BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/SD/RM/2022-23/24720

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:

Late Smt. Kanta Devi Fogla
(*PAN: AADPF6949G*)
188B, 5D, Satin Sen Sarani,
Maniktala Main Road, Kolkata,
West Bengal-700054

In the matter of dealings in Illiquid Stock Options at BSE Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter be referred to as, the "***SEBI***") conducted investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter referred to as, the "***BSE***") for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as, the "***Investigation Period***") after observing large scale reversal of trades in the Stock Options segment of the BSE.

2. The investigation revealed that during the Investigation Period, a total of 2,91,744 trades comprising 81.41% of all the trades executed in the Stock Options Segment at the BSE were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was observed that Smt. Kanta Devi Fogla (hereinafter referred to as, the "Noticee") was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price. The aforesaid reversal trades allegedly resulted into generation of artificial volumes, leading to allegations that the

Noticee had violated the provisions of Regulation 3(a), (b), (c), (d) and Regulation 4(1), 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as, the "***SEBI PFUTP Regulations***").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as the Adjudicating Officer vide order dated July 06, 2021 under Section 19 read with Sub-section (1) of Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as, the "***SEBI Act***") and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "***SEBI Adjudication Rules***") to inquire into and adjudge under Section 15HA of the SEBI Act, against the Noticee for the alleged violations of the aforesaid provisions of SEBI PFUTP Regulations.

SHOW CAUSE NOTICE AND REPLY

4. A Show Cause Notice dated August 06, 2021 (hereinafter referred to as, the 'SCN') was served upon the Noticee under Rule 4 (1) of the SEBI Adjudication Rules, to show cause as to why an inquiry should not be held and penalty be not imposed against her under Section 15HA of SEBI Act for the aforementioned alleged violation of the provisions of Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(a) of the SEBI PFUTP Regulations. Subsequently, vide Notice(s) dated November 12, 2021 and February 17, 2022, Noticee was advised to submit its reply to the undersigned.

5. Mr. Dilip Kumar Fogla (son of the Noticee), vide affidavit dated November 05, 2022, *inter alia*, submitted that the Noticee had passed away on August 21, 2021. In this regard, a copy of the death certificate issued by the Kolkata Municipal Corporation (duly notarized on November 05, 2022) has also been submitted. The said death certificate was verified from the website of Kolkata Municipal Corporation (https://www.kmcgov.in/) and Department of

Health & Family Welfare, Government of West Bengal (https://janma-mrityutathya.wb.gov.in/#), which indicates the date of death of Smt. Kanta Devi Fogla as August 21, 2021.

6. Thus, the proceedings are against the acts of omission and commission of person, who is no more to face the charges. In this regard, it is relevant to note that the Hon'ble Supreme Court in the case of *Girijandini vs. Bijendra* Narain (AIR 1967 SC 2110), *inter-alia*, held that in case of personal action, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives, and in such cases, the maxim "*actio personalis moritur cum persona*" (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal in *Chandravadan J Dalal vs. SEBI* (Appeal No.35/2004 decided on June 15, 2005) wherein, it was, held that *"…The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates….".*

7. Relying on the aforementioned Order(s) of the Hon'ble Supreme Court and Hon'ble Securities Appellate Tribunal, I am of the view that the adjudication proceedings initiated against the Noticee does not survive and is liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee who is since deceased and the Adjudication Proceedings against the Noticee stand abated.

ORDER

8. In view of the foregoing, the Adjudication Proceedings initiated vide SCN SEBI/IVD/ID03/SD/PS/18226/1/2021 dated August 06, 2021 against the Noticee viz., Late Smt., Kanta Devi Fogla (PAN: *AADPF6949G*) is disposed of.

9. In terms of Rule 6 of the SEBI Adjudication Rules, 1995, a copy of this order is being sent to Mr. Dilip Kumar Fogla, son of late Smt. Kanta Devi Fogla (PAN: *AADPF6949G*), and also to the Securities and Exchange Board of India.

DATE: MARCH 17, 2023	**SAMRAT DUTTA**
PLACE: MUMBAI	**ADJUDICATING OFFICER**