BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/MC/VS/2021-22/15194]

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 –

Minakshi Bagaria (PAN: BDLPB9474L) having address at P N Malia Road, Raniganj, Near Allahabad Bank, Raniganj, West Bengal - 713347

In the matter of Illiquid Stock Options at BSE.

BACKGROUND

1. The Securities and Exchange Board of India (hereinafter referred to as "***SEBI***"), conducted an investigation into the trading activity in illiquid Stock Options at Bombay Stock exchange (hereinafter referred to as "**BSE**") for the period between April 1, 2014 to September 30, 2015 (hereinafter referred to as, "**Investigation Period** after observing large scale reversal of trades in Stock Options segment of the BSE.

2. Pursuant to investigation, it was observed that during the investigation period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. The reversal trades involved squaring off transactions, but with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly led to generation of artificial volumes.

3. Minakshi Bagaria ("**the Noticee**") was one such client whose reversal trades involved squaring off transactions with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly created false and misleading appearance of trading and resulted into generation of artificial volumes, leading to allegations that the Noticee had violated Regulation 3(a),(b),(c),(d) and Regulation 4(1), 4(2)(a) SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter, referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

4. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer (hereinafter referred to as "**AO**") under section 15-I(1) of the SEBI Act read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as the "**Adjudication Rules**") vide order dated June 21, 2021 to inquire into and adjudge under Section 15HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations, 2003, by the Noticee. The appointment of the AO was communicated vide order dated July 27, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice No. EAD5/MC/VV/22579/2021 dated September 3, 2021 (hereinafter be referred to as, the "**SCN**") was issued to the Noticee under Rule 4 of the Adjudication Rules read with section 15I of the SEBI Act, to show cause as to why an inquiry should not be held and penalty be not imposed against the Noticee under Section 15HA of the SEBI Act for the alleged violations of Regulations 3(a), (b), (c), (d) and 4(1), (2)(a) of the PFUTP Regulations.

6. The allegations levelled against the Noticee in the SCN are summarized as below:
    a) The 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.

b) The Noticee is alleged to have engaged in 4 such reversal trades in 1 unique contract, which led to generation of artificial volume of 48000 units. These trades of the Noticee involved reversal with the one counterparty Sai Ram Services in one day on 30.07.2015, at different prices. Details of all the reversal trades of the Noticee in Stock Option Segment of BSE during investigation period are given in Annexure 2 to the SCN.

c) The trades entered into by the Noticee were reversed on the same day with same counterparty at a substantial price difference without any basis for significant change in the contract price which indicates that these trades are artificial and are non- genuine in nature.

d) A summary of dealings of Noticee in 1 Stock Options contract in which Noticee allegedly executed reversal trades during the investigation period, provided in the SCN is reproduced below:

S. No	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	Total vol in the contract	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1	UCOB15AUG40.00CEW3	7.25	24000	11	24000	464000	100	10.34

7. The Noticee had entered into 4 reversal trades on 1 days viz 30/07/2015 through one contract with one counterparty viz Sai Ram Services. The 4 reversal trades each entered into by the Noticee were reversed on the same day with the same

counterparty within a time span of 32 seconds and 39 seconds, at a substantial price difference without any basis for significant change in the contract price which indicates that these trades were artificial and are non- genuine in nature.

8. Noticee by indulging in execution of aforesaid non-genuine reversal trades, was alleged to have violated Regulation 3(a), (b),(c),(d), 4(1), 4(2)(a) of PFUTP Regulations, which are reproduced as follows:

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

No person shall directly or indirectly—

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

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

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

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

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

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

(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely:—(a) indulging in an act which creates false or misleading appearance of trading in the securities market"

9. A time period of 14 days from the date of receipt of the SCN was granted to the Noticee to present its reply to the SCN.

10. Vide e-mail dated 20.09.2021 the Noticee sought time till 20.10.2021 to make her submissions in the matter. However, no reply was received by 20.10.2021.

11. Subsequently, vide hearing notice dated 01.11.2021 the Noticee was granted time till 26.11.2021 to file her reply to the SCN, and was provided an opportunity of hearing by videoconferencing through WebEx on 26.11.2021.

12. Vide reply dated 22.11.2021 the Noticee made the following submissions:-

    a) SEBI has not provided any evidence or proof to show that her trades were fraudulent.
    b) The trades were executed on the floor of the exchange with due compliance with all the rules and regulations of the exchange.
    c) At no point of time was there any warning or any observation about trades which were executed by Noticee.
    d) For the transaction to be termed fraudulent, as per the definition of "fraud", there has to be an "inducement" and SEBI has not even alleged inducement
    e) The SCN fails to establish that Noticee employed any device, scheme or artifice to defraud anyone. Also, no person has claimed to be defrauded.
    f) There is no nexus, directly or indirectly with the counter party brokers or the clients in the present matter
    g) Show Cause Notice is erroneous in as much as it is only a belated coercive use of power in action in terms of which power is sought to be used against Noticee in around 6 years back settled trades on the basis of wrong interpretation of power deemed to have been existed with SEBI under the PFUTP Regulations.
    h) The underlying scrip for the impugned transactions was highly liquid.
    i) The trades done by Noticee were only for a day, which could have been accidental or incidental that the counterparty was the same party, who was absolutely unknown to her until the SCN disclosed the name.
    j) SEBI has held that Noticee transacted in illiquid options, on the basis that her trades were in far-off strike prices and therefore very few entities were trading in such strike rates. However, in that case it may also be concluded

that the said trades could have had no effect on other investors or the market at large and that such illiquidity would be reason for volatility and alleged reversal trades since variations in option price would be dramatic if the chosen strike price is thinly traded.

k) BSE and SEBI have themselves allowed and permitted trading in options for 'far months' with a strike price which are at large variance to current market price. The fact that such parameters are laid down is clearly indicative of fact that options will always be 'in the money' and 'out of money' and since regulators have themselves permitted trading in same, no adverse inference be drawn.

l) Stock exchanges regularly come out with list of illiquid scrips in cash segment. However, no such list is issued by exchanges or regulator for dealing in stock options contracts. Thus, to fasten the responsibility or allege a single entity that it traded in illiquid option is unwarranted and unfair.

m) SEBI and Exchanges had not put in place any price band mechanism in option segment, which means at all price at which trades were executed were genuine. This is because price of options is complex arithmetic calculation, making a huge price of range to be valid.

n) Derivative market is 'zero-sum game' and thus in each and every case one party will inevitably make profit and counterparty will make loss. In capital market neither BSE nor SEBI can guarantee profit or loss to any individual/entity. Thus, profit and loss is concomitant to trading in derivative segment. The mere fact that Noticee traded in option segment cannot be a ground to rope her into present proceedings.

o) Noticee’s trades did not depress price/volume of underlying shares in cash segment

p) Any kind of alleged fictitious/ manipulative trade in cash segment may create distorted impression in minds of investors that price of scrip is rising/falling who may invest/divest from said scrip. However, in case of option segment at the time of investigation period (From April 1, 2014 to 30th September 2015) there was no question of transfer of beneficial ownership in option segment since at end of settlement cycle only net loss/profit was adjusted.

q) In the matter of Jagruti Securities (2008 SCC online SAT 184) and S.P.J Stockbroker Pvt Ltd (2013 SCC Online SAT 67) it was held that such alleged trades cannot be treated as illegal per se unless there is some cogent connection between the counterparties or there is "mischievous meeting of minds amongst certain parties". Noticee had no connection with counterparty. In Order dated May 18, 2012 passed by the Hon'ble Securities Appellate Tribunal in matter of Sanjay Agrawal vs. SEBI also it was held that in order to establish an allegation of reversal trade between parties a cogent evidence or connection between the parties needs to be established.

r) Noticee’s trade in option segment was within prudential norms of exchange and as per procedures and guidelines as prescribed by regulator (BSE) and not questioned by the exchange at the relevant time. No cautionary warning, advisory, communication or alarm was raised by BSE at any point of time

s) BSE, vide Notice No. 20160308-33 dated March 08, 2016, announced that it has introduced measure for prevention of reversal trades in Equity Derivative Segment w.e.f. from March 14, 2016. Thus, in case of potential reversal trade, second leg (latest leg) of a reversal trade shall automatically be cancelled by exchange in an on-line real time basis on trading system. Merely because on-line preventive measure and check & balance did not exist at relevant point of time to avoid inadvertent reversal trades no adverse inference be drawn against me in this regard.

t) Besides recording common generic allegations against her, not a single instance or observation on Noticee’s specific role in alleged reversal is delineated in the Show Cause Notice.

13. Vide hearing notice dated 01.11.21, the Noticee was provided an opportunity of hearing by videoconferencing through WebEx on 26.11.21. During the hearing conducted through WebEx on 26.11.21, the Noticee appeared in person and reiterated the submissions made in her reply.

14. In the light of the allegations contained in the SCN, the submissions of the Noticee in respect of the allegations made in the SCN and relevant material available on record, I hereby proceed to decide the case on merits.

CONSIDERATION OF ISSUES AND FINDINGS

15. The issues arising for consideration in the instant proceedings are:-
    I. Whether reversal trades in illiquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?
    II. If yes, whether Noticee is liable for imposition of monetary penalty under Section 15HA of SEBI Act?
    III. If yes, 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 read with Rule 5(2) of the Adjudication Rules?

ISSUE I Whether reversal trades in illiquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?

16. With regard preliminary contention of the Noticee on the matter being 6 to 7 years old, I note that the initial action in the matter of illiquid stock options was taken as early as 20.08.2015 when SEBI passed interim order against 59 entities. This was followed by final order on 05.04.2018 after completion of investigation, which revealed that 14,720 entities were involved in executing non-genuine trades. Pursuant to observation by the Hon'ble SAT in its Order dated 14.10.2019, an opportunity of settlement was given to all entities by way of Settlement Scheme, 2020 ("Scheme") vide Public Notice dated 27.07.2020. Owing to the actions taken as detailed and the large number of entities involved, the time period taken for issuing SCN is reasonable. I further note that the proceedings under SEBI Act are not barred by limitation. Further, all relevant and relied upon material for the purpose of crystallization of allegations in respect of the Noticee were served

on the Noticee and it is not her case that her ability to defend herself has suffered due to lack of any specific information material to the charges.

17. The allegation that the Noticee carried out reversal trades is directly supported by evidence from the trade log records in Annexure 2 of the SCN. On 30.07.2015 the Noticee was seen to have indulged in 4 reversal trades in one unique contract. To illustrate, in Stock option "UCOB15AUG40.00CEW3", on the said date, the Noticee at 14:49:01 hrs entered a sell order for 12000 units of the said contract at a rate of Rs. 11 per unit with counterparty viz. Sai Ram Services, which entered a buy order at 14:49:01 hrs for 12000 units at a rate of Rs. 11 per unit (same number of units at the same rate and with buy and sell orders synchronised to within a second of each other). In the second leg of the reversal trade, the Noitcee entreed a buy order at 14:49:33 hrs for 12000 units at Rs. 7.5 per unit, which was synchronised with sell order of Sai Ram Services placed at 14:49:33 hrs within a second of the Noticee's buy order, and at the same rate and for the same quantity as the Noticee. Thus, the 12000 units sold by the Noticee were bought back by her within a minute, from the same counterparty. In the second set of reversal trades on the same day, Sai Ram Services again bought 12000 units in the same contract from the Noticee by entering a buy order at 14:49:40 hrs at Rs. 11 per unit, which was synchronised with the Noticee's sell order placed at 14:49:36 hrs for the same number of units and at the same rate as the counterparty. Further, this trade was also reversed within a minute with the same counterparties at synchronised time, rate (Rs. 7) and quantities.

18. While I take note of the fact that the submission of the Noticee that she carried out synchronised trades in only one contract on one day, the fact that 4 such trades were carried out then reversed them within a few seconds with the same counterparty and at wide variation in the prices of the 2 legs of the reversal trades, without any justification for the variation in prices, render the submissions by the Noticee that the trades could be a mere coincidence, unacceptable. Further, the fact that the exchange could not detect any problem with the trades at the relevant time or that trades in illiquid options will necessarily see variation in prices, cannot serve to absolve the Noticee for the almost immediate

placement of orders at prices unrelated with the price movement of the underlying scrip, and is not sufficient to discharge the Noticee from the liability of having entered into synchronised reversal trades. The price of a particular option contract is the premium price, and for a given strike price, the premium cannot vary widely within minutes without significant movement in the underlying price or in other factors which determine option price. Entering of orders synchronized in terms of rate, quantity and time at unusual prices which had little to do with market movement of the underlying scrip strongly indicate that the orders were entered into consequent to a prior meeting of minds with the counterparty, as ordinary and unrelated counterparties would not have entered orders at such rates. Further, there was no reasonable justification given for the price variation in the option price.

19. With respect to the Noticee's submission that there was no inducement of investors so there was no "fraud" with respect to the impugned trades, it is noted that pre-determined synchronized and reversal trades manipulate the stock exchange mechanism and affect good faith dealings in the securities market, as ordinary investors are likely to be induced into dealing in securities based on market activity consisting of artificial and pre-planned trades. Therefore, I find the Noticee's contention in this regard to be unacceptable.

20. The volume contributed by the Noticee through the 4 synchronised and reversal trades in the abovementioned contract made up 10.34% of the total market volume for this contract during the investigation period. I note that while synchronized trades may occur by accident in a liquid stock, execution of such synchronized trades in an illiquid market with anonymous trading can only happen if there is prior meeting of minds with a view to execute trades.

21. The manner of placing buy and sell orders in the trades carried by Noticee were in a synchronized manner, executed within seconds of each other, resulting into reversal of the trades within a short time on the same day, with wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not

genuine trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts.

22. By engaging in such trades, the Noticee violated provisions of Regulation 4(2)(a) of PFUTP Regulations which states that dealing in securities will be deemed to be a fraudulent and unfair trade practice if it involves "indulging in an act which creates false or misleading appearance of trading in the securities market".

23. I find it relevant to note here that in the matter of *Securities and Exchange Board of India v. Rakhi Trading Private Limited* (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 08, 2018), which was a similar case involving execution of reversal trades in index options, the Hon'ble Supreme Court held that "... *the traders thus having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of PFUTP Regulations*..."

24. In view of the above, I find that the Noticee, by engaging in non-genuine transactions which created a misleading impression of trading in respective contracts, dealt in the stock options contracts in a fraudulent manner in violation of Regulation 3(a) and 4(1) and 4(2)(a) of the PFUTP Regulations, 2003.

ISSUE II **If yes, whether the failure, on the part of the Noticees would attract monetary penalty under Section 15HA of the SEBI Act?**

and

ISSUE III **If yes, 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 read with Rule 5(2) of the Adjudication Rules?**

25. Since the violation of Regulation 3(a), 4(1) and 4(2)(a) of PFUTP Regulations has been established against the Noticee, as brought out in the foregoing

paragraphs, the Noticee is liable for monetary penalty under Section 15HA of SEBI Act which is reproduced as follows:

SEBI Act: 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.*

26. While determining the quantum of penalty under Section 15HA of SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

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.

27. As established above, the trades by the Noticee were non-genuine in nature and created a misleading appearance of trading. Investigation has not shown the amount of profit/loss of the counterparties to the trades as a result of the non-genuine trades. However, considering that the violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trades are such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the two counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, it is not possible from material available on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counterparties or the consequent loss caused to investors as a result of the default.

28. The Noticee has contributed to artificial volumes in 1 contracts on 1 day during the Investigation Period. I note that while the violation was not repetitive in nature, the AO can exercise discretion for determining penalty depending on facts and circumstances of the case, subject to the minimum penalty prescribed by statute.

29. Therefore, taking into account the facts and circumstances of this matter, I am of the view that a penalty of Rs. 5,00,000 (Rupees Five Lakhs only) under Section 15HA of the SEBI Act will be commensurate with the violations committed by the Noticee.

ORDER

30. After taking into consideration all the facts and circumstances of the case, in exercise of powers conferred upon me under Section 15-I of SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 5,00,000/- (Rupees Five Lakhs only) on Noticee i.e. Minakshi Bagaria, under Section 15HA of the SEBI Act for violation of Regulation 3 (a), 4(1) and 4(2)(a) of PFUTP Regulations.

31. 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 SEBI website www.sebi.gov.in on the following path, by clicking on the payment link-

ENFORCEMENT → Orders → Orders of AO → PAY NOW

32. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the Enforcement Department –Division of Regulatory Action – I of SEBI.

33. The Noticee shall provide the following details while forwarding DD/ payment information:

a) Name and PAN of the entity (Noticee)

b) Name of the case / matter

c) Purpose of Payment –Payment of penalty under AO proceedings

d) Bank Name and Account Number

e) Transaction Number

34. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

MANINDER CHEEMA Digitally signed by MANINDER CHEEMA Date: 2022.02.28 16:17:10 +05'30'

DATE: FEBRUARY 28, 2022 **MANINDER CHEEMA**

PLACE: MUMBAI **ADJUDICATING OFFICER**