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 BY ADJUDICATING OFFICER) RULES, 1995

In respect of:

Benko Traders Private Limited
(**PAN**: AABCB1888R)
(**CIN**: U51311WB1995PTC069567)

Address: White House, 4th Floor Block D, 119 Park Street, Kolkata – 700016

In the matter of dealing in illiquid stock options at BSE

BACKGROUND

1. SEBI observed large scale reversal of trades in Stock Options segment of Bombay Stock Exchange (hereinafter, referred to as "**BSE**") leading to creation of artificial volume. SEBI conducted an investigation into the trading activity in illiquid Stock Options at BSE (hereinafter, referred to as "**investigation**") for period 01/04/2014 to 30/09/2015 (hereinafter referred to as "**I.P.**").

2. Pursuant to investigation, it was observed that during the I.P, total 2,91,643 trades comprising substantial 81.38% of all the trades executed in Stock Options Segment of BSE were non genuine trades. The aforesaid non genuine trades resulted into 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 I.P.

3. Reversal trades were considered those trades in which an entity reverse 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 alleged to be non genuine trades as they are not executed in normal course of trading, lack basic trading rationale, and allegedly lead to false or misleading appearance of trading in terms of generation of artificial volume, hence were 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.

4. It is noted that Benko Traders Private Limited bearing PAN: AABCB1888R (hereinafter, referred to as "**Noticee**") was one of the various entities which indulged in execution of non genuine trades in Stock Options Segment of BSE during the I.P. The dealings of Noticee in Stock Options segment of BSE during the I.P., and allegations against Noticee for execution of non genuine trades are enumerated below.

5. Noticee, during the I.P. allegedly executed 67 non genuine trades in 13 stock option contracts, resulting in artificial volume of total 22909000 units. Alleged non genuine trades of Noticee resulted into gains of Rs. 2.86 Core to it. Following is noted from the dealings of Noticee in aforesaid 13 contracts at BSE:

   a) Substantial 40% to 100% of trades executed by Noticee in aforesaid 13 contracts were non genuine trades.

   b) No. of non genuine trades of Noticee has significantly contributed to the total no. of trades from the market in the above contracts, as up to 100% of the trades that happened in the said 13 contracts were due to non-genuine trades executed by the Noticee.

   c) Significant volume up to 100% of the volume generated by the Noticee in each of the 13 contracts was artificial volume. Further, said artificial volume generated by Noticee also contributed to significant upto 100% of the total volume from the market in above contracts.

   d) Alleged non genuine trades executed by Noticee had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

6. In view of the foregoing, it was alleged that Noticee indulged in execution of reversal trades in Stock Options at BSE during the I.P. Such reversal trades are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore alleged to be manipulative, deceptive in nature. Thus, it is alleged that Noticee violated the provisions of Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter, referred to as "**PFUTP Regulations 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

7. SEBI, in terms of Section 19 read with Section 15I(1) and (2) of the SEBI Act, 1992 and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter, referred to as "**SEBI Adjudication Rules, 1995**") appointed Adjudicating Officer to inquire into and adjudge the alleged violations of aforesaid regulations in respect of Noticee, and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of SEBI Adjudication Rules, 1995 and Section 15HA of SEBI Act.

SHOW CAUSE NOTICE, WRITTEN SUBMISSIONS, PERSONAL HEARING

8. Show Cause Notice dated September 10, 2018 (hereinafter referred to as "**SCN**") was issued to the Noticee, mentioning the allegations against the Noticees and requiring it to show cause within 14 days of receipt of the SCN, as to why an inquiry should not be held and penalty be not imposed under Section 15HA of SEBI Act for the aforesaid alleged violations against it.

9. SCN was sent through SPAD to two addresses of Noticee available on record, and same was delivered on one of its address in Park Street, Kolkata. Noticee, vide its letter dated September 26, 2018 forwarded through e-mail dated October 3, 2018, requested for extension of time of 1 month to submit its reply. In this regard, vide e-mail dated October 3, 2018, Noticee was provided extension of time till October 17, 2018 to submit its reply to SCN.

10. Since no reply was received from the Noticee within the time period provided to Noticee, vide letter dated October 26, 2018, Noticee was provide with an opportunity of hearing on November 20, 2018. Noticee was also advised to submit its reply latest by November 10, 2018.

11. Noticee, vide letter dated October 15, 2018, received on October 30, 2018 denied the allegations in respect of the Noticee, and requested to provide certain documents / reports / records which were relied upon while issuing the SCN, viz, rationale for selecting I.P. as 01/04/2014 to 30/09/2015, complete investigation report, statements and documents forming part of the investigation report, documentary evidence for allegations, copy of complete trade log and order log for period 01/01/2014 to 31/12/2015, and copy of statement recorded during investigation.

12. Subsequently, Noticee in reply to hearing notice dated October 26, 2018, vide letter dated November 5, 2018 received on November 12, 2018, informed that it could not contact its advocate due to court vacation, and it requested to grant time to submit its reply by November 30, 2018 and schedule hearing thereafter. In this regard, vide e-mail dated November 19, 2018, Noticee was granted another opportunity of hearing on December 4, 2018. Noticee was also advised to reply to the SCN latest by November 30, 2018.

13. Noticee submitted its reply to the SCN, vide its letter dated November 20, 2018 received on December 5, 2018. Copy of the reply was also presented during the hearing. Following key submissions were made in the reply of Noticee:

"Noticee denied the allegations against it mentioned in the SCN.

Noticee use to trade in the stock market i.e, cash and derivative ec, however, it faced heavy loss of Rs. 10.70 crore in FY 2011-12, thereafter it completely stopped trading activity in the stock market.

Noticee instructed its stock brokr to enter the orders on the anonymous trading platform of the Stock Exchange and by no stretch of imagination noticee would be aware about the counterparty. Further, noticee understand that the *brokers look at the trend in the market, orders available in the system, etc., and enter orders in the electronic trading platform of the stock exchange and no wrong can be attributed to Noticee to warrant any kind of violation. Surprisingly, no action has been taken by SEBI against the brokers who have misguided us who are supposed to be first level regulators.*

We executed trades independently based on commercial wisdom in ordinary course of business and no adverse inference should be drawn of the above. Amount received from stock market operations has always been used in the ordinary course of business and no adverse vide can be taken of the same.

No justification has been provided for selection of certain investigation period, Noticee has traded in around total 15 days during investigation to warrant any kind of creation of artificial volume. In 2 of the 13 contracts dealt by Noticee had less than 5% of artificial volume, hence adding these contracts in the list of non genuine trades defies logic. SCN is vague, unclear, baseless and erroneous conclusions have been drawn. We deny the allegations mentioned in the SCN, and that we have indulged in any non-genuine trades.

Noticee traded in stock options on anonymous and electronic trading platform of stock exchange which is provided by stock exchange and approved by SEBI. We are not aware about any nuances of order matching mechanism. Orders have matched on price time priority basis, hence, allegation that our trades matched with same entity by design and not as per the trading mechanism is illogica, arbitrary and goes against the principles on which electronic trading was started.

No alert / warning / caution, etc of any sort was issued by BSE / SEBI at the time of carrying out of such trades despite BSE and SEBI having state of the art surveillance system.

No nexus with counterparty is shown, hence, criteria to issue SCN is arbitrary, subjective, illogical, etc and in violation of natural justice.

No evidence has been adduced in the SCN regarding large scale reversal of trades and our trading leading to creation of artificial volume and wrong doing.

Noticee have not been provided with copy of investigation report which is in gross violation of naturel justice, equity and fair play.

Electronic trading system do not allow the transacting parties to know their counter party, and we never knew that our trades are in nature of reversal trades before receiving the SCN and scrutinising the annexures thereto. SCN do not providence that we are related to counterparties.

Our trades have all traits of being genuine and therefore cannot be categorised as non-genuine. Trades were executed on anonymous platform, 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.

Noticee deny that it was part of any scheme, plan, device, artifice employed in any case and further deny that it committed a fraud on the securities market.

Noticee quoted case laws viz, Jagruti Securities vs SEBI[2008 SCC online SAT 184:2008 SAT 184] claiming that for artificial volume there has to be collusion between buyer and seller; S.P.J. Stock Brokers Pvt :td vix SEBI [2013 SCC OnLine SAT 67: [2013] SAT17]"13 claiming connection between counterparties is required to establish price manipulation or creation of volume; HB Stockholding Ltd vs SEBI [2013 SCC OnLine SAT 56 : [2013] SAT 44]" 17 claiming inter-alia that synchronisation of trades is not per se illegal…

Noticee claim that alleged trades by it has not caused any loss to any investor and has also not adversely affected any market participant or the securities market in any manner. No gain or unfair advantage was undertaken, alleged violation is not repetitive, hence, present case do not warrant imposition of penalty."

14. Authorised Representative of the Noticee appeared for the hearing on behalf of the Noticee on December 4, 2018, and following were proceeds of the hearing:

"AR informed that Noticee has filed reply on December 3, 2018 and presented copy of the same. Further, AR reiterated the submissions made in aforesaid reply.

As regards to the request for investigation report and other documents, it was informed to AR that all the relied upon information and records inter-alia the relevant extract of investigation report has been provided in the SCN issued to Noticee, and there are no other information and records being relied upon in the matter."

CONSIDERATION OF ISSUES AND 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, following issues require consideration in the present matter:

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

    b) Does the violation, if any, on part of the Noticee attract monetary penalty under Section 15HA of SEBI Act?

    c) If so, what quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act read with rule 5 (2) of the SEBI Adjudication Rules, 1995?

16. Aforesaid provisions alleged to have been violated by the Noticee reads as follows:

    PFUTP Regulations 2003

    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;

Issue a) - Whether the Noticee has violated the provisions of Regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of PFUTP Regulations 2003?

17. It has been alleged that Noticee, while dealing in stock option contracts at BSE during the I.P, indulge in execution of reversal trades which were non genuine. It is noted that reversal trades as specified in the investigation by SEBI, is the trade where an entity reverse its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day.

18. Noticee while dealing at BSE during the I.P., allegedly executed 67 reversal trades in 13 Stock Option contracts, resulting into artificial volume of total 22909000 units. Summary of dealings of Noticee in aforesaid 13 contracts is as follows:

Sl	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	No. of non genuine trades of Noticee in the contract	Artificial Volume generated by Noticee in the contract (No. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine 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	ADPW15MAR56.00PEW1	0.05	1200000	0.94	1200000	6	2400000	100%	67%	100%	40%
2	AMTK15APR120.00PEW1	0.05	1400000	1.95	1400000	2	2800000	100%	100%	100%	100%
3	ASPL15FEB800.00PEW3	0.50	90000	23.92	90500	3	180000	75%	9%	100%	19%
4	BOBL15APR150.00PEW1	0.05	2610000	2.30	2610000	15	5160000	88%	44%	99%	31%
5	GLPL15FEB800.00CEW3	0.50	100000	27.31	100500	2	200000	67%	29%	100%	33%
6	HDIL15MAR115.00CE	0.08	180000	1.15	180000	2	200000	40%	8%	56%	5%
7	HNDL15MAR120.00PE	0.05	1680000	3.02	1680000	3	3356000	75%	25%	100%	75%
8	IDFC15APR155.00PEW1	0.05	1600000	1.55	1600000	6	3200000	100%	100%	100%	100%
9	KARB15MAR110.00PE	0.05	1740000	2.93	1740000	6	3480000	100%	14%	100%	34%
10	LICH15MAR470.00PEW1	0.10	126000	4.03	126000	6	252000	100%	86%	100%	83%
11	PGCL15APR135.00PEW1	0.05	438000	1.60	438000	8	876000	100%	47%	100%	20%
12	SBIL15MAR280.00CE	0.05	501250	4.29	501250	4	5000	100%	20%	<1%	<1%
13	TGBL15FEB145.00PE	0.10	400000	1.62	400000	4	800000	100%	57%	100%	34%

19. From the above table, it is noted that Noticee undertaken reversal of its trades and same was 40% to 100% of its total trades executed in aforementioned 13 contracts. It is also pertinent to note that Noticee through its reversal trades, has contributed significantly to the total no. of trades (up to 100%) and volume (up to 100%) in such contracts.

20. Upon further perusal of reversal trades of Noticees in said 13 contracts, it is noted that Noticee reversed its trades within a short span of 8 minutes to 62 minutes from first leg of the

respective trades. For instance, details of trading undertaken by Noticee in 4 of the said 13 contracts is given below.

Sl.	Buyer Short Name	Seller Short Name	Trade Time (hh:mm:ss)	Rate (Rs.)	Traded Qty (No. of Units)	Time Difference (hh:mm:ss
1	**BOBL15APR150.00PEW1 on 31/03/2015**					
(i)	Ayush Keshan	Banko Traders	13:24:44	2.3	220000	00:30:07
(ii)	Banko Traders	Ayush Keshan	13:54:51	0.05	220000	
(iii)	Janki Share Brokers	Banko Traders	13:29:11	2.3	105000	00:26:12
(iv)	Banko Traders	Janki Share Brokers	13:55:23	0.05	105000	
(v)	Quality Vinimay	Banko Traders	14:03:53	2.3	645000	00:29:42
(vi)	Quality Vinimay	Banko Traders	14:03:53	2.3	15000	
(vii)	Banko Traders	Quality Vinimay	14:33:35	0.05	660000	
(viii)	Abha Tradefin	Banko Traders	14:08:00	2.3	985000	00:25:38
(ix)	Banko Traders	Abha Tradefin	14:33:38	0.05	985000	
(x)	Vivek Kothari	Banko Traders	14:09:23	2.3	355000	00:24:28
(xi)	Banko Traders	Vivek Kothari	14:33:51	0.05	355000	
(xii)	Tekstar Engineers	Banko Traders	14:09:46	2.3	155000	00:23:19
(xiii)	Banko Traders	Tekstar Engineers	14:33:05	0.05	155000	
(ix)	Prakash Mohnani	Banko Traders	14:10:12	2.3	100000	00:23:53
(xv)	Banko Traders	Prakash Mohnani	14:34:05	0.05	100000	
2	**GLPL15FEB800.00CEW3 on 19/02/2015**					
(i)	Pushapdham Business	Banko Traders	14:29:39	27.35	100000	00:24:09
(ii)	Banko Traders	Pushapdham Business	14:53:48	0.5	100000	
3	**HDIL15MAR115.00CE on 24/03/2015**					
(i)	R. R. Synthetics & Finvest	Banko Traders	12:00:20	1.35	100000	00:08:58
(ii)	Banko Traders	R. R. Synthetics & Finvest	12:09:18	0.1	100000	
4	**TGBL15FEB145.00PE on 20/02/2015**					
(i)	Gbees Mart	Banko Traders	14:24:32	1	2000	00:14:17
(ii)	Gbees Mart	Banko Traders	14:24:32	1.65	198000	
(iii)	Gbees Mart	Banko Traders	14:24:32	1.6	200000	
(iv)	Banko Traders	Gbees Mart	14:38:49	0.1	400000	

21. Dealing of Noticee in one of the contract mentioned above viz, BOBL15APR150.00PEW1 on 31/03/2015 is taken as illustration to understand the dealings of Noticee. It is noted that during 13:24:44 hrs to 14:10:12 hrs, Noticee executed 8 sell trades for total 2580000 units at the rate (premium) of Rs. 2.30 per unit with 7 counterparties viz, Ayush Keshan (for 220000 units), Janki Share Brokers (for 105000 units), Quality Vinimay (for 660000 units), Abha Tradefin (for 985000 units), Vivek Kothari (for 355000 units), Tekstar Engineers (for 155000 units) and Prakash Mohnani (for 100000 units). Subsequently, within 23 to 30 minutes of the above trades, Noticee executed reversal buy trades for same total 2580000 units at the rate (premium) of Rs. 0.05 for same respective no. of units with each of the aforesaid 7 counterparties. Hence, above trades resulted into 15 reversal trades (both buy and sell legs) with total volume of 2580000 units. While the above trades undertaken within short span of time resulted into gains to Noticee, it at the same time resulted into losses to the counterparties. It is pertinent to note that though the above trades did not carried forward the positions of the entities involved to the next day, however, they shown impression of trades in such contract, and same was deceptive to the unsuspecting investors.

22. As seen above, Noticee in its dealings in 13 contracts, similarly carried out reversal of trades with the same respective counterparties in two legs of the respective reversal trades within short span of time, and that too in most of the cases with substantial positive difference in rates, resulting into significant gains to it.

23. As regards to request of Noticee to provide several information and records relied upon in the present matter, it is noted that same was received after issuance of hearing Noticee. During the hearing proceeding, authorised representative of the Noticee was informed that all the relied upon information and records have been provided in the SCN issued to Noticee, and there are no other information and records being relied upon in the matter.

24. Noticee in its reply has denied the allegations, and inter-alia argued that it executed trades independently based on commercial wisdom in ordinary course of business and no adverse inference should be drawn of the above. In this regard, it is noted that though it appears that Noticee has followed logic wherein it has bought at low price and sold at higher price, or vice-versa to make gains. However, same do not appear to have undertaken in normal course, as trades were reversed within short interval of few minutes with the same counterparty(s) in illiquid stock options, where in such short period, trading scenarios had not changed.

25. It is pertinent to note that there was substantial difference in rates (premium), considering that the same were reversed in such a quick succession in intra-day trading. However, Noticee has not put forth any supporting information indicating relevant change in underlying stock or other credible scenarios, which could have aided the reversal with significant positive difference in premium rates in such quick successions.

26. It is noted that the reversal trades undertaken by the Noticee defy the criteria to be called normal practice, as these trades were consistently reversed in a short span of execution of first leg of the trades, leading to booking of gains by Noticee. Further, it is not mere coincidence that Noticee could match its trades consistently with same counterparties with whom it undertaken first leg of respective reversal trades. Above appears to be outcome of a deliberate effort to deal in such manner. It is clear that such reversal trades do not follow the basic trading sense or rationale usually behind trading in securities, hence, same are non genuine.

27. It is noted from the dealings of Noticee that trades were reversed on same day with the respective same counterparties in two legs of reversal trades. Trading behaviour of Noticee do not show intention to carry forward these positions. Hence, volume generated in the aforesaid trades was artificial volume, and was a means to book gains / losses among the parties to such reversal trades, including the Noticee. This volume has created misleading appearance of trading to unsuspecting investors.

28. Noticee has also argued that it traded in stock options on anonymous and electronic trading platform of stock exchange which is provided by stock exchange and approved by SEBI, and its orders were matched with price time priority and not by any deliberate attempt or design. Noticee has further cited few rulings of hon'ble Securities Appellate Tribunal (SAT) to argue that to establish the allegation of reversal trades or creation of artificial volume, nexus between the parties has to be brought on record. It is pertinent to note that stock options under question were ill-liquid, and hence, despite the anonymous screen based trading system, there was high possibility to match the trades in certain manner. Owing to this, in 8 of the aforesaid 13 contracts, Noticee could match all of its trades with same counterparty in the second leg of reversal trades, with which it had undertaken first leg of respective reversal trades.

29. As regards to meeting of minds or collusion with other entities inter-alia the counterparties or agents / fronts, direct evidence is not forthcoming in the present matter, however, trading behaviour and other scenarios as noted above make it clear that aforesaid non genuine trades could not have been possible without meeting of minds with counterparties, its fronts or agents at some level. In this regard, reliance is placed on judgement of Hon'ble Supreme Court in the matter of SEBI vs. Rakhi Trading Pvt Ltd in respect of Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on 08.02.2018, which inter-alia states that:

"92. 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….."

Reliance is also placed upon judgement of hon'ble Supreme Court of India in the matter of SEBI Vs Kishore R. Ajmera in Civil Appeal No. 2818 of 2008 decided on February 23, 2016 wherein it was held 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."

30. This trading behaviour of the Noticee itself confirm that these trades were not normal, and it does not make sense for counterparties also to indulge into such act which result into significant losses to them at the benefit of Noticee. In a gist, this whole trading behaviour does not make any economic sense, and has to be seen as means to book gains and losses by the participating entities. However, at the same time these trades have resulted into artificial volume in such contracts.

31. Given the above observations, contention of the Noticee that it has not executed non genuine trades and did not created artificial volume, is not found tenable. It appears that execution of non genuine trades and creation of artificial volume were result of deliberate act of Noticee to book gains by dealing in securities.

32. In view of the above, it is clear that Noticee indulge in executed 67 reversal trades in 13 contracts at BSE and thereby created artificial volume of 22909000 units. Such act of Noticee was deceitful, and misleading to other unsuspecting investors, and was an inducement to trade in such contracts. It is clear that by indulging in execution of non genuine trades which have created artificial volume in Stock Option Contracts at BSE, Noticee has violated the provisions of Regulations 3(a), (b), (c) and (d) and 4(1) and 4(2)(a) SEBI (PFUTP) Regulations, 2003.

Issue b) – Does the violation, if any, on part of the Noticees attract monetary penalty under Section 15HA of SEBI Act?

33. Given the findings hereinabove, it is clear that the reversal trades undertaken by Noticee were non genuine, resulted into artificial volumes in 13 stock option contracts. It is also noted that Noticee has deliberately acted in this manner. The above conduct of Noticee has therefore violated the provisions of Regulations 3(a), (b), (c) and (d) and 4(1) and 4(2)(a) SEBI (PFUTP) Regulations, 2003.

34. As regards to the submissions that Noticee that it did not undertaken trades under question with intention to undertake non genuine trade or generate artificial volume, reliance is placed on order of the Hon'ble Supreme Court of India in the matter of *SEBI Vs. Shri Ram Mutual Fund* [2006] 68 SCL 216(SC), where honourable court has also 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…"*.

35. Hence, the Noticee is liable for monetary penalty under Section 15HA of SEBI Act, which states as follows:

*88[**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 89[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].

88 Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.
89 Substituted for the words ―twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

Issue c) - If so, what quantum of monetary penalty should be imposed on the Noticee taking into consideration the factors mentioned in Section 15J of the SEBI Act read with rule 5 (2) of the SEBI Adjudication Rules, 1995?

36. While determining the quantum of penalty under section 15HA of SEBI Act, it is important to give consideration to the factors stipulated in section 15J of SEBI Act, which reads as follows:

Section 15J of SEBI Act - Factors to be taken into account by the Adjudicating Officer

While adjudging quantum of penalty under section 15-I of SEBI Act, 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."

93[Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.]

93 Inserted by Part VIII of Chapter VI of the Finance Act, 2017 vide Gazette Notification No. 7, Extraordinary Prt II Section 1 dated March 31, 2017. This shall come into force from April 26, 2017.

37. Records shows the amount of gain / loss of the entities involved in non genuine trades including the Noticee, however, it is pertinent to note that entities involved in such trades have either booked gains or loss from the dealings at the Stock Exchange. These gain / loss at Stock Exchange thus appears to be notional.

38. It is noted that the trading was in illiquid stock option contracts where there was nil or negligible participation by the public. Hence, the impact of these non genuine trades has been considered. When the impact of artificial volumes created by the two counterparties is seen as a whole, it is not possible from material available on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counterparties or the consequent loss caused to investors as a result of the default.

39. Finding shows that Noticee has executed 67 non genuine trades in 13 Stock Options Contracts. Said non genuine trades and artificial volume generated by Noticee contributed to upto 100% of the total no. of trades and volume in the said 13 contracts.

ORDER

40. In view of the above, after taking into consideration all the facts and circumstances of the case, violation established as mentioned above, and after considering the factors enumerated in section 15Jof the SEBI Act, following monetary penalty of Rs.5,00,000/- (Rupees Five Lakh only) is hereby imposed upon Noticee viz, Benko Traders Pvt Ltd.

41. The Noticee shall remit / pay the said amounts of penalty within 45 (forty five) days of receipt of this order either by way of Demand Draft (DD) in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through e-payment facility into Bank Account, the details whereof are as follows:-

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

42. The Noticee shall forward the said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Division Chief of the Enforcement Department 1 (EFD1) – Division of Regulatory Action (DRA 1) of SEBI.

43. The format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular no. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID: tad@sebi.gov.in:

Date	
Department of SEBI	
Name of Intermediary / Other Entity	
Type of Intermediary	
SEBI Registration no. (If any)	
PAN	
Amount (in Rupees)	
Purpose of payment (inluding the period for which payment was made e.g, Quarterly, Annually	
Bank Name and Account Number for which payment is remitted	
UTR No.	

44. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order is being sent to the Noticee and also to the SEBI.

Date: January 29, 2019 **Jeevan Sonparote**
Place: Mumbai **Adjudicating Officer**