BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/AK/DK/2022-23/16004]

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
Sourabh Agarwal HUF

[PAN: AAXHS9257C]

In the matter of dealings in Illiquid Stock Options at BSE Ltd.

BACKGROUND

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 Ltd. (hereinafter referred to as **"BSE"**). SEBI observed that such large scale reversal of trades in Stock Options 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. It was observed that during the Investigation Period, total 2,91,744 trades comprising 81.4% of all the trades executed in Stock Options Segment of BSE were found to be reversal trades. In view of the large scale reversal of trades that were observed in the illiquid Stock Options segment at BSE, it is alleged that these trades were non-genuine in nature.

3. It was observed that M/s. **Sourabh Agarwal HUF** (PAN- AAXHS9257C) (hereinafter referred to as "**Noticee**") was one of the various entities who indulged in the execution of alleged non-genuine trades in the Stock Options segment at BSE during the Investigation Period. It was observed that the Noticee had entered into reversal trades with the counterparty which involved squaring off transactions with significant difference in the value of buy order and sell order. Therefore, it is alleged that the Noticee had executed the reversal trades which were non-genuine in nature and has created false and misleading appearance of trading in terms of creation of artificial volume in the Stock Options segment at BSE and thus, it is alleged that the Noticee has violated the provisions of Regulations3(a), (b), (c), (d) and Regulation 4(1), 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003

(hereinafter referred to as "**PFUTP Regulations**"). In view of this, adjudication proceedings have been initiated against the Noticee under Section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**).

APPOINTMENT OF ADJUDICATING OFFICER

4. Pursuant to investigation, SEBI, was of the view that there are sufficient grounds to adjudicate upon the alleged violations as mentioned above, *inter-alia*, in respect of the Noticee and had therefore appointed the undersigned as the Adjudicating Officer vide Order dated July 02, 2021 under Section 19 read with Section 15I(1) of SEBI Act and Rule 3 of the Securities and Exchange Board of India (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, and if satisfied that the Noticee is liable for penalty, may impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules 1995 and Section 15HA of SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice bearing Reference No. SEBI/HO/LAD2/LAD2_DRAII/P/OW/2021/0000023392/1 dated September 09, 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 be not held against it and why penalty should not be imposed under Section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed. The SCN was sent to the Noticee vide Speed Post AD and was duly served on the Noticee. The SCN issued to the Noticee *inter alia* mentioned the following:

    i. During the Investigation Period, in the Stock Options segment, it was observed that the Noticee had traded in 1 (one) unique contract, wherein, the Noticee had allegedly executed 2 (two) non-genuine trades each for 80,000 units on March 19, 2015 which resulted in artificial volume of total 1,60,000 units.

    ii. Summary of dealings of the Noticee in the Stock Options contract in which the Notiecc allegedly executed non-genuine trades during the Investigation Period is as follows:

CLIENT NAME	CP_CLIENT NAME	SCRIP_NAME	TRADE_DATE	CLIENT_ORDER_TIME	CP_CLIENT_ORDER_TIME	TRADE_TIME	BUY/SELL ORDER	TRADE_RATE	TRADE_QTY
Naredi Capital Financial Services P. Ltd	Sourabh Agarwal HUF	RCOM15MAR65.00PEW3	19/03/2015	13:07:04.900805	13:06:09.033379	13:07:04.900805	SELL	1.85	80,000
Sourabh Agarwal HUF	Naredi Capital Financial Services P. Ltd	RCOM15MAR65.00PEW3	19/03/2015	15:01:18.130153	15:00:23.114093	15:01:18.130153	BUY	0.05	80,000

iii. From the above table, the following is observed as regards the dealings of the Noticee:

a. While dealing in the said contract on March 19, 2015 at 13:07:04.90 hrs the Noticee entered into a sell trade with counterparty Naredi Capital Financial Services P. Ltd for 80,000 units at Rs. 1.85 per unit. At 15:01:18.13 hrs, the Noticee entered into a buy trade with the same counterparty, for the same quantity i.e. 80,000 units at Rs. 0.05 per unit.

b. The Noticee's 2 (two) trades while dealing in the above said contract during the Investigation Period allegedly generated artificial volume of 1,60,000 units, which made up 3.72% of total market volume in the said contract during this period.

iv. Such trades were observed to be non-genuine in nature and also created false and misleading appearance of trading in Stock Options and therefore were alleged to be manipulative and deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for violation of the provisions of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations.

6. Since no reply was received from the Noticee, vide Hearing Notice bearing Ref. Nos. SEBI/HO/LAD2/LAD2_DRAII/P/OW/2021/0000030653/1 dated October 28, 2021 in the interest of natural justice and in terms of Rule 4(3) of Adjudication Rules, the Noticee was provided opportunity of personal hearing on November 30, 2021. Thereafter, vide email dated November 16, 2021, the Karta of the Noticee in its reply to the aforesaid SCN has *inter alia* submitted as under:

"1. Due to unavoidable circumstances I was not able to reply to your show cause notice. Further I have received hearing notice dated October 28, 2021 with respect to the show cause notice dated 09-09-2021.

I deny all the allegations made in the SCN against me by your good office. I have been a law abiding citizen all my life and have no intention to break or deceive the law.

2. The said transaction happened during the year 2015, for which I have not received any caution/notice from the stock exchange. It has been more than six years since the transaction was done, the sudden show cause notice gave me a rude shock and mental trauma.

3. The transaction undertaken during the said period was done with genuineity as the counterparty is a private limited company and whose name I have heard it for the first time in your show cause notice. The promoters or employees or any other person in the company is not linked to me in any manner.

4. I have undertaken the said transaction without any malice or wrong intention or harm anyone and it is totally illogical and irrational to allege that trades with the said counter party are non-genuine trades which resulted into creation of any artificial volume.

5. The stock traded by me is also a reputed company at that point of time and I was not aware that a mere small genuine transaction of mine would make the stock illiquid. There are lakhs of traders in the market and I am baffled that your good office has sent me the notice for an alleged offence which I have not committed.

6. Further your good office also failed to mention how you arrived at the figures mentioned in the show cause notice that 3.72% of artificial volume is created on the said transaction. No proper evidence has been provided by your good office.

7. The alleged trades have all traits of being genuine and therefore cannot be categorised as non genuine. These trades were executed on the anonymous platform of the Exchange, without any knowledge of counter party, at price ranges that were permitted by the Exchange and SEBI and the obligations arising out of it have been settled through the clearing mechanism of the Exchange.

8. Since the trades do not fall under the definition of non genuine transactions, they cannot be categorised to be creating artificial volume and effectively cannot be said to be creating false and misleading appearance of trading or cannot be categorised as manipulative or deceptive trades.

9. If the intention was to carry out artificial volume and create a false and misleading appearance of trading or execute manipulative and deceptive trades, the frequency of such trades would have been much higher. No one can achieve the alleged manipulative goals with such in frequent non genuine trades, which is a one off case of 1 sell trade and 1 buy trade.

10. The volume in stock option was extremely negligible when compared with the total volume of the underlying and all the derivatives contract in the underlying and such small quantity of trading is completely incapacitated to create any kind of artificial volume.

I request your good office to consider the above facts and keeping view of my clean track record not levy any penalty on the above matter and dispose of the matter at the earliest"

7. Since the Noticee neither attended the hearing on November 30, 2021 nor had mentioned clearly in its reply as to whether it desires to attend hearing or not, vide Hearing Notice bearing Ref. Nos. SEBI/HO/LAD2/LAD2_DRAII/P/OW/2021/0000037674/1 dated

December 16, 2021, another opportunity of hearing was provided to the Noticee on January 04, 2022. The Karta of the HUF vide email dated January 03, 2022, however, stated that they have already replied to the aforesaid SCN vide email dated November 16, 2021 and requested to consider the facts mentioned in its reply and dispose of the matter at the earliest without levying any penalty.

CONSIDERATION OF ISSUES:

8. After perusal of the material available on record, the issues that arise for consideration are as under:

   I. Whether the Noticee has violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of PFUTP Regulations?

   II. If yes, whether the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act?

   III. If so, what quantum of monetary penalty should be imposed on the Noticee?

FINDINGS

9. The relevant provisions of PFUTP Regulations which are alleged to have been violated are as under:

Regulation 3: - Prohibition of certain dealings in securities
3. 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.

Regulation 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;

10. It has been alleged that the Noticee had indulged in execution of reversal of trades in Stock Options with same entity on the same day. Such trades were non-genuine in nature and had created false or misleading appearance of trading in terms of artificial volume in Stock Options and therefore are alleged to be manipulative and deceptive in nature.

11. I note that reversal trades are those trades in which a party 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 normal course of trading, lack basic trading rationale, and lead to false or misleading appearance of trading in terms of generation of artificial volume, hence are deceptive and manipulative. Artificial volume is considered to be the volume (no. of units) reversed in both legs of said reversal trades while keeping out the volume, if any, which is not reversed.

12. I note that the Noticee had executed 2 (two) non-genuine trades in 1 (one) contract on March 19, 2015. The details of non-genuine trades executed by the Noticee are mentioned hereunder:

S. No.	Contract Name	Average Buy Rate	Buy Quantity (No of Units)	Average Sell Rate	Sell Quantity (No of Units)	No of reversal trades executed by Noticee in the contract	Total number of trades executed by Noticee in the contract	Total number of trades executed in the Contract	Total volume in the Contract	% of reversal trades of Noticee in the contract to Noticee's Total trades in the Contract	% of reversal trades of Noticee in the contract to Total trades 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	RCOM15MAR65.00PEW3	0.05	80,000	1.85	80,000	2	2	27	43,02,000	100%	7.41%	100%	3.72%

13. From the above-mentioned table and table mentioned at Para 5, it is noted as under:

(a) I note that during the Investigation Period, total 2 (two) trades for 80,000 units were executed in the "RCOM15MAR65.00PEW3" contract on March 19, 2015 wherein the Noticee was party to both the said trades.

(b) The Noticee placed a sell order for 80,000 units at a price of Rs.1.85 per unit and the said order matched with the buy order (which was for 5,02,000 units at a price of Rs.1.85

per unit) of counterparty Naredi Capital Financial Services P. Ltd. I note that the said sell order by the Noticee was placed at 13:06:09.33379 almost at the same time as that of the entry of the buy order by the Counterparty. Subsequently within approximately 2 (two) hours, at 15:01:18.130153, the Noticee placed a buy order for 80,000 units at a price of Rs.0.05 per unit and the said order matched with the same counterparty (i.e. Naredi Capital Financial Services P. Ltd), who placed a sell order for a quantity of 5,02,000 units and the same price (i.e. Rs.0.05).

(c) From the above, it is noted that while dealing in the said contract during the Investigation Period, the Noticee indulged in reversal trades by executing 1 (one) sell trade and 1 (one) buy trade with the same counterparty viz Naredi Capital Financial Services P. Ltd, on the same day for the same quantity.

(d) Thus, the Noticee, through its dealings in the contract viz, "RCOM15MAR65.00PEW3" during the Investigation Period, executed 2 (two) non genuine trades which is 100% of the total trades executed by the Noticee in the said contract which led to generation of artificial volume of 1,60,000 units amounting to 3.72% of the total volume generated in the said contract during the Investigation Period.

14. From the above pattern of trades, I note that the Noticee had sold and bought option contracts with the same counter party and also reversed its trade within approximately 2 (two) hours from its earlier sell trade, and that too at a substantial price difference. The non-genuineness of these transactions executed by the Noticee is evident from the fact that such pattern of dealing appears to be not driven by market factors as none of the parameters (underlying stock price, volatility, etc.,) for option pricing have undergone any change during the period of trades. Therefore, I am inclined to find that the aforesaid trades of Noticee were non genuine and have created false or misleading appearance of trading in terms of artificial volume in Stock Options and thus the same are manipulative and deceptive in nature.

15. The Noticee has contended that the alleged non-genuine trades happened during the year 2015, for which the Noticee has not received any caution/notice from the stock exchange and it has been more than six years since the transaction was done, the sudden show cause notice gave a rude shock and mental trauma. In this regard, I note that pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 which was confirmed vide Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to stock options segment of BSE which was completed in the year 2018. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock option segment during the investigation period. The proceedings initiated vide the aforesaid Interim and Confirmatory Orders were disposed of vide Final Order dated April 05, 2018, by observing that the Adjudication proceedings initiated by SEBI would adequately meet

the ends of justice and regulatory objectives after considering that appropriate action was initiated against the 14,720 entities in a phased manner.

16. Further, during the course of hearing in the case of *R. S. Ispat Ltd Vs SEBI*, the Hon'ble Securities Appellate Tribunal (SAT), vide its Order dated October 14, 2019, *inter alia* observed that "*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options"*.

17. I further note that Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided one-time opportunity for settlement of proceedings in the Illiquid Stock Options matter. The said scheme was kept open from August 01, 2020 till December 31, 2020. Thereafter, adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement. Therefore, I find that there is no delay in initiating the adjudication proceedings.

18. The Noticee also contended that stock traded by it is also that of a reputed company at that point of time and it was not aware that a mere small genuine transaction of it would make the stock illiquid. The Noticee further submitted that there are lakhs of traders in the market and it is baffled that the notice was sent to it for an alleged offence. In this regard, I note that the reputation of the company in whose stock options the alleged non-genuine trades were executed does not in any way lessen the obligation on the Noticee to not violate the provisions of PFUTP Regulations alleged to have been violated. Further, it is noted that the SCN did not allege that on account of alleged non-genuine trades executed by the Noticee, the stock options became illiquid. Rather, the SCN alleged that the Noticee entered into reversal trades which were non-genuine and have created false or misleading appearance of trading in terms of artificial volume in Stock Options.

19. The Noticee also questioned as to how in the SCN it was alleged that 3.72% of artificial volume was created on account of the alleged non-genuine trades and no proper evidence has been provided to establish the same. In this regard, I note that Annexure-C to the SCN clearly specified that total volume in the contract during the investigation period was 43,02,000 units and the artificial volume alleged to be generated by the Noticee was 1,60,000 units. From the said figures, it is clear that 3.72% of the volume generated in the said contract are as the reversal trades placed by the Noticee which are alleged to be non-genuine. Therefore, sufficient evidence has been provided to the Noticee.

20. The Noticee also contended that the alleged non-genuine trades have all traits of being genuine and therefore cannot be categorised as non-genuine. Further, the Noticee also submitted that the trades were executed on the anonymous platform of the Exchange, without any knowledge of counterparty, at price ranges that were permitted by the Exchange and SEBI and the obligations arising out of it have been settled through the clearing mechanism of the Exchange. I note that the instant proceedings have been

initiated not because the Noticee traded beyond the price ranges permitted or that the Noticee didn't clear the settlement obligations. The instant proceedings have been initiated as it was found that the manner in which it executed the reversal trades is violative of the aforesaid provisions of PFUTP Regulations. Further, I also note that the contention of trades being executed on anonymous platform of Exchange needs to be rejected on account of observations made by Supreme Court in the matter of ***SEBI vs. Rakhi Trading Private Ltd*** as under:

"46. 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..."

21. The Noticee further contended that the alleged non-genuine trades undertaken during the said period was done with genuineness as the counterparty is a private limited company and whose name was heard for the first time by it in the SCN. The noticee further submitted that the promoters or employees or any other person related to the counterparty is not linked to it in any manner. I note that the said contention is liable to be rejected on account of the observation made by the Supreme Court in ***SEBI vs. Kishore R Ajmera*** **(AIR 2016 SC 1079)** as under:

"26...While the screen based trading system keeps the identity of the parties anonymous it will be too naive to rest the final conclusions on said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned..."

22. In line with the principle of 'preponderance of probabilities' test which has been held as the appropriate test for adjudication of civil liability arising out of violation of the SEBI Act or Regulations framed thereunder by the Hon'ble Supreme Court in the aforesaid Order in the matter of ***Kishore R Ajmera***, the factors to be considered in the present matter are as under:

a. The isolated trade and reversal in the same option contract,
b. The same counter party being involved in both the trades,
c. The gap between the trade and the reversal trade being within 2 (two) hours,
d. The substantial difference in the buy and sell rate within 2 (two) hours,
e. The high volume of trade in turn creating an artificial volume of 1,60,000 units.

23. I note that the non-genuineness of the aforesaid trades executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time

(viz. approx. 2 (two) hours), the Noticee reversed the position with the same counterparty but with a significant price difference. Such reversal of trades with the same counter-party in the contract suggests the non-genuineness of these trades executed by the Noticee. The fact that the orders of the Noticee and its counterparty matched with such precision (considering that there was a perfect match of price placed by the Noticee and the counterparty who reversed their respective positions within a span of 2 (two) hours) indicates a prior meeting of minds with a view to execute the reversal trades at a predetermined price. These trades were done in illiquid option contracts and consequently there was no price discovery in the strictest terms. The wide variation in prices of the said contracts, within a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Therefore, it is observed that the Noticee had indulged in reversal trades with its counterparty in the Stock Options segment of BSE and the same were non-genuine trades.

24. The non-genuine and deceptive transactions of the Noticee are covered under the definition of 'fraud' and the dealings of the Noticee as discussed herein above were "fraudulent", as defined under Regulation 2(1)(c) of the PFUTP Regulations and prohibited under the provisions of Regulations 3(a), 3(b), 3(c) and 3(d) and 4(1) and 4(2)(a) of the PFUTP Regulations.

25. The Noticee also contended that the alleged non-genuine trades were undertaken without any malice or wrongful or harmful intention. It further stated that if the intention was to carry out artificial volume and create a false and misleading appearance of trading or execute manipulative and deceptive trades, the frequency of such trades would have been much higher. No one can achieve the alleged manipulative goals with such infrequent non genuine trades, which is a one off case of 1 sell trade and 1 buy trade. In this regard, I note that the intention of the Noticee is not relevant to determine if the Noticee violated the aforesaid provisions of PFUTP Regulations. In other words, the intention of the Noticee behind executing the alleged non-genuine trades is not relevant and the manner in which the non-genuine trades were executed and the artificial volumes such reversal trades generated falls under the aforesaid provisions of the PFUTP Regulations. In this regard, it is pertinent to mention that the Hon'ble Supreme Court of India in the matter of ***The Chairman, SEBI vs. Shriram Mutual Fund and Ors*** **[2006] 5 SCC 361** decided on May 23, 2006 held as under:

"20. 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…"

26. In the aforesaid context, I also deem it appropriate to refer to the Hon'ble Securities Appellate Tribunal Order dated July 14, 2006, in the case of ***Ketan Parekh vs. SEBI*** **(Appeal no. 2/2004),** wherein it held as under to reject the contention of the Noticee:

"20. ...The nature of the transaction executed, the frequency with which such transactions are undertaken, the value of the transactions, whether they involve circular trading and whether there is real change of beneficial ownership, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."

27. Further, the Hon'ble Securities Appellate Tribunal while dealing with the issue of reversal trades done in illiquid Stock Option contracts, in its judgement dated September 14, 2020 in the matter of ***Global Earth Properties and Developers Pvt Ltd*** **(Appeal No: 212/2020)** held as under:

"20. ... 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 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."

28. It is further noted that, in ***Shruti Saraogi vs. SEBI*** **(Appeal No. 814/2021),** vide Order dated January 13, 2022, SAT relying upon its aforesaid Order in the matter of ***Global Earth Properties and Developers Ltd*** dismissed an appeal filed against an Order wherein monetary penalty was imposed against a person who had executed 1 (one) buy and 1 (one) sell trade in 1 (one) Option Contract with the same counterparty within a very short span of time but with a substantial price difference between the buy order and sell order. These trades were also executed in the illiquid Stock Options listed at BSE. Thereafter, SAT in ***Arun Kumar Agrawal HUF vs. SEBI*** **(Appeal No. 59 of 2022)** vide order dated February 07, 2022 while dealing with similar facts in an Illiquid Stock Options matter again relied upon its aforesaid Order in the matter of **Global Earth Properties and Developers Ltd** to dismiss an appeal filed by an entity which was imposed with a monetary penalty in the impugned Order for the dealings in illiquid Stock Options which were in the nature of reversal trades. The facts involved in the said matters are similar to the facts involved in the present matter and therefore these orders of SAT are squarely applicable to the present matter also.

29. Considering the aforesaid factors, I conclude that the trading behaviour of the Noticee has resulted in creation of artificial trading volumes in the Stock Options contract. In view of the same, 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.

30. The Hon'ble Supreme Court of India in the matter of ***The Chairman, SEBI vs. Shriram Mutual Fund and Ors*** **[2006] 5 SCC 361** decided on May 23, 2006 held as under:

"20. 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…"

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 reads 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 while adjudging quantum of penalty
15J. …
(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….

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, suffered by the investors due to such violations on part of the said Noticee. However, I note that in terms of Section 15HA of SEBI Act, the penalty cannot be less than Rs.5 Lakhs. In this regard, I note that Hon'ble SAT in its aforesaid Order in the matter of ***Shruti Saraogi*** observed that the minimum penalty that can be imposed under Section 15HA is Rs.5 Lakhs. Therefore, I do not find any reason to impose a lesser amount of penalty on the Noticee.

ORDER

34. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me 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, I hereby impose a penalty of Rs.5,00,000 (Rupees Five Lakhs Only) on the Noticee i.e., M/s. Sourabh Agarwal HUF, under Section 15HA of the Securities and Exchange Board of India Act, 1992.

35. The Noticee shall remit/pay the aforesaid 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

36. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "Securities and Exchange Board of India", SEBI Bhavan, Plot No. C - 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051". The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Noticee
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

37. In the event of failure to pay the aforesaid 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.

Date: April 13, 2022 **AMITESH KUMAR**
Place: Mumbai **ADJUDICATING OFFICER**