisions of Section 15 HA of SEBI Act which reads as under:

***Penalty for fraudulent and unfair trade practices.***

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

***Issue 3: If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in Section 15J of the SEBI Act, 1992?***

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

15J. *While adjudging quantum of penalty under [15-I or section 11 or section 11B, the Board or the adjudicating officer] shall have due regard to the following factors, namely:—*

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

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

*(c) the repetitive nature of the default*.

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

37. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on part of the said Noticee. However, the Noticee has entered into two non-genuine trades which demonstrates the violation of PFUTP Regulations, 2003.

## ORDER

39. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 15J of the SEBI Act, 1992 and also taking into account judgement of Hon'ble Supreme Court in **SEBI vs. Bhavesh Pabari** (2019) 5 SCC 90 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 | Violation provisions | Penalty |
|---|---|---|
| Navneet Garodia HUF PAN: AADHN5807M | Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 | ₹ 5,00,000/- (Rupees Five Lakhs only) |

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

41. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order 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**

42. The aforesaid Noticee shall forward the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding payment information:
- Name and PAN of the Noticee
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

43. 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.

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

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|---|---|
| **Date: March 28, 2023** | **BARNALI MUKHERJEE** |
| **Place: Mumbai** | **ADJUDICATING OFFICER** |