BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/SKV/AK/2023-24/26579)

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

In respect of

SAFALTA VINIMAY PRIVATE LIMITED

(PAN: AARCS0082L)

In the matter of dealings in Illiquid Stock Options at BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) came across large scale reversal of trades in stock options segment of BSE. Subsequently, SEBI conducted an investigation into the trading activity in illiquid stock options at BSE for the period between April 1, 2014 to September 30, 2015 (hereinafter referred to as "Investigation Period" / "I.P."). Pursuant to investigation, it was observed that during the investigation period, there were trades executed in BSE Stock Options Segment involving reversal of buy and sell positions by clients and counterparties in the same contract The reversal trades involved squaring off trades (either buy or sell), with significant difference in the price. **Safalta Vinimay Private Limited** (hereinafter referred to as **'Noticee'**) was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in the stock options segment of BSE during the investigation period. The trades entered in the unique contracts were reversed on the same day with same counterparties, at a price difference which had no underlying basis and without an intention of performing it or there being a change of ownership/rights in the contracts. These factors indicate that these trades were allegedly artificial and non- genuine in nature.

APPOINTMENT OF ADJUDICATING OFFICER

2. In this connection, SEBI had initiated adjudication proceedings against the Noticee, under SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as 'Adjudication Rules') for allegedly violating Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Markets) Regulations, 2003, in the matter of trading in illiquid stock options at BSE. SEBI vide communique dated September 30, 2021 appointed Mr. Prasanta Mahapatra, Chief General Manager, was appointed as Adjudicating Officer ('AO') as under section 19 read with sub-section (1) of 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act') and Rule 3 Adjudication Rules to inquire into and adjudge the alleged violations by the Noticee and determine whether penalty under Section 15HA of the SEBI Act is liable to be imposed. Thereafter vide communique dated July 27, 2022, Ms. Asha Shetty, Chief General Manager was appointed as AO in the matter. Subsequently upon transfer of Ms. Asha Shetty vide communique dated April 17, 2023, the instant matter was transferred to the undersigned.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice no. EAD-8/AS/AK/40388/1/2022 dated August 10, 2022 (hereinafter referred to as **'SCN'**) was sent to the Noticee, in terms of the provisions of rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act, requiring the Noticee to show cause as to why an inquiry should not be held in terms of Rule 4 of the Adjudication Rules read with section 15-I of the SEBI Act, and penalty, if any, should not be imposed on Noticee under Section 15HA of the SEBI Act for the aforesaid alleged contraventions done by it. The said SCN also informed about 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 and in

case Noticee do not wish to avail of the facility under the SEBI Settlement Scheme, 2022, Noticee was advised to file a reply to the SCN within 30 days of the receipt of the SCN. The aforesaid SCN were sent through SPAD and had returned undelivered.

4. Thereafter, during the course of the proceedings, the status of the Noticee was ascertained from the website of Ministry of Corporate Affairs (MCA). As per Form No. STK-7-"Notice of Striking Off and Dissolution" dated February 3, 2022, downloaded from the website of Ministry of Corporate Affairs (MCA), Government of India (www.mca.gov.in), it is observed that the name of the Noticee has been struck-off from the list of companies by the Registrar of Companies, Kolkata (ROC) and dissolved as on February 3, 2022. The said notice, inter alia, mentioned the following:

   "This is with respect to this office's notices in Form STK-1 issued on various dates and Notice in form STK-5 No. ROC/WB/Drive.IV/STK-5/2021/1 issued on dated 28.12.2021, Notice is hereby published that pursuant to sub-section (5) of Section 248 of the Companies Act, 2013, the names of 4414 no. of Companies as per list mentioned below have on this day, i.e. 3rd day of February, 2022, been struck off from the Register of the companies and the said companies are dissolved."

   I find that the name of the Noticee is mentioned in the said list of 4414 companies at sl.no. 1386 under CIN No U74999WB2012PTC173951.

5. From the above, it is clear that the name of the Noticee has been struck off from the ROC list with effect from February 3, 2022 and the Noticee stands dissolved from the said date. I further note that, it is an established fact that when a company's name is struck-off from the ROC list and the company is dissolved, it is a non-existing company and the adjudication proceedings against the non-existing company is thus nullity. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee are liable to be abated without going into the merits of the case. Should the Noticee stand revived or

restored at any stage, a decision to initiate proceedings may be taken afresh at that stage.

6. In this context, I would also like to draw reference to a judgment of the Hon'ble Delhi High Court in the case of Commissioner of Income Tax (CIT) vs Vived Marketing Services (P) Ltd., ITA NO. 273/2009 dated September 17, 2009 in which it was held that –
   "When the Assessing Officer passed the order of assessment against the respondent company, it had already been dissolved and struck off the register of the Registrar of companies under Section 560 of the Companies Act. In these circumstances, the Tribunal rightly held that there could not have been any assessment order passed against the company which was not in existence as on that date in the eyes of law it had already been dissolved. We are of the opinion that the view taken by the Tribunal is perfectly valid and in accordance with law."

7. After taking into consideration the aforesaid facts and circumstances, the Adjudication Proceedings initiated against Noticee vide SCN dated August 10, 2022 are disposed of without going into the merits of the case.

8. In terms of rule 6 of the Adjudication Rules, copy of this order is sent to the Noticee's last known address and also to SEBI.

Place: Mumbai **SHASHI KUMAR VALSAKUMAR**

Date: May 22, 2023 **ADJUDICATING OFFICER**