BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/DD/VK/2022-23/16001

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:

YV Securities & Derivatives Private Limited

(PAN: AAACY2758A;
CIN: U52110WB2006PTC110370)

Having address **–**
97, Bangur Avenue, Blk-D

Kolkata, West Bengal - 700055

In the matter of *Dealings in Illiquid Stock Options at the BSE*

A. FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter referred to as "**BSE**") for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as the "**Investigation Period**" or "**IP**") after observing large scale reversal of trades in the stock options segment of 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 BSE stock options segment were trades which involved reversal of buy and sell positions by the

clients and counterparties in a contract. The aforesaid non-genuine trades resulted in the creation of artificial volume to the tune of 826.21 crore units or 54.68% of the total market volume in stock options segment of BSE during the IP.

3. YV Securities & Derivatives Private Limited (PAN: AAACY2758A) (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 above referred 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 illiquid stock options at BSE and therefore, alleged to be manipulative, deceptive in nature and thus, allegedly violated Regulation 3(a), (b), (c), (d) and 4(1), 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices related to the Securities Markets) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"). In view of the above reasons, adjudication proceedings have been initiated against the Noticee under the provisions of section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**).

B. <u>APPOINTMENT OF ADJUDICATING OFFICER</u>

4. SEBI initiated adjudication proceedings and appointed the undersigned as the adjudicating officer (hereinafter referred to as "**AO**") under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**") read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**") vide order dated September 20, 2021 to inquire into and adjudge under section 15HA of the SEBI Act, against the Noticee for the alleged violation of the aforesaid provisions of PFUTP Regulations. The appointment of the adjudicating officer was communicated *vide* communiqué dated September 27, 2021.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice (hereinafter referred to as, the "**SCN**") bearing reference number SEBI/HO/DEPA-II/DEPA-II_CRD/P/OW/2022/0000002435/1 dated January 20, 2022 was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed against the Noticee under Section 15HA of SEBI Act for the aforesaid alleged violations of PFUTP Regulations. The SCN was sent to the Noticee vide Registered Post AD and was duly served as per the tracking details obtained from the India Post website.

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

    a) The Noticee was one of the entities which had indulged in reversal trade which allegedly created false and misleading appearance of trading, generating artificial volumes in stock options segment of the BSE during the Investigation Period.

    b) The Noticee was alleged to have engaged in two such non-genuine trades in one unique contract (BAJT15APR2040.00PE) on March 23, 2015, which led to generation of alleged artificial volume of 52,000 units.

    c) The trades executed by the Noticee in the above mentioned contract was reversed on the same day with same counterparty at a noticeable price difference in buy and sell rates.

    d) A summary of dealings of the Noticee in the stock options contract in which the Noticee allegedly executed non-genuine reversal trade during the Investigation Period, provided in the SCN is reproduced below:

Table 1: Summary of trading of the Noticee in illiquid stock options on BSE

S. No.	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
1.	BAJT15APR2040.00PE	40	26,000	51.5	26,000	100%	11.98%

7. In view of the foregoing, it was alleged that Noticee, by indulging in execution of non-genuine reversal of trades in stock options with same entity on the same day, created false and mis-leading appearance of trading in stock options and therefore, allegedly violated Regulation 3(a), (b), (c), (d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

8. Text of Regulation 3(a), (b), (c), (d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003 is reproduced as under:

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 [1][manipulative], fraudulent or an unfair trade practice in [2][markets].

[3][Explanation–For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market]

(2) Dealing in securities shall be deemed to be a [4][manipulative] fraudulent or an unfair trade practice if it involves [5][any of the following]: —

(a) [6][knowingly] indulging in an act which creates false or misleading appearance of trading in the securities market;

[1] *Inserted vide the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Amendment) Regulations, 2018 w.e.f. February 01, 2019 ("**PFUTP 2018 Amendment Regulations**").*

[2] *Ibid.*

[3] *Inserted vide Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) (Second Amendment) Regulations, 2020 w.e.f. October 19, 2020.*

[4] *Ibid.*

[5] *Substituted vide the PFUTP 2018 Amendment Regulations. Before the substitution the words read as: "fraud and may include all or any of the following, namely".*

[6] *Inserted vide the the PFUTP 2018 Amendment Regulations.*

9. In response to SCN, reply vide email dated February 07, 2022 was received on behalf of the Noticee from Mr.Ram Awatar Dhoot, denying all the allegations made in the SCN and *inter alia* stating that "….*our Company has been dissolved as approved by registrar of companies against MCA-21 (STK-2 dated 30.06.2020 vide SRN R43827682."*

10. In this regard Mr. Dhoot also enclosed a copy of MCA-21 form STK -7 dated October 27, 2021 i.e. notice of striking off and dissolution wherein it was mentioned that name of Noticee, pursuant to sub-section (5) of section 248 of the Companies Act 2013 has been struck off from the register of companies and is dissolved on October 27, 2021, he referred to the judgement in the matter of **Saraswati Industrial Syndicate Ltd. vs. C.I.T., Haryana, Himachal Pradesh, Delhi** (1990 (Supp) SCC 675) in this regard.

11. Mr. Dhoot contended that as on the date of issuance of SCN to the Noticee i.e. January 20, 2022, the name of the Noticee was already stuck-off from the Registrar of Companies (ROC) list and the company was not in existence. Therefore, in view of the above and also as the company was dissolved on October 27, 2021 as per the ROC notification, adjudication proceedings initiated against the Noticee vide said SCN are void ab initio as held in the matter of **Surajgarh Commercial Private Limited vs. SEBI** (Order dated September 28, 2021).

12. However, the submitted response did not have any authorization letter for Mr. Dhoot and also there was no form STK-2 enclosed as mentioned in the reply.

Vide email dated March 30, 2022, he was enquired that in what capacity he is responding on behalf of the Noticee. Vide email dated March 30, 2022, Mr. Dhoot informed that he is the Authorised Representative (hereinafter referred to as “**AR”**) of the Noticee.

13. The AR and the Noticee vide email dated April 07, 2022 were informed to submit relevant power of attorney (PoA), relevant forms, copy of PAN details of the company.

14. Vide email dated April 07, 2022, the AR submitted the PoA, form STK-7 and scanned copy of PAN of the company. Also, vide email dated April 11, 2022 the AR submitted form STK-2.

15. Further, vide email dated April 07, 2022, BSE was asked to share the PAN and CIN details of the company to ascertain that the entity with the given CIN in MCA records and entity whose PAN is available in the records with AO are the same. Vide email dated April 08, 2022, BSE shared the UCC details pertaining to the given PAN (AAACY2758A) with CIN No. U52110WB2006PTC110370.

CONSIDERATION OF ISSUES AND FINDINGS

7. I have taken into consideration, the facts and circumstances of the case, the material available on record and the reply submitted in the matter. It was alleged that the Noticee had executed reversal trade, which was non-genuine trade and the same has resulted in the generation of artificial volume in the stock options contract at BSE. In view of the same, it was alleged that Noticee has violated the provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1), 4(2)(a) of PFUTP Regulations and, therefore, Noticee is liable for penalty under the provisions of Section 15HA of the SEBI Act.

8. I have also taken into consideration the replies dated February 07, 2022, April 07 & 08, 2022 from the AR. The Notice of Striking Off and Dissolution (Form

No STK-7) submitted by the AR was verified from Company Master Data through MCA website and it showed company status as ‘strike off’. The directors and signatories were mentioned as Seema Kedia and Rakesh Kedia.

9. It was observed from form STK-7 that the name of the Noticee has been struck off from the list of companies by the Office of Registrar of Companies, Kolkata as on October 27, 2021 and dissolved:

> *“This is with respect to this Office’s Notice No. ROCKolkata/248(2)/073598/2020 dated 27.07.2021 application (Form STK 2) dated 30.06.2020 vide SRN R43827682 and notice in form STK 5 issued on dated NA. Notice is hereby published that pursuant to sub-section (5) of Section 248 of the Companies Act, 2013 the name of M/s YV SECURITIES & DERIVATIVES PRIVATE LIMITED has this day of October been struck off the register of companies and the said Company is dissolved.”*

10. I also note that as on the date of issuance of SCN to the Noticee i.e. January 20, 2022, the Noticee’s name has been stuck-off from the ROC list and the company was not in existence.

11. It is an established fact that when a company’s name is struck-off from the RoC list and the company is also dissolved, then it is a non-existing company and the adjudication proceedings against the non-existing company cannot be proceeded with. In this context, I would 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.”*

12. Further, Black's Law Dictionary explains 'dissolution' as termination or winding up. It further clarifies that the dissolution of a corporation is the termination of its legal existence. Strike off essentially means removing the name of the company from the Register maintained by the Registrar of Companies. It is like closure of the company and the company will not be in existence after being struck- off and cannot perform any operations.

13. Therefore, in view of the facts and circumstances noted in the preceding paragraphs and also the fact that the Noticee's name has been struck-off from the RoC list and also 'dissolved' as on October 27, 2021 as per the RoC notification, I conclude that the present adjudication proceedings initiated against the Noticee vide SCN dated January 20, 2022 cannot be proceeded with.

ORDER

14. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15-I of the SEBI 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 dispose of the Adjudication Proceedings initiated against the Noticee viz. YV Securities & Derivatives Private Limited vide SCN dated January 20, 2022.

15. In terms of the provisions of rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, copies of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date: April 13, 2022 **DEEPALI DIXIT**

Place: Mumbai **ADJUDICATING OFFICER**