BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/PB/2021-22/14126]

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:

Ms. Neha Mohta [PAN: ADBPA3449D]
57B, Block – D, 3rd Floor,
New Alipore, Behind Kotak Bank,
Kolkata – 700 053

In the matter of dealings in Illiquid Stock Options on BSE

BACKGROUND OF THE CASE

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 (hereinafter referred to as "BSE"). SEBI observed that such large scale reversal of trades in stock options lead 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 01, 2014 to September 30, 2015.

2. Pursuant to investigation, it was observed during the investigation period, certain entities were invol021

3. ved in reversal trades in BSE's Stock Options Segment. A total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE Stock Options Segment reversal trades, which involved squaring off transactions (i.e. buy and sell positions) by the same set of counterparties in a contract, but with

significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly resulted into generation of artificial volumes in otherwise illiquid option contracts.

4. It was observed that Neha Mohta [PAN: ADBPA3449D] (hereinafter referred to as the "Noticee") was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the 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 and therefore were alleged to be manipulative, 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 SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations, 2003").

APPOINTMENT OF ADJUDICATING OFFICER

5. SEBI, after being satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations as mentioned above, inter-alia, in respect of the Noticee, had appointed the undersigned as the Adjudicating Officer vide order dated July 02, 2021, under section 19 read with Section 15-I(1) of the SEBI Act, 1992 (hereinafter referred to as "SEBI Act, 1992") and Rule 3 of SEBI (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 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. A Show Cause Notice (hereinafter referred to as "SCN") bearing ref. no.: SEBI/OIA/16203/2021 dated July 23, 2021 was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should

not be initiated against her and why penalty should not be imposed under Section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by Noticee.

7. It was inter alia alleged in the SCN that 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 Noticee is alleged to have engaged in reversal trades (altogether two trades, one on the buy side and one on the sell side) in the contract ‘INCM15JUN65.00CEW2’, which led to generation of alleged artificial volume of 92,000 units (buy side + sell side). These trades of the Noticee involved reversal with the same counterparty on the same day, but at significantly different price.

8. Summary of the reversal trades of Noticee in Stock Options segment of BSE during the investigation period are as follows:

Trade Date	Scrip Name	Strike Price	Expiry	Buy Client Name	Sell Client Name	Buy Order Time	Sell Order Time	Trade Time	Buy Order Rate	Sell Order Rate	Trade Rate	Buy Order Qty	Sell Order Qty	Traded Qty
05/06/2015	INCM15JUN65.00CEW2	65	2015-06-11	Neha Mohta	Agro Commodity Pvt. Ltd.	13:52:00.463864	13:52:00.557563	13:52:00.557563	11.1	11.1	11.1	46000	46000	46000
05/06/2015	INCM15JUN65.00CEW2	65	2015-06-11	Agro Commodity Pvt. Ltd.	Neha Mohta	13:55:44.808692	13:55:44.777594	13:55:44.808692	17.45	17.45	17.45	46000	46000	46000

* Note: *“Traded Quantity” or “unit” refers to lot size in contract multiplied by number of contracts traded.*

(a) While dealing in the said contract on June 05, 2015, the Noticee placed a buy order at 13:52:00.463864 hrs for 46,000 units @ Rs.11.10 per unit. The buy order of the Noticee was immediately matched by a sell order placed by one ‘Agro Commodity Pvt. Ltd.’ at 13:52:00.557563 hrs at the same rate for equal quantity. Thereafter, within 3 minutes, at 13:55:44.777594 hrs, the Noticee reversed her position by placing a sell order for 46,000 units @ Rs.17.45 per unit, which got executed against the buy order from the same counterparty ‘Agro Commodity Pvt. Ltd.’ placed at that very second at 13:55:44.808692 hrs at the same rate and for equal quantity. This indicates that these trades are artificial and are non-genuine in nature.

(b) Non-genuine trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

(c) The Noticee's trades generated artificial volume of 92,000 units, (buy side + sell side) which made up 31.01% of total market volume in the said contract on that day.

(d) Overall, the Noticee contributed to 17.69% of the total traded volume in the said contract.

SUBMISSION BY THE NOTICEE

9. The SCN dated July 12, 2021 was served on the Noticee. Thereafter, the Noticee, vide reply dated August 18, 2021, acknowledged the receipt of SCN and *inter alia* submitted the following:

(i) There is considerable delay in the issuance of notice (23.07.21) and the date of alleged transaction (s) (05.06.2015) i.e., there is a delay of more than six years in the initiation of the proceedings under the SEBI Act r.w. Rules issued thereunder. Due to lapse of a long time, the Noticee is not in a position to, rebut the allegations effectively in the absence of documentary evidences. As per the provisions of the Income Tax Act, Noticee was required to preserve the financial records for not more than 6 yrs. and, as such, has not preserved the records. In the circumstances, the Noticee is handicapped to defend her case effectively in the absence of documents and is constrained to submit her rebuttals on the basis of the facts stated in the SCN.

In this regard, the Noticee has made reference to the following judgements -

(a) In ***Ashok Shivlal Rupani vs SEBI***, Appeal No. 440 of 2018, Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT') held that where the SCN was issued after a long delay, penalty under the SEBI Act was not sustainable in law.

(b) In ***Mr. Rakesh Kathotia & Ors. vs SEBI*** (Appeal No. 07 of 2016 decided by Hon'ble SAT on 27.05.2019) proceedings were quashed on account of inordinate delay. It was held therein as under-

"*23. It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice or for completion of the adjudication proceedings. The Supreme Court in Government of India vs Citedal Fine Pharmaceuticals, Madras and Others, [AIR 6 (1989) SC 1771] held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case. This proposition of law has been consistently reiterated by the Supreme Court in Bhavnagar University v. Palitana Sugar Mill (2004) Vol.12 SCC 670, State of Punjab vs. Bhatinda District Coop. Milk P. Union Ltd (2007) Vol.11 SCC 363 and Joint Collector Ranga Reddy Dist. & Anr. vs. D. Narsing Rao & Ors. (2015) Vol. 3 SCC 695. The Supreme Court recently in the case of Adjudicating Officer, SEBI vs. Bhavesh Pabari (2019) SCC Online SC 294 held:*

"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third-party rights had been created etc"

(ii) The Noticee further contended that she had done in two trades in one unique contract which allegedly led to generation of artificial volume of 92,000 units of 'INCM15JUN65.00CEW2' (buy plus sell). On few occasions, she had undertaken certain stock market transactions through a registered broker of a recognized stock exchange but had not ever indulged into any fraudulent and/or unfair trade practices. The modus operandi adopted by the Noticee while trading in stocks was by way of placing orders telephonically to the stock broker and not through punching of saudas directly in the terminal. Therefore, there was a possibility that the broker might have committed an error as far as the transaction in question is concerned for which the Noticee cannot be blamed.

(iii) Noticee had never ever entered into any collusive or manipulative transaction in the stock market. There was a total of 2,91,643 trades during the period under investigation, which as per the SCN were of non-genuine nature. The Noticee's one or two trade out of 2.92 lakh trades is/ are a drop in the ocean. In the absence of multiple transactions and/ or voluminous transactions, inference of fraud and/ or undue trade practices cannot be drawn. Moreover, she was not aware of the identity of the counterparty and the fact that the counterparty was the same in both the buy and sale transactions.

(iv) The Noticee has always done stock market transactions in the genuine manner and in good faith. There is no question of the Noticee having created any artificial volume in the market and / or making any undue profit. Therefore, the Noticee has not violated Regulations 3(a), (b), (c), (d) and 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003.

(v) Reliance has been placed on the following judgments:

(a) In ***Labhu Gohil vs Securities and Exchange Board of India*** [2020] 117 taxmann.com 480 (SAT - Mumbai), Hon'ble Tribunal held that where there is no evidence of any fund transfer between the appellants with any other entities, in the absence of which motive for a collusive or manipulative effort becomes blunt. Moreover, when a group of entities themselves become parties to each other's trade in a circular fashion, though to a limited extent, the net amount of profits or losses also become negligible and only to the extent of their trades getting matched with entities outside the group. The Tribunal finally held that that no penalty can be imposed on the appellants.

(b) In ***Nishith M. Shah HUF v. SEBI*** [Appeal No. 97 of 2019 dated 16-1-2020] Hon'ble SAT held-

i) Where the investigative reports nor the WTM or the AO found any connection between the buyer and the seller nor between the appellant and the promoters /directors of the Company, no causal connection has been established.

ii) Allegation that the appellant has contributed to the LTP cannot be upheld in the absence of any collusion with the buyer or promoter/director of the Company. One has to establish a connection between a buyer and with the seller in order to infer a manipulation in the price of the scrip.

iii) There must be evidence to show collusion between the buyer and the seller. In the instant case there is none. The principle of preponderance of probability cannot be exercised in the absence of any connection between the seller and the buyer.

(c) In ***Jagruti Securities Ltd. v. Securities and Exchange Board of India*** [Appeal No. 102 of 2006 decided on October 27, 2008] and in ***Vikas Ganeshmal Bengani v. Whole Time Member, SEBI***

[Appeal No. 225 of 2009 decided on February 25, 2010], Hon'ble Tribunal held that the charge of raising price artificially has to be established and the element of collusion between the buyer and the seller is a *sine quo non.*

(d) In ***Ramod Kumar Agrawal (HUF) vs Adjudicating Officer*** [2009] 95 SCL 274 (SAT), it was held that where there were only two traders - one on either side and this knowledge cannot be attributed to the Appellants (Noticees) particularly in the absence of any material that could lead one to believe otherwise, appellant cannot be held guilty of executing any fraudulent or unfair trade.

(e) In ***Kishor V. Gandhi vs SEBI***, Appeal No. 516 of 2019 dated 14 July, 2021, before the Hon'ble Tribunal, the charge against the appellants was circular/ reversal and synchronized trades in connivance with other entities with no intention of transferring beneficial ownership leading to false and misleading appearance of trading in the securities market. The appellant contended before the authorities that there was no fraudulent intention nor it was an unfair trade practice and that the appellant was nowhere connected with any other entities nor was a part of a group indulging in circular/ reversal or synchronized trades.

In this regard, the Tribunal held as under -

"7. *We find that the AO in paragraph 18 of the impugned order dated August 2, 2019 have found that the appellant was connected with Geeta Walia. Other than this finding there is no finding that the appellant was connected with other noticees. Thus, in the absence of any connection with other entities, the trades executed by the appellant cannot be clubbed with the trades executed by other noticees who acted as a group. We also find that there is no connection of appellant with the promoters of the Company.*

8. We also find that only one trade was executed by the appellant which constituted 0.36% of the total volume of trades which in our opinion is too miniscule and would not create any impact either on the manipulative intention or on the circular/ reversal and synchronized trades nor will have any impact on the transfer of beneficial ownership or leading to a false and misleading appearance of trading. Such miniscule trading cannot be termed as fraudulent in nature.

9. Further, we are of the opinion that one single trade cannot lead to a conclusion that the appellant was involved in fraudulent execution of trades with a manipulative intent. ”

(f) The Noticee has also relied on the judgments of the Hon'ble SAT in ***Subhkam Securities Private Limited vs SEBI*** (Appeal No. 73 of 2012 decided on July 25, 2012) and ***Dhvani Darshan Kothari & Anr. vs SEBI*** (Appeal No. 276 of 2020 decided on January 21, 2021).

(vi) None of the factors specified under Section 15-I of the SEBI Act for adjudging the quantum of penalty, are present in the Noticee's case. As such, the question of imposing penalty under the SEBI Act and rules framed thereunder does not arise.

10. Subsequently, vide hearing notice bearing ref. no. SEBI/OIA/AO/PB/2021/26144 dated September 28, 2021, an opportunity of hearing was granted to the Noticee on October 13, 2021 virtually through Webex. Adv. Siddharth Agarwal, Authorized Representative (AR) of the Noticee, attended the hearing on the scheduled date and reiterated the submissions made vide letter dated August 18, 2021. During the proceedings of hearing, the AR requested time till October 18, 2021 to make further submissions and the said request was acceded to.

11. Thereafter, Noticee, vide letter dated October 14, 2021, in furtherance to the previous written and oral submissions, made the following submissions:

(i) It is trite law that the burden to prove the facts alleged against the Noticee is unequivocally cast upon the Adjudicating Authority. The effort to discharge this burden by the relevant authority, in terms of meeting the documentary threshold of evidence ought to be substantive.

(ii) As per the general rules of evidence, there is distinction between set of facts 'not proved' and 'facts disproved' and 'facts proved'. Benefit of the principle that mere non-satisfactory nature of explanation furnished cannot amount to proof of falsity of explanation furnished, can apply in case the fact-finding authority reaches to a stage where it can only conclude that the fact alleged is 'not proved' (due to a substantive lack of documentary evidence implicating the Noticee): which would result that except rejection of the explanation furnished by the Noticee, there is no material on record (except conjectures and non-conclusive presumptions) to levy a penalty. But on the other hand, if the state of affairs reveals a stage where one can positively reach a conclusion that the fact alleged is proved or disproved, the principle that mere rejection of explanation cannot result in levy of penalty will have no application.

(iii) Neither documentary/ otherwise proof of causal connection (of an illegal schematic arrangement) has been established by the Authorities between the Noticee and the counter-party nor any substantive statement against the Noticee has been placed on record implicating her in engaging in any clandestine fraudulent trade practise on the registered stock exchange.

(iv) No data has been provided in the SCN, to show the price behavioural pattern of the particular scrip in question after the alleged transaction took place. There has to be a correlation shown if the alleged transaction has adversely impacted a third party, however, no such impact (adverse) is shown to have caused to a third party.

(v) As per the Risk Disclosure Document issued by SEBI clearly states that the possibility, in illiquid options contract, of a wide spread chances of price difference prevails. Also, SEBI or the respective exchange platforms have not put in place any price band mechanism in the options segment, thereby, leading to an inexorable conclusion that the prices at which the alleged trades took place and were executed are genuine.

(vi) The SCN merely relies upon the data reported by the exchange platform in regard to the alleged reversal trade, which is not a sufficient benchmark to prove the allegation made against the Noticee. There may persist several benign reasons for the occurrence of the alleged reversal trade such as the broker committing an error due to the fat finger syndrome or entering into the alleged transactions with an ulterior motive against the Noticee.

(vii) The Noticee requested that in light of the arguments advanced (both in written and orally), the proceedings against her be dropped.

CONSIDERATION OF ISSUES AND FINDINGS

12. I have carefully perused the charges levelled against the Noticee, her reply and the documents/ material available on record. Before dealing with the issues on merit, I would deal with the issue of issuance of the SCN beyond a reasonable period, as has been raised by the Noticee. The Noticee has contended that there is a delay of more than six years in the initiation of the proceedings under the SEBI Act r.w. Rules issued thereunder, due to which she is not in a position to rebut the allegations effectively in the absence of documentary evidences.

13. I note that in the instant matter, SEBI has investigated large scale reversal of trades in stock options were entered into by large number of entities. As far as

Noticee's transactions are concerned, the SCN provides adequate details of her trades. I also note that, on this aspect, in the matter of ***Pooja Vinay Jain vs SEBI*** [Appeal No. 152 of 2019 dated March 17, 2020], Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'SAT') has *inter alia* made the following observations –

"*12. The decision would show that the power to initiate the proceedings must be exercised by the authorities within a reasonable time. This would depend upon the facts and circumstances of the case, nature of the default / statute and prejudice caused to the noticee.*

13. In the present case, the appellant neither put a plea of prejudice before the AO nor before us. It was simply stated that since the proceedings were launched by respondent SEBI after a period seven years, the same should be quashed on the ground of delay. The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same. Further, as explained by the learned counsel for the respondent as recorded in paragraph No. 6.4 above, large numbers of entities and transactions were analyzed by SEBI which took some time. In the result, the following order:-

ORDER

14. The appeal is hereby dismissed without any order as to costs."

I find that the aforementioned decision of the Hon'ble Tribunal is squarely applicable to the instant case. Accordingly, I don't find any merit in the plea of the Noticee that delay in issuance of the SCN is unreasonable and has caused serious prejudice to the Noticee and that the SCN deserves to be withdrawn.

14. Now I would deal with the issues that arise for consideration in the present case are:

   I. ***Whether the Noticee has violated provisions of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?***

   II. ***Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?***

   III. ***If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?***

FINDINGS

15. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticee, I record my findings hereunder:

16. ***ISSUE 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?***

16.1 Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003 as below:

"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;"

16.2 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 are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volume in stock options and therefore alleged to be manipulative, deceptive in nature.

16.3 I note that reversal trades have been considered as those trades in which an entity 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, lacks 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.

16.4 I shall now proceed to deal with the transactions executed by Noticee in the alleged non-genuine trades:

(i) I note from the table at para 7 above that while dealing in the contract of 'INCM15JUN65.00CEW2' on June 05, 2015, the Noticee engaged in reversal trades (altogether two trades, one on the buy side and another on the sell side), which led to generation of alleged artificial volume of 92,000 units (buy side + sell side). These trades of the Noticee involved reversal with the same counterparty within few minutes, but at significantly different price.

(ii) At 13:52:00.463864 hrs, the Noticee placed a buy order for for 46,000 units @ Rs.11.10 per unit. The buy order of the Noticee was immediately matched by a sell order placed by one 'Agro Commodity Pvt. Ltd.' at 13:52:00.557563 hrs at the same rate for equal quantity. Thereafter, within 3 minutes, at 13:55:44.777594 hrs, the Noticee reversed her position by placing a sell order for 46,000 units @ Rs.17.45 per unit, which got executed against the buy order from the same counterparty 'Agro Commodity Pvt. Ltd.' placed at that very second at 13:55:44.808692 hrs at the same rate and for equal quantity.

(iii) The order time, order price and order quantity were matched by both the parties for both legs of the reversal trade.

(iv) Trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trade/ position was reversed within few minutes.

(v) The Noticee's trades generated artificial volume of 92,000 units, (buy side + sell side) which made up 31.01% of total market volume in the said contract on that day.

(vi) Overall, the Noticee contributed to 17.69% of the total traded volume in the said contract.

16.5 The buying of illiquid stock options by the Noticee and subsequent reversal trade with the same counterparty for the same quantity, within a short span of time (around three minutes) with a significant difference in buy and sell value of stock options, where order time, order price and order quantity were matched by both the parties for both legs of the reversal trade, in itself, exhibits abnormal market behaviour and defies economic rationality. I note from the above trading pattern of the Noticee that she has deliberately made blatant misuse of trading platform for creating artificial volume in the illiquid stock options.

16.6 The fact that the orders of the Noticee and the counterparty matched with such precision (considering that there was a perfect match of price, quantity and time) indicates a prior meeting of minds with a view to execute the reversal trades at a predetermined price. Since these trades were done in illiquid option contract, there was very little trading in the said contract and hence, 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. I note that no justifiable rationale has been given for entering into such transactions by the Noticee as the behaviour exhibited by the Noticee defies the logic and basic economic sense.

16.7 The Noticee has contended that the Risk Disclosure Document issued by SEBI clearly states that the possibility, in illiquid options contract, of a wide spread chances of price difference prevails. Also, SEBI or the respective exchange platforms have not put in place any price band mechanism in the options segment, thereby, leading to an inexorable conclusion that the prices at which the alleged trades took place and were executed are genuine. However, considering the precision at which the reversal transactions had taken place, the exact matching of price with huge price variations, I am of the view that it will be too naïve to hold that just because these transactions were executed through exchange trading platform, within the price band mechanism, such trades were genuine. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order w.r.t. the transactions entered into by the Noticee with its counterparty and such reversal trading is clearly violative of the transparent norms of trading in the securities market. In view of the above observations, I hold that the said transactions executed by the Noticee in the said Stock Option contract were synchronized, non-genuine trades, in which positions were reversed within a small time gap with prior meeting of mind between the parties to the trade.

16.8 Further, with respect to the reversal of trades carried out by the Noticee, I note that the Hon'ble Supreme Court in the matter of ***SEBI vs Rakhi Trading Private Ltd.***, in Civil appeals no., 1969 of 2011 decided on February 8, 2018 held that the price discovery system itself was affected by synchronization and rapid reverse trade, which also had the impact of excluding other investors from participating in the market. The Supreme Court, therefore found that the traders 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 the PFUTP Regulations. The Apex Court also held that:

"…*considering the reversal transactions, quantity, price and time and sale, parties being persistent in the number of such trade transactions with huge price variations, it will be too naïve 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."*

16.9 Additionally, the Hon'ble SAT in its judgment dated September 14, 2020 in the matter of ***Global Earth Properties and Developers Pvt. Ltd. vs SEBI*** (Appeal No. 212 of 2020) relied upon the aforesaid judgment of the Hon'ble Supreme Court and held that:

"…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 trades 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."

16.10 Keeping in mind the dicta of the Hon'ble Supreme Court as reproduced above; I see no reason to take a different view in the present case. In view of the foregoing, I hold that the Noticee had indulged in execution of reversal trades in Stock Options with same entity on the same day, which are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volumes.

16.11 It is also the submission of the Noticee that neither documentary/ otherwise proof of causal connection (of an illegal schematic arrangement) has been established by the Authorities between the Noticee and the counterparty nor any substantive statement against the Noticee has been placed on record implicating her in engaging in any clandestine fraudulent trade practise on the registered stock exchange. Also, no data has been provided in the SCN, to show the price behavioural pattern of the particular scrip in question after the alleged transaction took place. However, considering the precision at which the reversal transactions had taken place, the huge price differential at which the orders were placed by both the parties to the trade, I am of the view that it is not a mere coincidence that Noticee could match her trades (with the corresponding price, quantity and time) with the same counterparty. It indicates meeting of minds. In this context, I would like to rely on the judgment of the

Hon’ble Supreme Court of India in ***SEBI vs Kishore R Ajmera*** (AIR 2016 SC 1079), wherein it was held that:

“*…in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive...”*

The Hon’ble Supreme Court of India further held in the said case that “*…It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical* process *of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts* cannot *be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/ allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/ prudent man would adopt to arrive at a conclusion.”*

16.12 In the instant matter, I note that though direct evidence regarding meeting of minds or collusion of the Noticee with the counterparty is not forthcoming, the trading behaviour of the Noticee, as detailed earlier, makes it clear that the aforesaid non-genuine trades could not have been possible without meeting of minds at some level. In this context, I deem it appropriate to refer to the order dated July 14, 2006 passed by Hon’ble SAT, in the case of ***Ketan Parekh vs SEBI*** (Appeal no. 2/2004), wherein, Hon’ble SAT has held that:

"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, 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."

16.13 Further, I would like to rely on the judgement of Hon'ble Supreme Court passed in the case of ***SEBI vs Rakhi Trading Private Ltd.*** (*supra)*, wherein the Apex Court held that "*the entities were engaged in a fraudulent and unfair trade practice while dealing in Options and hence were liable for violation of SEBI (PFUTP) Regulations".* The Hon'ble Apex Court has also held that in the absence of direct proof of meeting of minds, the test should be one of preponderance of probability and also stated that the conclusion has to be gathered from various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time between the two and such other relevant factors.

16.14 In line with the above judgements of Hon'ble SAT and Hon'ble Supreme Court, I note from the foregoing findings that the trading pattern of the Noticee in terms of volume of reversal trades, proximity of buy/sell and subsequent reversal evidences the indulgence of the Noticee beyond a reasonable doubt of the manipulative intent in creation of artificial volume through non-genuine trades.

16.15 In this regard, I would like to rely on the judgement of Hon'ble Supreme Court in the matter of ***SEBI vs Rakhi Trading Private Ltd.*** (*supra)*, wherein the Apex Court held that:

"The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery system itself is affected. Except the parties who have pre-fixed the

price nobody is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market."

16.16 The observations made in the aforesaid judgments apply to the facts and circumstances of the present case. Therefore, applying the ratio of the above judgments, I am convinced that the execution of trades by the Noticee in the illiquid options segment with such precision in terms of order placement time, quantity and price and also the fact that the transactions were reversed with the same counterparty clearly indicates a prior meeting of mind with a view to execute the reversal trade at a pre-determined price. Such trading also involves an act amounting to manipulation of the price of the security in the sense that the price has been artificially and apparently prefixed. The price does not at all reflect the value of the underlying asset. It is also a transaction without any intention of performing it and without any intention of effecting a change of ownership of such securities, ownership being understood in the limited sense of the rights in the contract. By synchronization and reversal trades, as has been carried out by the Noticee in the instant case, the price discovery system has been affected. Except the parties who have pre-fixed the price, nobody is in the position to participate in the trade. Therefore, it has an adverse impact on the fairness, integrity and transparency of the stock market.

16.17 Therefore, I am inclined to note 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 therefore the same are manipulative, deceptive in nature.

16.18 The Noticee has also contended that there may persist several benign reasons for the occurrence of the alleged reversal trade such as the broker committing an error due to the fat finger syndrome or entering into the alleged transactions with an ulterior motive against the Noticee. However, such arguments have been put forward without any basis. Moreover, I note that on account of the said transactions, it is the Noticee who had a profitable position. Therefore, I am not inclined to consider the contention of the Noticee in this regard.

16.19 In view of above, I conclude that the Noticee had violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of PFUTP Regulations.

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

17.1 Pursuant to detailed analysis as brought out above, it is established that reversal trades are not normal transactions and it clearly demonstrates beyond reasonable doubt that the Noticee had intentionally executed these trades and manipulated the volume by artificial trading pattern in the contract 'INCM15JUN65.00CEW2' where the total of 2 trades executed during the Investigation Period in the said contract were non-genuine trades and the Noticee was part of those trades.

17.2 I am of the view that the misuse of stock options as shown above not only displays an unreal picture of market activity to other investors but also defeats the basic premise of screen based electronic trading system and price discovery mechanism by repeated execution of pre decided reversal trades at irrational/ arbitrary prices. Such activity deliberately or otherwise damages market integrity apart from presenting wrong picture of liquidity to gullible investors which could affect their trading/ investment decisions. The trading of the Noticee in the instant matter was abnormal and was clearly designed to create artificial volumes in the illiquid stock options, fail to justify any of the normal strategies of hedging/ speculation/ arbitrage. In my view, the abuse of such financial instruments, which are made available to the investors for the purpose of protection of their investment portfolios from the risks of adverse price movement, cannot be tolerated and needs to be dealt with strictly.

17.3 The trading behaviour of the Noticee confirms that such trades were not normal and 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 contract. In view of the above, 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.

17.4 The Hon'ble Supreme Court of India in the matter of ***SEBI vs Shri Ram Mutual Fund*** [2006] 68 SCL 216(SC) held that:-

"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…"

17.5 I find that the Noticee by indulging in execution of reversal trades in Stock Options with same entity on the same day, had created artificial volume, leading to false and misleading appearance of trading in the illiquid stock options at BSE and therefore violated the provisions of Regulations 3 (a), 3(b), 3(c), 3(d), 4(1), and 4(2)(a) of the PFUTP Regulations. Accordingly, 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 read as under.

"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".

18 ***ISSUE – III: If so, what quantum of monetary penalty should be imposed on the Noticee?***

While determining the quantum of monetary penalty under Section 15HA of the SEBI Act, I have considered the factors stipulated in Section 15-J of the SEBI Act, which reads as under:

“Factors to be taken into account by the Adjudicating Officer

While adjudging quantum of penalty under section 15 - I, the Adjudicating Officer shall have due regard to the following factors, namely:

(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.”

19 I observe that the SCN 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, the Noticee had entered into non-genuine trades, which created an appearance of artificial trading volumes in respective contract at pre-meditated prices.

20 Considering, the facts of the matter as discussed earlier, I am of the view that imposition of minimum penalty as prescribed under Section 15HA of the SEBI Act would be commensurate for the present matter.

ORDER

21 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 following penalty under section 15HA of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Violation provisions	Penalty
Neha Mohta **[PAN: ADBPA3449D]**	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	**Rs.5,00,000/-** (Rupees Five Lakh only)

22 I am of the view that the said penalty is commensurate with the lapse/ omission on the part of the Noticee.

23 The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of:

(i) Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, and the said DD should be forwarded to the Division Chief, Enforcement Department – 1 (EFD 1), Division of Regulatory Action – 4 (DRA 4), SEBI Bhavan, Plot No. C4-A, 'G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai –400051. The Noticee shall provide the following details while forwarding DD/ payment information:

Sl. No.	Particulars	Details
1	Name of the Case / Matter	
2	Name and PAN of the Payee	
3	Date of Payment	
4	Amount Paid	
5	Transaction Number	
6	Bank Name and Account Number	
7	Purpose of Payment	Payment of penalty under AO proceedings

OR

(ii) Payment can also be made online by following the below path at SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO →PAY NOW

24 In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated under Section 28A of the Securities and Exchange Board of India 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.

25 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, a copy of this order is being sent to the Noticee namely, Neha Mohta [PAN: ADBPA3449D] and also to the Securities and Exchange Board of India, Mumbai.

Date: November 03, 2021
Place: Mumbai

PRADIP BHOWMICK
ADJUDICATING OFFICER