BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/SD/MH/2021-22/15364]

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

Irawati Enterprises LLP (PAN: AADFI5084K)
1, R N Mukherjee Road, Martinburn House,
4th Floor, Suite No. 22, Kolkata – 700001

In the matter of dealing in Illiquid Stock Options on BSE

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**"), which 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 "**Investigation Period**").

2. Pursuant to investigation, it was observed that total 2,91,744 trades comprising substantial 81.38% of all the trades executed in stock options segment of BSE during the investigation period were non-genuine trades. It was observed that **Irawati Enterprises LLP** (PAN- AADFI5084K) (hereinafter referred to as the "**Noticee**") was one of the various entities who indulged in execution of reversal trades in the stock option 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 were alleged to be manipulative, deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee under the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations, 2003"**).

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated July 06, 2021, under Section 19 read with Section 15-I(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**) to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with section 15I (1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of rule 5 of Adjudication Rules and section 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing Ref No. SEBI/HO/CDMRD/DOI/P/OW/2021/21896/1 dated September 03, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticee under rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

5. It was, inter-alia, alleged in the SCN that the Noticee had executed 2 non genuine trades in 1 stock option contract, which resulted in artificial volume of total 88,000 units. The summary of the dealings of the Noticee in the said Options contract, in which the Noticee allegedly executed non genuine trades during the Investigation Period, is as follows:

Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
CANB15FEB420.00PE	18	44,000	10	44,000	100	11.86

6. From the trades executed by the Noticee, the following is noted as regard to the dealings in the said contact:
   6.1 The Noticee had executed two trades in one contract, wherein the trades of Noticee in the said contract were reversed with the same counterparty on the same day.
   6.2 The entire volume (88,000 units) generated by the Noticee in the above contract was artificial volume and further, the artificial volume generated by the Noticee also significantly contributed to the entire volume in the market in said contract i.e., 11.86% of total market volume (7,42,000 units) in the said contract during the Investigation Period.
   6.3 The non-genuine trades executed by the Noticee in the above contract had noticeable difference in the buy and sell rates considering that the trades were reversed on same day.

7. The SCN vide ref No. SEBI/HO/CDMRD/DOI/P/OW/2021/21896/1 dated September 03, 2021 was served on the Noticee, vide Speed Post Acknowledgement Due (APAD) on September 09, 2021 as per the Tracking details obtained from the India Post website.

8. It is noted that vide letter dated September 30, 2021, received through email, *the Noticee requested for following documents/data in order to enable them to deal with the contentions in the SCN effectively:*
   8.1 Investigation report relied upon by SEBI in paragraph 4 of the SCN,

8.2 Order placement records of the Noticee relied upon by SEBI,

8.3 Voice recording of the Noticee relied upon by SEBI,

8.4 KYC of the Noticee relied upon by SEBI to establish connection for the purpose of fraud,

8.5 Order logs and trade logs for 20th May 2015 relied upon by SEBI for alleging the violations in the SCN for trades as set out in Annexure B of the SCN,

8.6 Cross-examination of Broker, BSE, Counter Party Broker, Counter Parties viz Giriraj Stock Broking Pvt. Ltd. Geometry Vanjiya Pvt Ltd, and Shree Waris Piya Steel Company Pvt. Ltd.,

8.7 Copy of client agreement with broker,

8.8 Any other statement based upon which SEBI relied that these transactions are colorable transactions,

8.9 Any other investigation report or incrementing reports or materials to prove that apparent transactions are not real,

8.10 Kindly give copy of SEBI circular issued for the governance of investors for prevention of fraud, and

8.11 Kindly give copy of circular issued by BSE for prevention of fraud of illiquid options for investors showing amount of penalty payable by investors.

The Noticee further in its reply stated *"We seek and adjournment of hearing and request you to grant us more time of at least 4 months in order to comply with the notice and to reply to the same. Due to the ongoing COVID-19 pandemic, we are facing many issues on professional matters and other issues and further due to upcoming festive seasons much time cannot be given to arranging of documents for a period which pertains to about five years ago. Therefore, we request that time till the end of January 22 may be granted to us for filing the reply from the receipt of the aforementioned documents."*

9. In response to the Noticee's letter referred above, vide SEBI letter bearing reference no. SEBI/HO/CDMRD/DOI/P/OW/2021/28052/1 dated October 11, 2021, it was intimated that their request for granting 4 months' time to reply to SCN due to COVID-19 pandemic related issues was not acceded to. Further,

the Noticee was advised to furnish their reply within 14 days from the receipt of the said letter. However, no reply was received from the Noticee despite receipt of the letter dated October 11, 2021.

10. Vide SEBI letter bearing ref no. SEBI/HO/CDMRD/DEA/P/OW/2021/35656/1 dated November 23, 2021, in the interest of natural justice, an opportunity of hearing was provided to the Noticee in the matter and the hearing was scheduled to be held on December 17, 2021. The hearing Notice was also served through email dated November 24, 2021. Further, with regard to Noticee's request for certain documents, it was informed to the Noticee that the relevant trades details of the Noticee in the Stock Option contract at BSE during the Investigation Period and the summary of dealing in the Stock Option contact in which the Noticee allegedly executed reversal trades were provided as annexure B and C to SCN. Further stated that since all the documents relied upon for issuing SCN have been provided to the Noticee, the question of cross-examination and providing other documents requested by the Noticee does not arise. It may also be noted that no statement of any party has been recorded in this matter.

11. The Noticee did not appear before the undersigned for the scheduled personal hearing and also not informed the undersigned regarding its inability to attend the scheduled hearing. Further, yet another opportunity of hearing was again provided to the Noticee vide letter bearing ref no. SEBI/HO/CDMRD/DOC/P/OW/2021/39494/1 dated December 28, 2021. The hearing was scheduled to be held on January 18, 2022. however, no response was received from the Noticee. Further, vide email dated January 18, 2022, the Noticee was informed that since the opportunity of personal hearing was not availed, the matter will be proceeded as per the information available on records. The Noticee has neither responded to the SCN nor availed the multiple opportunities of personal hearing granted to her.

12. Considering the above, I am of the view that principles of natural justice have been duly complied with, as SCN and hearing notice were duly served upon the

Noticee and sufficient time and opportunities were also granted to the Noticee to reply to the SCN and appear for hearing.

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

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

15. Further, the Hon'ble SAT in the matter **of Sanjay Kumar Tayal & Others vs. SEBI** (Appeal no. 68 of 2013 decided on February 11, 2014), has also, inter-alia, observed that, "…. *appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices."*

16. Additionally, the same position reiterated by the Hon'ble SAT in the matter of **Dave Harihar Kirtibhaivs SEBI** (Appeal no. 181 of 214 dated December 19, 2014), wherein the Hon'ble SAT observed as under:
"…further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principle of natural justice due to not being provided

opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal..”

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

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

CONSIDERATION OF ISSUES AND FINDINGS

19. I have carefully perused the charges levelled against the Noticee and the documents / material available on record. The issues that arise for consideration in the present case are:

    (a) Whether the Noticee has violated provisions of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?
    (b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?
    (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

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

21. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation Period, the Noticee had executed a reversal trade which was 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 trade is alleged to be non-genuine trade as it lacks basic trading rationale, lead to false or

misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive and manipulative.

22. I note from the trade log of the Noticee that the entity had traded in one contract in the stock options segment of BSE during the Investigation Period which resulted in the creation of artificial volume of 88,000 units in the said contract. A summary of non-genuine trade logs of the Noticee is as follows:

Buy Client Name	Sell Client Name	Buy Order Time	Sell Order Time	Trade Time	Buy Order Rate	Sell Order Rate	Trade Rate	Buy Order Qty	Sell Order Qty	Traded Qty
Irawati Enterprises LLP	Shree Waris Piya Steel Company P Ltd	14:15:23: 546297	14:15:23: 547539	14:15:23: 547539	18	18	18	44,000	44,000	44,000
Shree Waris Piya Steel Company P Ltd	Irawati Enterprises LLP	14:15:27: 760001	14:15:27: 547614	14:15:27: 760001	10	10	10	44,000	44,000	44,000

23. I note from the trade log that the trade executed by the Noticee in the contract was squared up within a short span of time with its counterparty. To illustrate, the Noticee on February 20, 2015 at 14:15:23.54 hrs. entered into 1 buy trade with the counterparty viz., Shree Waris Piya Steel Company P Ltd for 44,000 units at the rate of Rs.18 per unit. Thereafter, the trade was reversed by entering into sell trade on the same day at 14:15:27.76 hrs. with the same counterparty for 44,000 units at Rs.10 per unit. Further, I note from the above trade log details that the Noticee and the counterparty placed reversal trade orders, both buy and sell, within a gap of few seconds. Thus, the Noticee in the said contract viz., “CANB15FEB420.00PE” executed non-genuine trades, wherein the percentage of non-genuine trades of the Noticee in the contract to Noticee’s total trades in the contact was 100% during the Investigation Period, and thereby generated an artificial volume of 88,000 units, which was 11.86% of total market volume in the said contract during the Investigation Period.

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

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

26. The buying of illiquid stock options by the Noticee and subsequent reversal trade with the same counterparty for the same quantity, within a short span of time with a significant difference in buy and sell value of stock options, in itself, exhibits abnormal market behavior and defies economic rationality. I note from the above trading pattern that the Noticee has deliberately made blatant misuse of trading platform for creating artificial volume in the illiquid stock options.

27. I 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…..”

28. Further, the Hon'ble SAT in its judgement dated September 14, 2020 in the matter of **Global Earth Properties and Developers Pvt Ltd** relied upon the aforesaid judgement of Hon'ble SC and held that, *“It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade. In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price.”*

29. I note that while direct evidence may not be forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entity, there is guidance from the aforesaid order of Hon'ble Supreme Court where it lays emphasis on the ‘preponderance of probabilities’ in each case to arrive at a decision considering the following:
    - The isolated trade and reversal in the same option contract,
    - The same counter party being involved in both the trades,
    - The time gap between the buy order and sell order is being few seconds,
    - The noticeable difference in the buy and sell rate within the same day and
    - The high volume of trade in turn creating an artificial volume of 88,000 units

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

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

the contract. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established.

31. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act, 1992 which read 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].*

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

Factors to be taken into account by the adjudicating officer.

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

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
(b) the amount of loss caused to an investor or group of investors as a result of the default;
(c) the repetitive nature of the default.

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

33. 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, and suffered by the investors due to such violations on part of the said Noticee. However, the Noticee had entered into non-genuine trades, which created a false and misleading appearance of trading volumes in the respective contract at pre-meditated prices, thereby leading to violation of regulation 3(a), (b), (c), (d) and 4(1), (2)(a) of the PFUTP Regulations, 2003.

ORDER

34. 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 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
Irawati Enterprises LLP PAN: AADFI5084K	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	Rs 5,00,000/- (Rupees Five Lakh only)

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

35. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

36. The Noticee shall forward the aforesaid Demand Draft/payment confirmation details to the Division Chief, Enforcement Department (EFD), Division of Regulatory Action – VI [EFD-DRA-VI] SEBI Bhavan II, Plot No. C –7 A, “G”

Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051 and also send an email to tad@sebi.gov.in with the following details:

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount and legal charges along with order details)	

37. 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.

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

Place: Mumbai **S DHAKSHINAMURTHY**

Date: March 14, 2022 **ADJUDICATING OFFICER**