BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/BM/JR/2022-23/26353]

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

Late Kishan Chowdhary

(PAN: ACTPC7096B)

In the matter of Trading 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 1, 2014 to September 30, 2015 (hereinafter referred to as "**IP**").

2. Pursuant to investigation, it was observed that total 2,91,744 trades comprising substantial 81.40% of all the trades executed in stock options segment of BSE during the IP were non genuine trades. The aforesaid non-genuine trades resulted into creation of artificial volume in stock options segment of BSE during the IP. It was observed that Kishan Chowdhary (PAN – ACTPC7096B) (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 IP. Such trades were observed to

be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in 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**").

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated November 12, 2021, under section 19 read with Section 15-I(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") 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, 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.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated August 8, 2022 (hereinafter referred to as 'SCN') was issued to the Noticee under Rule 4(1) of the Adjudication Rules through digitally signed email to show-cause as to why an inquiry should not be initiated against her for the alleged violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations and why penalty should not be imposed under section 15HA of the SEBI Act for the violations alleged to have been committed by Noticee. In the SCN, the Noticee was informed about the SEBI Settlement Scheme, 2022, in terms of regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options and in case, Noticee do not

wish to avail of the facility under the SEBI Settlement Scheme, 2022, Noticee was advised to file a reply to the SCN within 30 days of the receipt of the SCN.

5. However, it was observed that Noticee did not avail the SEBI Settlement Scheme. In view of which, the adjudication proceeding against the Noticee was resumed.

6. It was observed that Noticee did not submit her reply to the SCN till March 17, 2023. In the interest of natural justice, the Noticee was provided an opportunity of hearing vide hearing notice dated March 17, 2023 which was duly delivered (both through SPAD and digitally signed email). The Noticee was advised to appear before the undersigned on April 5, 2023. However, the Noticee did not submit his reply to the SCN and also did not appear for the hearing. In the interest of natural justice, another opportunity of hearing was granted to the Noticee on April 25, 2023 vide notice dated April 13, 2023 which was duly delivered to her. The Noticee was also informed that it was the last and final opportunity of hearing being provided to her. However, the Noticee did not appear for hearing or submitted reply to the SCN.

7. Subsequently, vide email dated April 24, 2023 one Umang Chowdhary informed about the death of the Noticee and provided a copy of the Death Certificate of the Noticee, issued by Kolkata Municipal Corporation, Government of West Bengal. The death certificate shows that the Noticee passed away on May 5, 2019. The details provided by Umang Chowdhary was cross checked from the official website of Kolkata Municipal Corporation.

8. Before proceeding further in the matter on merit, it would be in the fitness of things to first decide as to whether on the death of the Noticee, the present adjudication proceedings against her would continue or abate.

9. In this regard, it is worth mentioning that in *Girijanandini Vs Bijendra Narain (AIR 1967 SC 2110)*, the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not

survive to or against the representatives and in such cases the maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal in *Chandravadan J. Dalal vs. SEBI* (Appeal No. 35/2004 decided on June 15, 2005) wherein it was held that: "*The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates.*"

10. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee are liable to be abated without going into the merits of the case qua him and the SCN dated August 8, 2022 issued against him is disposed of accordingly.

11. In terms of rule 6 of the Adjudication Rules, copy of this order is sent to the Noticee's last known address and also to SEBI.

Date: May 10, 2023	**BARNALI MUKHERJEE**
Place: Mumbai	**ADJUDICATING OFFICER**