BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/AK/JS/2022-23/17850/1]

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

Arnav Gupta

(PAN: AXIPG8534C)

In the matter of Dealings in Illiquid Stock Options at BSE

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as "**BSE**"). SEBI observed that such large scale reversal of trades in stock options lead to creation of artificial volume at BSE. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in illiquid stock options at BSE for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as "Investigation Period / IP"). Pursuant to the investigation, it was observed that total 2,91,643 trades comprising 81.38% of all trades executed in stock options segment of BSE during the Investigation Period were non-genuine trades. These non-genuine trades resulted in 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. Such trades were observed to be non-genuine in nature and created false

or misleading appearance of trading in terms of artificial volumes in stock options and therefore alleged to be manipulative and deceptive in nature. It was observed that Shri Arnav Gupta (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 Investigation Period. 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 relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

2. The undersigned was appointed as the Adjudicating Officer under section 15I read with 15HA of the SEBI 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 "Adjudication Rules"), vide order dated April 30, 2021, to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with section 15I of SEBI Act, 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.

3. Undersigned issued Show Cause Notice bearing reference no. SEBI/HO/MRD1_DSAP/P/OW/2021/13611/1 dated June 28, 2021 (hereinafter referred to as '**SCN**') to the Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed upon the Noticee as per Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.

4. In absence of any response to the said SCN and opportunity of personal hearing granted to the Noticee, an ex-parte Adjudication Order dated October 20, 2021 (hereinafter referred to as '**Adjudication order'**), was passed against the Noticee wherein it was concluded that the noticee had violated Regulations 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) of PFUTP Regulations and imposed a penalty of Rs. 10,00,000 (Rupees Ten Lakh only) on him.

5. Thereafter, an appeal, Appeal No. 137 of 2022, was filed by the Noticee, represented by Mrs. Chhavi Sawhney Gupta, before Hon'ble Securities Appellate Tribunal (**SAT**) challenging the aforementioned Adjudication order, alleging, inter-alia, that the Noticee was a minor at the time of passing of order by the Adjudicating Officer(AO). The Hon'ble SAT, vide order dated April 8, 2022 (hereinafter referred to as "**SAT Order**"), set aside the said Adjudication order against Noticee and remitted the matter to the Adjudicating Officer for reconsideration. Also, the Hon'ble Court directed Ms. Chhavi Sawhney Gupta, the natural guardian of the Noticee to appear before the Adjudicating Officer on April 25, 2022 and present her case. The relevant extracts of the aforementioned order of Hon'ble SAT are reproduced hereunder:

> *"……….The matter is remitted to the AO for reconsideration. In this regard the natural guardian and mother Mrs. Chhavi Sawhney Gupta who has filed the present appeal will appear before the AO on April 25, 2022 and produce such documents to show that the appellant Arnav Gupta was a minor. The AO upon making* necessary *enquiry, if satisfied, that the appellant Arnav Gupta was a minor at the time when the alleged trades were executed will drop the proceedings and pass appropriate orders accordingly. Thereafter it will be open to the SEBI / AO to issue a fresh show cause notice to the natural guardian of*

Arnav Gupta or such person responsible for carrying out the trades in question and proceed from there onward in accordance with law."

6. In accordance with the aforesaid order of Hon'ble SAT, Mrs. Chhavi Sawhney Gupta appeared before me over WebEx online platform on April 25, 2022 and presented documents i.e. attested copies of the birth certificate and the PAN of the Noticee, in support of her claim that the Noticee was a minor during the IP.

7. On examination of the documents submitted Mrs. Chhavi Sawhney Gupta it is observed that the date of birth of the Noticee is July 7, 2010 and therefore, the Noticee indeed was a minor during the IP.

8. In the matter of Vatsal Agarwal Vs SEBI, the Hon'ble SAT held as under: -

"5. In our view, the approach adopted by the WTM is patently erroneous and against the provisions of law. Under Section 11 of the Contract Act a minor has no legal competence to enter into a contract or authorize someone on his behalf to enter into a contract. However, under Section 8 of the Hindu Minority and Guardianship Act, 1956, the position is, that a natural guardian has the legal competence to enter into a contract on behalf of a minor if it is for the benefit of the minor. Thus, the natural guardian is competent to enter into a contract on behalf of the minor for the benefit of the estate but such right can in no case bind the minor 5 by a personal covenant. In furtherance of this aspect, it is made clear that the action of the natural guardian if it involves a minor into an obligation of doing certain acts which would amount to a personal covenant by the natural guardian binding the minor, in which case, the agreement, if any, cannot be enforced against the minor and the acts of the natural guardian will not bind the

minor. 9. From the aforesaid it is apparently clear that the minors at the time of occurrence of the event cannot be subject to any penalty under the SEBI Act and the person who committed the violation can only be proceeded against not only on his own behalf but also on behalf of the minors. The said proposition of law is fully applicable to the instant case which the WTM has totally ignored. 10. Section 11 of the Contract Act provides that a person who is competent to contract must be of the age of majority. Admittedly, the appellant was a minor when the alleged violation occurred and consequently he could not have entered into a contract nor could be made responsible for the event. Section 8 of the Hindu Minority and Guardianship Act, 1956 clearly indicates that the natural guardian can enter into a contract and do such acts which are for the benefit of the minor. In the instant case, the action of the guardian has resulted in the triggering of Regulation 11 which carried an obligation to make an open offer. Such obligation was not for the benefit of the minor and, is therefore, a personal covenant of the guardian. Thus, the action of the guardian in the instant case could not bind the minor by a personal covenant as stipulated under Section 8 of the Hindu Minority and Guardianship Act, 1956."

<u>CONSIDERATION OF EVIDENCE AND FINDINGS</u>

9. I have carefully perused the charges levelled against Noticee in the SCN, documents presented by Mrs. Chhavi Sawhney Gupta, mother and natural guardian of the Noticee and the material available on record. The issues that arise for consideration in the present case are:

I Whether Noticee was minor at the time of violation of the provisions of Regulations 3 (a), 3(b), 3(c), 3(d), 4(1), 4(2)(a), of PFUTP Regulations?

II If yes, whether monetary penalty under Section 15HA of the SEBI Act can be imposed on the Noticee?

10. Based on the documents provided by Mrs. Chhavi Sawhney Gupta, it is clear that the Noticee was a minor during the IP and accordingly was not legally competent to enter into a contract or authorize someone on his behalf to enter into a contract, and that the alleged trades were carried out by his natural guardian.

11. Since the action of the natural guardian involving a minor, cannot be enforced against the minor, the minor cannot be subject to any penalty.

ORDER

12. Having considered all the facts and circumstances of the case, the material available on record, the proceedings initiated against the Noticee, vide Show cause notice no. SEBI/HO/ MRD1_DSAP/P/OW/2021/13611/1 dated June 28, 2021, is dropped.

13. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to Noticee, Mrs. Chhavi Sawhney Gupta and to SEBI.

Place: Mumbai **AMIT KAPOOR**

Date: July 7, 2022 **ADJUDICATING OFFICER**