**<u>BEFORE THE ADJUDICATING OFFICER</u>**

**<u>SECURITIES AND EXCHANGE BOARD OF INDIA</u>**

**[ADJUDICATION ORDER NO. Order/AA/RG/NS/2023-24/26117]**

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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

**I.VENTURE CAPITAL PVT.LTD.**

**[PAN: AACCI0426M]**

**In the matter of Trading Members in Illiquid Stock Options (ISO) at BSE**

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**<u>BACKGROUND OF THE CASE</u>**

**1.** Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") had conducted an investigation into the trading activities of certain entities in illiquid stock options at Bombay Stock Exchange (hereinafter referred to as "**BSE**") for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period/ IP**") upon observing large scale reversal of trades in stock options segment which led to creation of artificial volume at BSE.During the investigation period, the trade data of BSE's Stock Option segment was analyzed and it was observed that a total of 2, 91,744 non-genuine trades were executed by 14,720 entities through 192 stock brokers that resulted in trade reversals.

**2.** Out of the 192 stock brokers, with respect to 125 stock brokers, it was observed that there were 5316 entities having unique set of PAN numbers who had executed repeated reversals with at least 4 transactions or more including I. Venture Capital Pvt. Ltd. (hereinafter referred to as "**Noticee**"). Further, it was also observed that 74 brokers had executed trade reversals through their proprietary accounts. The proprietary trades of the brokers created misleading appearance of trading and resulted in artificial volumes in illiquid stock option on BSE. Therefore, the Noticee, being one amongst the brokers who had indulged in reversal of trades for its clients and in its proprietary account was observed to have failed to exercise due skill, care and diligence in the conduct of its business while dealing with its clients and did not maintain high standards of integrity, promptitude and fairness in conduct of business as stock broker during the investigation period thereby allegedly violating the provisions of Schedule II Clauses A (1), (2), (3) and (4) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the SEBI (Stock Brokers) Regulations, 1992 (hereinafter referred to as "**Broker Regulations**").

## APPOINTMENT OF ADJUDICATING OFFICER

**3.** Ms. Maninder Cheema, CGM, SEBI was appointed as Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**"), vide communique dated September 17, 2021 to inquire into and adjudge under section 15HB of the SEBI Act, 1992, the aforesaid alleged violations by the Noticee. Pursuant to transfer of Ms. Maninder Cheema, the undersigned was appointed as Adjudicating Officer vide Communique dated June 07, 2022.

## SHOW CAUSE NOTICE, REPLY AND HEARING

**4.** A Show Cause Notice no. EAD5/MC/PR/2022/22329 dated May 27, 2022 (hereinafter referred to as, '**SCN'**) was served upon the Noticee under Rule 4 of the Adjudication Rules, 1995 read with Section 15 I of the SEBI Act, 1992 to show cause as to why an inquiry should not be held and penalty be not imposed under Section 15HB of the SEBI Act,1992 for the alleged violation of the provisions of Schedule II A(1), (2), (3) and (4) of Code of Conduct for stock Brokers read with Regulation 9 (f) of the Broker Regulation. I note that digitally signed SCN was sent to the Noticee vide email dated June 02, 2022.

**5.** The allegations levelled against Noticee in the SCN are reproduced as under:

*"**BSE notice on e-Boss dated March 07, 2013:***

9. *BSE had issued notice to all the Trading Members (brokers) casting an obligation on the broker to, inter alia, monitor and report reversal of trades in derivatives segment. BSE notice no 20130307-21 (addressed to all the trading members) dated March 07, 2013 pertaining to "e-Boss", inter alia, indicated the list of alerts that will be generated by BSE which includes reversal of trades in derivatives segment. Further, in terms of the aforesaid notice every broker was necessarily required to frame a surveillance policy, inter alia, covering suspicious/manipulative activity identification and reporting process.*

10. *The aforesaid BSE notice also casts obligation on the Trading Member (Broker) to monitor and report alerts specifically mentioning the following:*

> *"…..The trading members are hereby further informed that the aforementioned transactional alerts are indicative in nature and the trading members can derive their own alerts in addition to the said transactional alerts as per their surveillance policy.*
>
> *……*
>
> *Monitoring and reporting:*
>
> *1. For effective monitoring, Trading Member shall:*
>
> *a. Frame a surveillance policy covering:*
>
> *i….*
>
> *ii….*
>
> *iii. Suspicious / Manipulative activity identification and reporting process.*
>
> *iv…..*
>
> *b. The surveillance policy of the Trading Member shall be approved by its Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) as the case may be.*

*c. A quarterly MIS shall be put up to the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) on the number of alerts pending at the beginning of the quarter, generated during the quarter, disposed off during the quarter and pending at the end of the quarter. Reasons for pendency shall be discussed and appropriate action taken. Also, the Board (in case of corporate trading member), Partners (in case of partnership firms) or Proprietor (in case of sole proprietorship firm) shall be apprised of any exception noticed during the disposition of alerts.*

*d. The surveillance process shall be conducted under overall supervision of its Compliance Officer.*

*e. Designated directors / partners / proprietor / Compliance Officer would be responsible for all surveillance activities carried out by the Trading Member and for the record maintenance and reporting of such activities.*

*2. Internal auditor of Trading Member shall review the surveillance policy, its implementation, effectiveness and review the alerts generated during the period of audit. Internal auditor shall record the observations with respect to the same in their report."*

11. *However, as informed by BSE vide email dated November 06, 2020, no broker had reported any suspicious transactions to exchange being executed on Stock Options segment of BSE during I.P. None of the brokers generated any alerts or reported any reversal of trades executed by their respective clients.*

12. *Without a system in place to identify repeated trade reversals between the same clients, the brokers facilitated those clients in executing fraudulent transactions in the stock market who transferred profits and losses to each other in a pre-meditated manner.*

***Analysis of Source Data***

13. *On analyzing the source data, the data was segregated based on scenarios so as to identify scenario-wise violations by a Broker and the details are given below:*

| Scenario | Particulars | Count of Brokers | Total number of non-genuine trades (both client and counterparty client) | Cumulative non-genuine trades through Brokers after removing duplicates (same broker for both clients) | As a % of total transactions |
|---|---|---|---|---|---|
| 1 | Same Broker for both clients on both legs of trade reversal | 19 | 8,528 | 4,264 | 0.74 |
| 2 | Different Broker for both clients on both legs of trade reversal | 189 | 5,74,900 | 5,74,900 | 99.25 |
| 3 | Trade reversals involving three Brokers | 8 | 60 | 59 | 0.01 |
| | **Total** | **192*** | **5,83,488** | **5,79,223** | **100** |

**Note – There are 3 unique brokers appearing in Scenario 1 and the remaining 16 brokers of Scenario 1 are overlapping with 189 unique brokers appearing in Scenario 2. Accordingly, total Brokers through whom 2,91,744 non-genuine trades have been executed is 3+189 = 192 brokers. Names of 8 brokers appearing in scenario 3 are overlapping with names appearing in either Scenario 1 or Scenario 2.*

14. *The non-genuine reversal trades by Noticee was falling in the Scenario 2 as described above.*

***<u>Scenario 2: Different Broker for both clients on both legs of trade reversal</u>***

15. *In the instant scenario, two clients execute reversal trade through two different Brokers. For the sake of clarity, a contract is shortlisted (i.e. "JPPW15JAN10.00CEW1") and trades that were executed in this contract on January 01, 2015 is shown below:*

***Table 3***

| SL. NO. | CLIENT PAN | CLIENT NAME | CP PAN | CP CLIENT NAME | ORDER TIME | CP ORDER TIME | TRADE TIME | TRADE RATE | TRADED QTY | MEMBER NAME | CP MEMBER NAME |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | AAGFC5601H | Chanakya Broking Company | BSUPS7339K | Vitrag R Sheth | 11:40:42 | 11:40:42 | 11:40:42 | 1.2 | 90000 | Skung Tradelink Ltd | Prudent Broking Services Pvt.Ltd. |

| S L. N O. | CLIENT PAN | CLIENT NAME | CP PAN | CP CLIENT NAME | ORDER TIME | CP ORDER TIME | TRADE TIME | TRADE RATE | TRADED QTY | MEMBER NAME | CP MEMBER NAME |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 2 | BSUPS7339K | Vitrag R Sheth | AAGFC5601H | Chanakya Broking Company | 11:41:03 | 11:41:03 | 11:41:03 | 2.8 | 90000 | Prudent Broking Services Pvt.Ltd. | Skung Tradelink Ltd |
| 3 | AAGFC5601H | Chanakya Broking Company | BSUPS7339K | Vitrag R Sheth | 11:42:48 | 11:42:48 | 11:42:48 | 1.3 | 90000 | Skung Tradelink Ltd | Prudent Broking Services Pvt.Ltd. |
| 4 | BSUPS7339K | Vitrag R Sheth | AAGFC5601H | Chanakya Broking Company | 11:43:15 | 11:43:14 | 11:43:15 | 2.8 | 90000 | Prudent Broking Services Pvt.Ltd. | Skung Tradelink Ltd |
| 5 | AAGFC5601H | Chanakya Broking Company | BSUPS7339K | Vitrag R Sheth | 11:43:54 | 11:43:54 | 11:43:54 | 1.3 | 15000 | Skung Tradelink Ltd | Prudent Broking Services Pvt.Ltd. |
| 6 | BSUPS7339K | Vitrag R Sheth | AAGFC5601H | Chanakya Broking Company | 11:44:17 | 11:44:17 | 11:44:17 | 2.8 | 15000 | Prudent Broking Services Pvt.Ltd. | Skung Tradelink Ltd |

*16. It is observed from the above table that:*

*a. In total 6 trades were executed in the contract "JPPW15JAN10.00CEW1" on January 01, 2015. Trade reversals are executed between clients Chanakya Broking Company and Vitrag R Sheth through Brokers Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. respectively.*

*b. Total number of non-genuine trades that were executed in the contract "JPPW15JAN10.00CEW1" were 6 (trades shown at S. No. 1 to 6 at Table 3)* *and total artificial volume generated through such non genuine trades was 3,90,000 units.*

c. *The Broker-wise contribution to number of non-genuine trades and artificial volume in the above contract is as shown below:*

***Table 4***

| ***S. No.*** | ***Entity Name*** | ***Artificial volume through non genuine trades*** | ***Number of Non genuine trades*** |
|---|---|---|---|
| *1* | *Skung Tradelink Ltd* | *3,90,000* | *6* |
| *2* | *Prudent Broking Services Pvt. Ltd.* | *3,90,000* | *6* |
| ***Total*** | | ***7,80,000*** | ***12*** |

17. *Trade reversals were executed by Chanakya Broking Company through Broker Skung Tradelink Ltd through same modus operandi on 3 instances on a same day. In a similar manner, Trade reversals were executed by Vitrag R Sheth through Broker Prudent Broking Services Pvt. Ltd. on 3 instances on a same day. Despite the repeated reversals of identical quantity and with more than 100% difference in price in less than a minute, the brokers through whom such transactions went through failed to notice them immediately or even much after the said transactions as they did not have any system in place to identify trade reversals. Though the broker may not know the counterparty client or counterparty broker in a transaction, however, the fact that certain quantity transacted by his client is getting reversed within the same day in a repeated manner should have alerted the brokers concerned.*

18. *Without a system in place to identify repeated trade reversals between the same clients, the broker facilitated its clients in executing fraudulent transactions in the stock market in a pre-meditated manner.*

19. *Since Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. did not take necessary steps to generate alerts by putting a system in place to detect and curb reversal of trades, both Skung Tradelink Ltd and Prudent Broking Services Pvt. Ltd. failed to exercise care and diligence in the conduct of business while dealing with its respective clients.*

20. *Upon analyzing all the 5,74,900 non-genuine trades in the instant scenario, it was observed that there were 189 unique brokers through whom clients had executed trade reversals. On further analysis, it was observed that there were 14,333 clients who had executed trade reversals in various combinations among each other.*

21. *It was observed that there were numerous instances of single reversal trades in various contracts. It was felt that benefit of doubt can be given to the broker for single instances of trade reversal identified in a particular contract of a particular scrip amongst the numerous trades executed by the clients registered with the broker. Hence a cut off of at least 4 or more transactions (2 cycles of reversals between the same set of PAN numbers) on the same day in a particular contract between two unique PAN numbers was applied and it was observed that there are 5,316 unique set of PAN numbers who have executed repeated reversals with at least 4 transactions or more through 125 different Brokers including the Noticee.*

22. *Hence, it is alleged that Noticee, being one of the aforementioned 125 brokers, failed to exercise care and diligence in the conduct of business while dealing with its clients and therefore not in compliance with Schedule II A (2) of the Code of Conduct for Stock Brokers r/w regulation 9 (f) of the Broker Regulation.*

***<u>Trades executed by Brokers through accounts</u>***

23. *While analyzing the non-genuine trades it was observed that 74 Brokers had executed trade reversals through their proprietary accounts. The proprietary trades of the brokers, thus, created misleading appearance of trading and resulting artificial volume in illiquid stock option on BSE. It further shows that these brokers had failed to exercise due skills, care and diligence and did not maintain high standards of integrity, promptitude and fairness in conduct of business as a stock broker.*

24. *By not taking necessary steps to generate alerts by putting a system in place to detect and crub reversal of their proprietary trades, said 74 Brokers failed to exercise care and diligence in the conduct of business while dealing with their proprietary accounts. Since it is clear that the brokers were aware of the modus operandi of trade reversals and yet continued to exploit the said route and also*

*facilitated their clients to do so, the Noticee, being one of the aforementioned 74 brokers, is alleged to be in non-compliance with Schedule II A (1), (2), (3) and (4) of Code of Conduct of Stock Brokers r/w Regulations 9 (f) of the SEBI (Stock Brokers) Regulations, 1992).”*

**6.** The Noticee, vide letter dated June 30, 2022, filed its reply to the SCN dated May 27, 2022 and made the following submissions:

(a) There is a considerable / inordinate delay in issuance of the SCN dated May 27, 2022 (received on June 06, 2022) and the date of alleged transactions (i.e. April 01, 2014 to September 30, 2015) i.e. of more than 6.5 years. In terms of Regulation 18 of the Broker Regulations, each stock broker is required to maintain books of accounts and records for a period not less than 5 years. As a result of immense delay, the relevant records of more than 5 years have been purged by the Noticee and the records pertaining to the trades under IP are not available.

(b) The Noticee has stated that it is a matter of record that entire list of brokers in the matter of illiquid securities was available with SEBI as early August 20, 2015 when interim order was passed against 59 entities and further interim orders dated February 17, 2016 were passed against 22 brokers, yet no order / directions for preservation of records was issued by SEBI or BSE to the Noticee, as a result of which the Noticee has been put to a great disadvantage in having to rebut / defend the SCN in absence of any available data/ records with it. Further, no explanation has been provided by SEBI as to inordinate / immense delay of 6.5 years in issuing the SCN to the Noticee. The Noticee has placed reliance on the order passed by the Hon’ble Supreme Court in the case of *Shriram Insight Share Brokers Vs. SEBI (Appeal no. 559 of 2020)* and another order passed by Hon’ble SAT in the case of *Ashok Shivlal Rupani Vs. SEBI (Appeal No. 440 of 2018)* in support of the said contention.

(c) The Noticee has submitted that trading or dealing in illiquid stocks during the I.P. was not illegal. As a matter of fact, SEBI itself vide circulars dated June 02, 2011, February 08, 2013 and April 23, 2014 decided to permit liquidity enhancement schemes to enhance liquidity of illiquid securities in their equity derivatives segments and equity cash segments. Further, as per the Illiquid Stock SEBI Circulars, it was the sole responsibility of the stock exchange to make its own benchmarks for selecting the securities for liquidity enhancement with the broad objective of enhancing liquidity in illiquid securities. As a matter of fact, illiquid securities were selected and notified by the stock exchange and the same were made available for trading at the platform by the stock exchange and traded as per the permissible rules without any objection or demur from either SEBI or BSE.

(d) Any trades in illiquid stocks executed by it during the I.P. have been carried out independently based on commercial wisdom in ordinary course of business and were permitted, settled, cleared by the exchange, and no adverse inference should be drawn against it at such a belated stage. Any profit / loss derived from such transactions by it have been subjected to ordinary course of business income, payment of income tax and no adverse view can be taken of the same.

(e) The Noticee has stated that no data has been provided by SEBI to substantiate if the Noticee has indulged in reversal trades, non-genuine trades and created misleading appearance of trading resulting in artificial volume in illiquid stock. The data which has been provided by SEBI is the entire data dump of more than 2,90,000 “buy” transactions undertaken of several hundred entities, and no specific data in support of the allegations in the SCN against the Noticee has been provided by SEBI.

(f) Further, no data on sell transactions, time and price of consummation of first leg of reversal trade and time & price of consummation of second leg of reversal trade has been provided. The Noticee has submitted that while the SCN relies upon investigation carried out by SEBI during the I.P., orders referred to in the SCN, full data set pertaining to the trades undertaken by Noticee during I.P.; however, the Noticee has not been provided with any such materials relied upon by SEBI which is in gross violation of principles of natural justice.

(g) It is neither related / known to any of the counter party in any manner nor anything has been alleged in the SCN which would suggest further that there was any commonalities / nexus / relationship / collusion / dealing / agreement with the counter party / trades in order for such trades to be classified as synchronized or non-genuine or reversal trades.

(h) The Noticee has further stated that the trades alleged to have been done by the Noticee falls in Scenario 2 (i.e. different broker for both clients). It is impossible for Noticee to know the details of the counter party. It is well settled that in order to establish the allegation of reversal trades nexus between the parties has to be brought on record. Unless some connection between the parties is established, it cannot be alleged that the alleged reversal trades were carried out with a view to generate artificial volume in the market.

(i) The Noticee has referred to the orders passed by the Hon'ble SAT in the matter of *Jagruti Securities vs SEBI* and *S.P.J. Stock Brokers Pvt Ltd viz SEBI* and reiterated that unless some collusion / connection between the parties is established, it cannot be alleged that the alleged reversal trades were carried out with a view to generate artificial volume in the market.

(j) No material has been provided to show that trading by the Noticee was large scale or constituted significant percentage of the total trades executed in the market for that illiquid stock for such trades to be classified as misleading and resulting in artificial volume. Therefore, in absence of such data, no adverse inference can been drawn by SEBI against the Noticee.

(k) Trading was done by the Noticee on the platform of the exchange, as per the rules and regulations existing during the I.P. and within the limits provided by the exchange and within the price range that was appearing of the underlying asset, otherwise no trade could have been permitted to be executed by the exchange. Further, the trades were cleared, settled and paid-out by the exchange with any objection. Furthermore, except standard brokerage, the Noticee has not gained anything out of such alleged trades.

(l) The Noticee has referred the orders passed by the Hon'ble SAT in the matter of *Govindji Gupta and others* and *Almondz Entertainment Private Limited Vs SEBI* in which Hon'ble SAT held that a trade involving a time gap of seconds to 5 minutes could have been a structured trade. Reversal trade has been recognised as a structured trade. SEBI as a regulator and adjudicator cannot abandon its own yardstick adopted in one case and adopt a different yardstick in Noticee's case.

(m) The Noticee has stated that no material has been brought on record by SEBI to corroborate or even suggest remotely that the alleged reversal of trades against the Noticee are so large in scale and the same has resulted in creation of artificial volume. No alert / warning / caution, etc. of any sort was issued by BSE/ SEBI during the I.P. which suggested or advised the Noticee against undertaking such trades or in certain illiquid stocks despite both BSE and SEBI having state of the art surveillance system.

(n) As a matter of fact, it was not the Noticee but the BSE who had the statutory obligation to generate necessary alerts, if any.

(o) No alerts were generated by BSE during the I.P. and nothing in the SCN suggests that alerts were generated by BSE and circulated to the Noticee during the I.P. and the same were not complied with the Noticee. Further BSE did not raise any objection at the relevant period of transactions. The alleged trades were carried out on the platform of BSE. If the alleged trades were not allowed then BSE should have prevented/cancelled the alleged trades at the relevant time itself. Therefore, it seems absolutely clear that BSE believed that such alleged trades were permitted.

(p) The Noticee has submitted that role of BSE in the matter of trading in Illiquid Stocks Options has been completely overlooked and the entire burden has been illegally put on brokers, including the Noticee in a blatant violation of Illiquid Stock SEBI Circulars.

(q) Per day trade of the Noticee as per the data provided along with SCN is miniscule, cumulative as well as less than 5 trades per day. With such thin trading and without any input from BSE, no alerts could have been generated by the Noticee itself. During the I.P. as per the data provided along with the SCN are miniscule in total volume during the I.P. (merely .1% of the total trades in the data set) and even on per day basis (less than 5 trades or so per day) and the said alleged trades cannot be considered to be non-genuine, misleading resulting in creation of artificial volume by any stretch of imagination.

(r) The Noticee has stated that no checks and balances were put in place by the SEBI / BSE itself to check reversal of trades etc., and later on the following systems were introduced:

 (i) Introduction of Reversal Trade Prevention Check for the Stock Options segment of BSE with effect from March 14, 2016. In this measure, the second leg (latest leg) of a reversal trade is automatically cancelled by the Exchange at the time of order matching in an on-line real time manner in the trading system.
 (ii) Introduction of Price Reasonability Check functionality in the Stock Options segment of BSE in January 2016.
 (iii) Discontinuation of weekly stock options contracts with effect from March 03, 2016 as it was observed that the contracts that were used by the entities for exchanging their positions were mostly weekly contracts.

(s) The Noticee has stated that monitoring/surveillance of trades carried out on the platform is a sophisticated process and with the limited wherewithal, role, and visibility of data to brokers, it is impossible for brokers to have any effective check and control over such sophisticated trades. The above systems ought to have been built and put in place by SEBI / BSE prior to the commencement of trading of illiquid stocks on platform. The Noticee at this belated stage cannot be held liable for any matter whatsoever for the failure of the BSE to put such systems in place.

(t) The only obligation of the Noticee was to make a surveillance policy, which was fully complied by the Noticee. Further, surveillance policy did not include trading in illiquid stock, reversal trades, it only included suspicious / manipulative activity as per the wisdom of the broker.

(u) The Noticee has denied that it facilitated its clients in executed fraudulent transaction in stock markets who transferred profits and losses to each other in a premeditated manner.

*(v)* The Noticee has placed reliance on the Judgments passed by the Hon'ble Bombay High Court and the Hon'ble Supreme Court in the matter of *Securities & Exchange Board of India v. Cabot International Capital Corporation, Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Pabari* and *Magnum Equity Broking Ltd. vs. Securities and Exchange Board of India* in support of its contentions.

(w) The Noticee, vide letter dated July 25, 2022, submitted that upon review of buy and sell data provided by SEBI along with the SCN, total trade volume of the Noticee is less than 230 trades and on several occasions, there is a significant difference between the buy and sell trades. Given the differences between buy / sell trades and assuming the data provided is true and accurate for the sake of argument, such trades cannot be simply classified as non-genuine reversal trade transactions. A sample data of differences between buy and sell trades is provided by the Noticee as Annexure-A to its reply.

**7.** In compliance with the principles of natural justice, an opportunity of personal hearing was granted to the Noticee on July 06, 2022. On the scheduled date of hearing, the Authorized Representatives (ARs) appeared on behalf of the Noticee. The ARs reiterated the submissions made vide reply dated June 30, 2022 and requested for relevant trade details of the Noticee and relevant extract of the Investigation Report. The AR also stated that additional submissions shall be filed by July 21, 2022.The Noticee was provided relevant portion of Investigation Report and Trade Details. The Noticee, vide letter dated July 25, 2022, made additional submissions.

**8.** I note that vide Public Notice dated November 28, 2022 (hereinafter referred to as **'Notice'**), SEBI introduced a Settlement Scheme for 150 Stock Brokers, 2022 wherein onetime opportunity of settlement was provided by SEBI to stock brokers through whom trade reversals were executed by various clients/proprietary trades executed by the Stock Broker in the Illiquid Stock Options segment of BSE during the IP and against whom enforcement proceedings have been initiated and are pending. The said scheme commenced on December 19, 2022 and ended on January 19, 2023 (Both days inclusive). However, as per the available records, I note that the Noticee has not availed the aforesaid settlement scheme. Consequently, Adjudication proceedings were resumed in the instant matter.

**9.** In view of the lapse of six months from the last date on which an opportunity of hearing was provided to the Noticee i.e. on July 02, 2022, another opportunity of hearing was granted to it on March 09, 2023. However, the Noticee, vide email dated March 03, 2023, requested for an adjournment of the scheduled hearing as its legal counsel was busy due to personal reasons. The request for adjournment of hearing was acceded to and the same was rescheduled on March 17, 2023. During the hearing, the ARs reiterated the submissions made by the Noticee in its earlier replies dated June 30, 2022 and July 25, 2022. As requested, the Noticee was granted time till March 24, 2023 to submit further documents in support of its submissions made during the hearing. The Noticee, vide email dated March 23, 2023, made additional submissions along with supporting documents. The Noticee submitted that that as far as the proprietary trades referred to in the SCN are concerned, the Noticee has already settled the same by participating in the SEBI Settlement Scheme, 2022 and has already paid a registration fee Rs. 29,505/- on October 27, 2022 & settlement amount of Rs. 2,00,005/- on November 11, 2022. Relevant documentation, including the settlement application form and payment receipts, is provided by the Noticee as Annexure A to its reply.

**CONSIDERATION OF ISSUES AND FINDINGS**

**10.** I have carefully perused the allegations levelled against the Noticee in the SCN, the replies filed by the Noticee and other material available on record. I note that the issues that arise for consideration in the instant matter are:

**I.** Whether Noticee has violated Schedule II Clauses A (1), (2), (3) and (4) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?

**II.** Does the violation, if any, attracts monetary penalty under Section 15HB of SEBI Act, 1992?

**III.** If the answer to issue no. 2 is in affirmative, then what should be the quantum of monetary penalty?

**11.** Before proceeding, it is pertinent to refer to the relevant provision of the Broker Regulations which were in force at the time of the impugned transactions, which are reproduced as under:

***Relevant provisions of Broker Regulations:***

***Conditions of registration.***

***9.*** *Any registration granted by the Board under regulation 6 shall be subject to the following conditions, namely,-*
*(a)……*
*(b)……*
*……….*
***(f)*** *he shall at all times abide by the Code of Conduct as specified in Schedule II;*

***SCHEDULE II***
***Stock Brokers Regulations, 1992***
***CODE OF CONDUCT FOR STOCK BROKERS***
***[Regulation 9]***

***A. General.***
***(1)*** *Integrity: A stock-broker, shall maintain high standards of integrity, promptitude and fairness in the conduct of all his business.*
***(2)*** *Exercise of due skill and care: A stock-broker shall act with due skill, care and diligence in the conduct of all his business.*

*__(3)__ Manipulation: A stock-broker shall not indulge in manipulative, fraudulent or deceptive transactions or schemes or spread rumours with a view to distorting market equilibrium or making personal gains.*
*__(4)__ Malpractices: A stock-broker shall not create false market either singly or in concert with others or indulge in any act detrimental to the investors interest or which leads to interference with the fair and smooth functioning of the market. A stockbroker shall not involve himself in excessive speculative business in the market beyond reasonable levels not commensurate with his financial soundness.*

**Issue No. I- Whether Noticee has violated Schedule II Clauses A (1), (2), (3) and (4) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations?**

**12.** It has been alleged in the SCN that Noticee had, by facilitating reversal of trades in the illiquid stock options, failed to exercise due skill, care and diligence in the conduct of its business while dealing with its clients and did not maintain high standards of integrity, promptitude and fairness in conduct of business as stock broker during the investigation period thereby allegedly violating the provisions of Schedule II Clauses A (1), (2), (3) and (4) of Code of Conduct for Stock Brokers read with Regulation 9(f) of the Broker Regulations.

**13.** I note that BSE had issued a notice to all the Trading Members ("brokers") casting an obligation upon them to, inter alia, monitor and report reversal of trades in derivatives segment. BSE notice no. 20130307-21 (addressed to all the trading members) dated March 07, 2013 pertaining to "e-Boss", *inter alia*, indicated the list of alerts that will be generated by BSE which includes reversal of trades in derivatives segment. Further, in terms of the aforesaid notice every broker was necessarily required to frame a surveillance policy, *inter alia*, covering suspicious/manipulative activity identification and reporting process.

**14.** I note from the trade data of the Noticee that during the investigation period, the Noticee, on behalf of its clients and using its proprietary accounts, had engaged in 397 non genuine reversal trades in 63 unique contracts wherein the positions taken were reversed with the same counterparty client / broker on the same day, at a substantial price difference. The aforementioned non-genuine reversal trades executed by the Noticee on behalf of its clients were falling in the Scenario 2 as described above i.e. different broker for both clients on both legs of trade reversal in respective illiquid stock option contract of BSE.

**15.** The same is illustrated through the dealings of the Noticee for one of the clients in the contract viz, "ALLD15APR65.00PEW1" executed on March 16, 2015 during the Investigation Period below:

| ***Sr No*** | ***Client Plan*** | ***Client Name*** | ***CP Plan*** | ***CP Name*** | ***Order Time*** | ***CP Order Time*** | ***Trade Time*** | ***Trade Rate*** | ***Traded Qty*** | ***Member Name*** | ***CP Member Name*** |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | AADCM6950B | MEGHDOOT MERCANTILE PRIVATE LIMITED | AQMPS8864N | SHILPI SINGHANIA | 12:39:31.474539 | 12:38:44.694665 | 12:39:31.474539 | 1.1 | 4000 | EXCEL STOCK BROKING PVT.LTD. | I.VENTURE CAPITAL PVT.LTD. |
| 2 | AADCM6950B | MEGHDOOT MERCANTILE PRIVATE LIMITED | AQMPS8864N | SHILPI SINGHANIA | 12:39:31.474539 | 12:38:58.579873 | 12:39:31.474539 | 2.2 | 48000 | EXCEL STOCK BROKING PVT.LTD. | I.VENTURE CAPITAL PVT.LTD. |
| 3 | AADCM6950B | MEGHDOOT MERCANTILE PRIVATE LIMITED | AQMPS8864N | SHILPI SINGHANIA | 12:39:31.474539 | 12:38:39.437342 | 12:39:31.474539 | 1 | 4000 | EXCEL STOCK BROKING PVT.LTD. | I.VENTURE CAPITAL PVT.LTD. |
| 4 | AADCM6950B | MEGHDOOT MERCANTILE PRIVATE LIMITED | AQMPS8864N | SHILPI SINGHANIA | 12:39:31.474539 | 12:39:11.247015 | 12:39:31.474539 | 2.25 | 48000 | EXCEL STOCK BROKING PVT.LTD. | I.VENTURE CAPITAL PVT.LTD. |
| 5 | AQMPS8864N | SHILPI SINGHANIA | AADCM6950B | MEGHDOOT MERCANTILE | 14:48:36.033550 | 14:48:36.913871 | 14:48:36.913871 | 0.1 | 52000 | I.VENTURE CAPITAL | EXCEL STOCK BROKING |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | PRIVATE LIMITED | | | | | | PVT.LTD. | PVT.LTD. |
| 6 | AQMPS8864N | SHILPI SINGHANIA | AADCM6950B | MEGHDOOT MERCANTILE PRIVATE LIMITED | 14:50:49.241108 | 14:50:50.195446 | 14:50:50.195446 | 0.25 | 52000 | I.VENTURE CAPITAL PVT.LTD. | EXCEL STOCK BROKING PVT.LTD. |

**16.** It is noted from the above table that trade reversals were executed between clients Shri. Meghdoot Mercantile Private Limited and Shilpi Singhania through Brokers Excel Stock Broking Pvt.Ltd and I. Venture Capital Pvt.Ltd (Noticee), respectively indicating 6 non-genuine trades that were executed in the aforesaid contract.

**17.** It is further noted that Reversal trades were executed by Shri. Meghdoot Mercantile Private Limited through Broker Excel Stock Broking Pvt.Ltd. through same modus operandi in 4 instances on the same day. In a similar manner, trade reversals were executed by Shilpi Singhania through Broker I. Venture Capital Pvt.Ltd (Noticee) on 2 instances on the same day.

**18.** The non-genuineness of these transactions executed by the Noticee on behalf of its clients is evident from the fact that there was no commercial basis as to why, within such a short span of time, the Noticee reversed the position of its clients with its counterparties with a significant price difference.

**19.** The Noticee's contribution to the number of non-genuine trades and artificial volume in the non-genuine contracts during the IP is as shown below.

| S.No. | Entity Name | Artificial volume through non genuine trades | Number of non genuine trades |
|---|---|---|---|
| 1. | I.Venture Capital Pvt. Ltd(Noticee) | 3,94,02,000 | 397 |

**20.** I note that though there were multiple reversals of the same quantity and with a significant price difference on the same day, the brokers, including the Noticee failed to notice them right away or even until much later as Noticee lacked a system in place to spot trade reversals. The Noticee has contended that no alert or warning or caution etc. was issued by the SEBI or BSE during IP, which suggested or advised the Noticee against undertaking such trades in illiquid stocks despite both BSE and SEBI having surveillance system. Here, I note that in terms of the BSE notice no. 20130307-21 dated March 07, 2013 mentioned in the preceding paragraph, all the Brokers are required to necessarily frame a surveillance policy so as to identify and report suspicious/manipulative activities. However, BSE vide email dated November 06, 2020, submitted that no broker had reported any suspicious transactions to it being executed on Stock Options segment of BSE during I.P. Investigations reveal that none of the brokers generated any alerts or reported any reversal of trades executed by their respective clients. Thus, by not having system in place to identify repeated trade reversals which they were required to do as per the aforesaid notice of BSE, the brokers, including the Noticee, facilitated those clients in executing fraudulent transactions in the illiquid stock options of BSE, who transferred profits and losses to each other in a pre-meditated manner. In view of the same, I do not find any merit in the submissions of the Noticee that it was not required to monitor such transactions and it was the exchange which should have alerted the brokers.

**21.** The Noticee has submitted that it was not in a position to know the counterparty to the trades executed on behalf of its clients and had no nexus / connection with them. I note that even though the Noticee may not be aware of the counterparty client or counterparty broker in a transaction, the fact that a certain number of shares for a certain amount transacted by its clients are being reversed repeatedly within the same day should have raised a red flag on the systems maintained by the brokers, including the Noticee. 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 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 & manipulative.

**22.** Reliance is placed on the order passed by the Hon'ble Supreme Court in the matter in respect of ***SEBI vs. Rakhi Trading Private Limited***[1], in which the Hon'ble Supreme Court has held that –

"*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 trades 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 on the stock market*."

**23.** After perusal of the Noticee's trade data during the investigation period, I note that 397 non genuine reversal trades in 63 different contracts were executed through the Noticee, wherein the positions taken were reversed with the same counterparty on the same day, at a significant price difference. Thus, despite the repeated reversals of identical quantity and with substantial difference in price on the same day, the Noticee failed to notice them as they did not have any system in place to identify trade reversals.

**24.** The trading behavior of the Noticee confirms that the trades executed through the Noticee were not normal. The wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation indicates that such trades were not genuine trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts. Thus, I do not have any hesitation in concluding that there was a clear lapse on the part of Noticee and that it did not exercise due skill, care and diligence in conducting its business while dealing with its clients.

[1] (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018)

**25.** The Noticee has also submitted that he had applied under Settlement Scheme introduced by SEBI with respect to the proprietary trades executed by it and paid a settlement amount of Rs. 2,00,005/- on November 11, 2022.

**26.** In the light of the aforementioned findings and illustrations, I note that the Noticee has assisted its clients in premeditatedly performing fraudulent transactions in the stock market without having a mechanism in place to recognize repeated trade reversals by its clients which created artificial volumes on the BSE platform. Thus, I find that Noticee failed to exercise reasonable care and diligence in the conduct of their business when dealing with its clients and failed to put the essential measures in place to detect and stop trade reversals in order to generate alerts.

**27.** The Noticee has contended that there is an inordinate delay of more than 6.5 years in the instant proceedings. In this regard, I note that an Interim Order No. WTM/RKA/ISD/106/2015 dated August 20, 2015 was passed by SEBI in the matter of Illiquid Stock Options restraining 59 persons/entities from buying, selling or dealing in the securities market, either directly or indirectly, in any manner, till further directions. Confirmatory orders dated July 30, 2016, August 22, 2016 and August 24, 2016 ("Confirmatory orders") in this regard were passed by SEBI confirming the directions issued vide the aforementioned Interim order against all 59 persons/entities.

**28.** Further, I note that the modus operandi that was identified in the Interim order and Confirmatory orders was that certain entities (clients) had continuously made profits and certain entities (clients) had continuously made losses by reversing their trades or executing reversal trades in various individual Stock Options contracts on BSE's Stock Options segment. In the Interim order, these reversal trades were also referred to as "non-genuine trades". Reversal trades executed by clients through broker have been classified as those trades in which an entity (client) reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day.

**29.** Subsequent to passing of aforementioned Interim order against 59 persons/entities, SEBI passed an Interim order dated February 17, 2016 against 22 Trading Members ("Brokers") in the same matter of Illiquid Stock Options. However, the said order was set aside by Hon'ble SAT vide its orders dated February 25, 2016, March 04, 2016, March 09, 2016, March 14, 2016, March 15, 2016, March 18, 2016 and April 05, 2016. Pursuant to appeal, in terms of order of the Hon'ble Supreme Court dated July 01, 2016, SEBI passed order no. WTM/RKA/ISD/94/2016 dated August 12, 2016 in the matter stating, *inter alia*, that a final view for appropriate action be taken after completion of ongoing investigation in the matter.

**30.** Investigation was carried out in the instant matter for the IP April 01, 2014 – September 30, 2015, which is same as the examination period referred in the Interim Order dated February 17, 2016 in respect of Brokers in the matter of Illiquid Stock Options. Trade data of BSE's Stock Options segment during the I.P. for the Illiquid Stock Options was analyzed to identify reversal trades. Pursuant to analysis, it was observed that a total of 2,91,744 non-genuine trades were executed by 14,720 entities through 192 Brokers that resulted in reversal trades during the I.P. Trade data pertaining to these 2,91,744 non-genuine trades formed the source data for the case against brokers.

**31.** Subsequently, SEBI had initiated Adjudication Proceedings against the Noticee under Section 15HB of SEBI Act, 1992 for not exercising care and diligence in the conduct of its business while dealing with its clients in violation of Schedule II Clauses A (1), (2), (3) and (4) of Code of Conduct for Stock Brokers read with Regulation 9 (f) of the Broker Regulations. Accordingly an SCN dated May 27, 2022 was issued to the Noticee for the said violations and the Noticee has submitted its replies dated June 30, 2022, July 25, 2022 and March 23, 2023.

**32.** In this regard, it is pertinent to note that, in the matter of ***SEBI vs. Bhavesh Pabari***[2], the Hon'ble Supreme Court of India has, *inter alia*, has observed that –

"…*There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third party rights had been created etc."*

**33.** Further, I note that the Hon'ble SAT in the matter of ***Pooja Vinay Jain vs. SEBI***[3] held that –

*"The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same"*

**34.** I also note that the Hon'ble SAT in the matter of ***SEBI vs. Bipin R Vora***[4] held that –

*"As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market".*

**35.** In view of the aforesaid, I find that the contentions of Noticee with respect to delay are without merit.

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[2] (2019) SCC Online SC 294
[3] Appeal No. 152 of 2019 decided on March 17, 2020
[4] Decided on March 22, 2006 –
available at *https://indiankanoon.org/doc/1830524/*

**36.** In view of the foregoing, I conclude that the Noticee has failed to exercise care and diligence in the conduct of business while dealing with its clients and therefore, has violated the provisions of Schedule II Clause A (1), (2), (3) and (4) of the Code of Conduct for Stock Brokers read with Regulation 9 (f) of the Brokers Regulations.

**Issue II. Does the violation, if any, attract monetary penalty under section 15HB of the SEBI Act, 1992?**

**37.** In the light of findings and observations made against the Noticee brought out in the foregoing paragraphs, it is evident that the Noticee has violated Schedule II Clause A (1), (2), (3) and (4) of the Code of Conduct for Stock Brokers read with Regulation 9 (f) of the Brokers Regulations.

**38.** I find from the material available on record that the Noticee has failed in performing its duties as a registered stock broker and also failed to adhere to high standards of service to its clients by not exercising due skill, care and diligence in the conduct of all his business. The above violation makes the Noticee liable for monetary penalty under the provisions of section 15HB of the SEBI Act, 1992.

**39.** In this regard, reliance is placed upon the judgment of Hon'ble Supreme Court of India in the matter of ***SEBI Vs. Shri Ram Mutual Fund***[5] which, *inter-alia*, has 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..."

**40.** The aforesaid violations, makes the Noticee liable for penalty under section 15HB of the SEBI Act, 1992. The contents of the said provisions of law is reproduced herein below:

[5] [2006] 68 SCL 216(SC)

***<u>SEBI Act, 1992</u>***

***Penalty for contravention where no separate penalty has been provided.***
***15HB.*** *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees*

**<u>Issue III. If so, what would be the monetary penalty that can be imposed upon the Noticee, taking into consideration the factors stipulated in Section 15J of the SEBI Act, 1992?</u>**

**41.** While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15-J of the SEBI Act, 1992 which reads as under: -

***<u>SEBI Act, 1992</u>***
***Factors to be taken into account while adjudging quantum of penalty***
***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.]*

**42.** 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 the part of the Noticee. However, it is pertinent to note that the role of a Broker/Trading Member(TM) is crucial to the development of the securities market, as the broker is the first mile of contact for the majority of the investors. In this regard, the role of a Broker is crucial as a facilitator of investors into the securities market. So, it is of utmost importance that every Broker abides by the relevant regulations, provisions of SEBI/ Stock Exchange circulars and various guidelines issued by SEBI/ Stock Exchanges. I cannot ignore the fact that the Noticee was under a statutory obligation to abide by the provisions of the SEBI Act, rules and regulations and circulars / directions issued thereunder, which it failed to do during the investigation period. The non-compliances on the part of the Noticee as brought out in the preceding paragraphs clearly shows that it has failed to exercise due care and diligence in the conduct of its business while dealing with the clients.

**ORDER**

**43.** After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹2,00,000/- (Rupees Two Lakhs only) upon the Noticee i.e., I. Venture Capital Pvt. Ltd., under Section 15HB of the SEBI Act, 1992.

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

**45.** 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**

**46.** 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.

**47.** In terms of Rule 6 of the SEBI Adjudication Rules, 1995, copy of this order is sent to the Noticee and also to SEBI.

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| **Date: April 28, 2023** | **DR. ANITHA ANOOP** |
| **Place: Mumbai** | **ADJUDICATING OFFICER** |