BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO.: OIAE/IGRD/AO/MS/GK/2021-22/15730

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
Shri Ajay Kumar Baid
PAN: ADIPB4571C
Shyam Kunj, Flat 08 Floor 4th,
12B Lord Sinha Road,
Middleton Row Circus Avenue,
Kolkata 700071
West Bengal

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

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") observed large scale reversal of trades in the Stock Options segment of the Bombay Stock Exchange (hereinafter referred to as "BSE") leading to the alleged creation of artificial volume in the stock options segment. In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options segment at the BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as "Investigation Period").

2. It was observed during the course of investigation that a total of 2,91,744 trades comprising 81.40% of all the trades executed in the Stock Options Segment at the BSE during the investigation period were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was observed that Shri Ajay Kumar Baid (hereinafter referred to as "Noticee") was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price. The aforesaid reversal trades allegedly resulted into generation of artificial volumes, leading to allegations that the Noticee had violated the provisions of regulations 3(a),(b),(c),(d) and regulations 4(1),4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as " PFUTP Regulations, 2003").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act") read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "Adjudication Rules") vide order dated July 06, 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, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. OIAE/IGRD/MJS/19733/2021 dated August 17, 2021 (hereinafter referred to as "SCN") 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 the Noticee and why penalty should not be imposed upon the Noticee under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. The trades entered by the Noticee were reversed on the same day with same counterparty at a substantial price difference without any basis for significant change in the contract price which indicates that these trades are artificial and are non- genuine in nature.

6. A summary of dealings of Noticee in FEDB15JUL125.00PEW4 Stock Options contracts in which the said Noticee allegedly executed reversal trades during the investigation period, is as follows:-

Summary of dealings in contracts wherein the Noticee executed reversal trades

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	FEDB15JUL125.00PEW4	0.05	106000	1.95	106000	100%	100%

7. The abovementioned reversal trades and volumes are illustrated through the dealings of Noticee in one contract viz, "FEDB15JUL125.00PEW4" during the investigation period, as follows:-

   (a) During the investigation period, 2 trades for 212000 units were executed by the Noticee in the said contract on 02/07/2015.

(b) While dealing in the said contract on 02/07/2015, at 14:29:11.52 hrs the Noticee entered into a sell trade with counterparty Wonderland Paper Suppliers Private Limited for 106000 units at Rs.1.95 per unit. At 14:31:37.75 hrs the Noticee entered into a buy trade with the same counterparty, for 106000 units at Rs.0.05 per unit.

(c) The Noticee's two trades while dealing in the above said contract during the investigation period allegedly generated artificial volume of 212000 units, which made up 100 % of total market volume in the said contract during this period.

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

9. The SCN with reference number OIAE/IGRD/MJS/19733/2021 dated August 17, 2021 was issued to the Noticee via Speed Post Acknowledgement Due (SPAD), which was duly served on the Noticee as per the Tracking details obtained from the India Post website and via email dated August 17, 2021 which was also duly delivered to the Noticee.

10. The Noticee responded to the SCN vide letter dated September 01, 2021. The Noticee denied all allegations with the following contentions:

    a. All these transactions were done by registered stock broker firm and member of BSE named as Giriraj Stock Broking (P) Ltd. having SEBI Registration no. BSE-F&O-INZ010004836.

    b. He has no direct or indirect relationship or any connection with the counterparty Wonderland Paper Suppliers Private Limited.

    c. He has no control over the volume of transactions of that script in any way. All the transactions have been done by stock broker firm on terminal of BSE on his behalf and he was totally relying on his stock broker.

    d. The said stock broker firm has issued him a valid contract note dated 03/07/2015, which is annexed in his response.

    e. The contract note shows details of transactions including, rates various charges and levies. This is usual, customary and legal document.

    f. That all transactions are genuine and there are no violations of any of Regulations 3(a), (b), (c) and 4(1),4(2)(a) of SEBI PFUTP Regulations,2003.

    g. All the allegations in the notice issued to him seems based on assumptions, presumptions, bias and are baseless and false and

h. He is not a party vis a vis BSE and SEBI. The orders were placed within permissible limits of pricing allowed and bid and offers were accepted on the terminal of BSE. Therefore, there should not be any question raised to small investor/ trader like him and therefore there should not be any penalty on investor.

I. He is a small investor who used to invest in small quantities. As a day trader, he is buying or selling under stock option without intention to violate any laws. Buying and selling of small quantities under stock options on different days or after some time on the same day in the open market is usual trade practice in derivative trading. There was no change in ownership or substantial changes in holding of securities.

He has cited provisions of 18 A of Securities Contracts (Regulation) Act, 1956, for contract in derivative.

He has referred some SAT appeals in support of his statements-

i. Nagad Sarvar Versus SEBI, Mumbai,

ii. Sapna Dilip Bombaywala Versus Whole Time Member SEBI,

iii. M/S Nishith M. Shah Huf Versus SEBI

iv. Ashlesh Gunvantbhai Shah Versus SEBI, Mumbai

v. Jyoti Jha Versus SEBI, Mumbai

vi. Mrs. Bharti Goyal And Mr. Laxmikant Vyas Versus SEBI

He has requested to drop all the allegations made in the said notice.

He has made additional submission on September 27, 2021 as certain aspect remained.

j. He is a very small and casual investor / trader in stocks and options. He is not an organisation doing any large-scale business in securities. He is not a person falling under any category of persons covered in the scope and provisions of S. 12 of SEBI Act.

Therefore, impugned transactions are not “dealing in securities” so far he is concerned.

k. Transactions referred to in the notice are very old. The communication / notice is therefore, time barred as not within reasonable time particularly considering nature and quantum of transactions and nature of noticee who is not covered in any class of persons referred to in S.12 of the SEBI Act.

l. He is not a person referred to and covered by provisions of S.11 (2) (i) of the SEBI Act.

m. SEBI is an authority to act proactively to regulate security transactions and related matters for which it is constituted and is authorised. SEBI is expected to act with immense foresight in policy making and also to act almost on real time basis in matters of enquiry, investigation etc. to protect investors like him. An enquiry for a very old matter from an investor, seems beyond intended purposes of SEBI and authority for enquiry by SEBI.

n. The communication / notice is vague omnibus and is not specific on the matter of enquiry and likely penalty.

o. Therefore, the notice is not valid within object of law and on principal of natural justice.

p. Therefore, issue of notice to him seems beyond scope of enquiry and investigation under SEBI Act and related Regulations.

11. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, vide hearing Notice with reference number SEBI/HO/AO/MJS/26651/2021 dated October 01, 2021, the Noticee was granted an opportunity of personal hearing in the matter on October 27, 2021, through the online webex platform. Authorized Representative **('AR')** Ms. Uma Kothari, Chartered Accountant appeared on behalf of the Noticee on the stipulated date of hearing. During the course of hearing, the AR reiterated the submissions made by the Noticee in his reply dated September 01, 2021 and September 27, 2021. The personal hearing in the matter was concluded and minutes are on record. The **AR** made written submissions on October 27, 2021 by email mentioned below.

12. She contended that a long belated enquiry from investor is time barred and not in interest of investors or security market. She has cited the case of Aslesh Gunwant Bhai Shah vs SEBI, Mumbai.

13. She has cited the case of SEBI vs Bhavesh Pabari on account of delay of 7 years in issuance of SCN, penalty order cannot be sustained etc. The noticee relied on BSE and member of BSE through whom transactions took place.

14. Before going forward on merits the technical issue of delay in proceeding is being dealt with as under:

The notice and his AR has raised technical issue of delay of 7 years in issuing SCN.

Pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 which was confirmed vide Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to stock options segment of BSE which was completed in the year 2018. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock option segment during the investigation period. The proceedings initiated vide the aforementioned Interim Order were disposed of vide Final Order dated April 05, 2018 also considering that appropriate action was initiated against the said 14, 720 entities in a phased manner.

During the course of hearing in the case of R. S. Ispat Ltd Vs SEBI, the Hon'ble Securities Appellate Tribunal (SAT), vide its Order dated October 14, 2019, inter alia observed that "*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options".*

A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided one-time opportunity for settlement of proceedings in the Illiquid Stock Options matter. The said scheme was kept open from August 01, 2020 till December 31, 2020. Adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement.

As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on July 06, 2021, SCN was issued on August 17, 2021 In compliance with principles of natural justice, after receipt of reply, an opportunity of personal hearing was scheduled on October 27, 2021 and upon conclusion of hearing, additional written submissions were received from the noticee/AR on October 27, 2021 through email.

CONSIDERATION OF ISSUES AND FINDINGS:

15. I have carefully perused the charges levelled against the Noticee, his reply and the documents/material available on record. The issues that are raised for consideration in the present case are:

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

    (b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?

    (c) If so, what would be 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?

16. Before proceeding further, the relevant provisions of law allegedly violated by the Noticee and as mentioned SCN are reproduced below:--

PFUTP Regulations

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 provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?

17. I note that the allegation against the Noticee is that, he had executed reversal trades while dealing in the stock option contracts at BSE during the IP, which were allegedly non-genuine and had resulted in the creation of artificial volume in the stock options contracts at BSE. Reversal trades are considered as 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 the normal course of trading, lack basic trading

rationale, and allegedly lead to false or misleading appearance of trading in terms of generation of artificial volumes, hence these trades are deceptive and manipulative. From the facts/material made available on record, I find that reversal trades executed by the Noticee, which were observed in the present case, were undertaken by the Noticee with its counterparty with a predetermined arrangement to book profit or losses respectively, and therefore, the parties to the trades were not trading in the normal sense and ordinary course of business. Therefore, it is observed that the Noticee by indulging in such reversal trades with its counterparty in the illiquid stock option segment at BSE has managed to generate artificial volume in the Stock Options segment at BSE during the investigation period.

18. In this regard, it is observed from the trade log of the Noticee that he had traded in one contract in the Stock Options segment of BSE during the above mentioned investigation period. The examination of the Trade log of the Noticee during the relevant period revealed that he had executed 2 non-genuine trades in one contract in the Stock Options segment of BSE. I note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of a total of 212000 units in the given 1 contract. Further, it is observed that the trade executed by the Noticee was squared up within a short span of time with the same counterparty i.e. trade was reversed within few minutes on the same day. Thus, it is observed that Noticee had indulged in reversal trades with its counterparty in the stock option segment of BSE and the same were non-genuine trades.

19. Further, it is observed that these trades were squared up by the Noticee with its counterparty with a significant price difference. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis to suddenly, within a matter of few seconds, reverse the position with its counterparty with significant price difference when the value of the underlying had not undergone any significant change. The trade reversals in the said case points out to the fact that the parties to the transactions, including the Noticee, did not intend to transfer the beneficial ownership and through these orchestrated transactions, the intention of which was not regular trading, other investors have been excluded from participating in these trades/ contracts. As already mentioned above, there was very little time gap between the buy and sell orders placed by the Noticee with its counterparty in different trades. The time gap between both the trades was few minutes on the same day. Given the fact that the Stock Option contracts were illiquid in nature at BSE and also in view of the observations made above, I am convinced that Noticee has entered into reversal/non-genuine trades with its counterparty and in the process also generated artificial volume in the otherwise illiquid stock option contracts at BSE.

20. To illustrate, it is observed that the Noticee had executed a total of 2 trades during the Investigation period in the contract “FEDB15JUL125.00PEW4”. The aforesaid trades

were done by the Noticee on July 02, 2015 wherein Noticee sold 106000 units to Wonderland Paper Suppliers Private Limited at 14:29:11.52 hrs at the rate of Rs. 1.95 per unit. The Noticee then bought 106000 units from Wonderland Paper Suppliers Private Limited at 14:31:37.75 hrs at the rate of Rs. 0.05 per unit. This resulted in 2 trades with total trade quantity of 212000 units at a price of Rs. 1.95 and Rs. 0.05. Thus, in the above manner, the Noticee executed a total of 2 trades in the contract "FEDB15JUL125.00PEW4" and generated artificial volume of 212000 units through such non-genuine and reversal trades. It is also observed that, out of the 2 trades done through 1 unique contract, the Noticee was instrumental in contributing significantly towards the total volume recorded on BSE in the said contracts.

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

Date	Buyer	Seller	Buy Order Time	Sell Order Time	Trade Time	Trade Rate (Rs)	Trade Quantity
02/07/2015	Wonderland Paper Suppliers Private Limited	Ajay Kumar Baid	14:29:11.459971	14:29:11.522373	14:29:11.522373	1.95	106000
02/07/2015	Ajay Kumar Baid	Wonderland Paper Suppliers Private Limited	14:31:37.757658	14:31:37.695195	14:31:37.757658	0.05	106000

22. It is observed that the 2 transactions executed by the Noticee in 1 Option Contract were synchronized trades, which were reversed within minutes with prior meeting of mind between the parties to the trade. Needless to mention the fact that these transactions were manipulative/deceptive device with a view to create a desired loss and/or profit in the books of the party to the transactions and in the process, artificial volumes were also generated through such contracts.

23. I have noted the various judgments and find that they do not aid the noticee in the present.

24. At this juncture, it is pertinent to refer to the decision of the Hon'ble Supreme Court of India in the matter of Securities and Exchange Board of India v. Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 dated February 08, 2018) wherein, the Hon'ble Supreme Court while cumulatively analyzing the reversal transactions held that, 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 he 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."* 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.

25. In the same matter, Hon'ble Supreme Court had further stated that-

"........quantity, time and significant variation of prices, without major variation in the underlying price of the securities clearly indicate that Respondent's trades are not genuine and had only misleading appearance of trading in the securities market.........."

"35.... Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market. In the instant case, one party booked gains and the other party booked a loss. Nobody intentionally trades for a loss. An intentional trading for loss per se, is not a genuine dealing in securities. The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently makes losses and that too in a pre-planned manner and rapid trades, it is not genuine......"

26. Additionally, the Hon'ble Securities Appellate Tribunal in its Order 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 Order of the Hon'ble Supreme Court and held that *"It is not a mere coincidence that the Appellants could match the trades with the counterparty 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."*

27. In this context, I also find it relevant to refer to the decision of Hon'ble Supreme Court in the matter of Securities and Exchange Board of India v. Kishore R Ajmera {(2016)} 6 SCC 368: AIR 2016 SC 1079} wherein, the Hon'ble Supreme Court has held that, *" ..... According to us, knowledge of who the 2ndparty/client or the broker is, is not relevant at all. While the screen based trading system keeps the identity of the parties anonymous it will be too naïve to rest the final conclusions on the said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned....."*

28. In the same matter, the Hon'ble Supreme Court, has further 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 trade effected; the period of persistence in trading in a particular scrip; the particulars of buy and sell orders, namely the volume thereof; the proximity of time between the two and such relevant factors........."*

29. The observations made in the aforesaid judgments of Hon'ble Supreme Court apply with full force 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, price, quantity etc., 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. It is observed that in respect of these trades executed in the illiquid stock options contract, the only reason for the wide variation in prices of the same contract and execution time within seconds was a clear indication that there was pre-determination in the prices by both the counterparties when executing the trades. Thus, the nature of trading, as brought out above, clearly indicates an element of prior meeting of minds and therefore, a collusion of the Noticee with its counterparty to carry out the trades at predetermined prices. It is not possible to comprehend the reason for which the Noticee would enter into an option contract with a strike price far away from the current market price of the underlying except for the fact that Noticee wanted to execute non-genuine trades.

30. Therefore, 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 contracts. 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.

Issue (b): Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?

31. I have taken into consideration the facts and circumstances of the case, the material available on record. It is alleged that the Noticee had executed reversal trades, which were non-genuine trades and the same has resulted in the generation of artificial volume in the Stock Option contracts at BSE. In view of the same, the Noticee has violated the provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1), 4(2) (a) of PFUTP Regulations.

32. In view of the above, I conclude that the Noticee is liable for monetary penalty under the provisions of Section 15HA of the SEBI Act, which reads as under:

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 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.

Issue (c): If so, what would be 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?

33. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules require that while adjudging the quantum of penalty, 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.

34. Clearly, from the above observations, the Noticee was instrumental in the creation of artificial volume in the illiquid stock option contracts at BSE during the investigation period by executing reversal / non-genuine transactions in the illiquid stock options segment at BSE. It is not possible from the material available on record to quantify the amount of loss caused to genuine investors as a result of the reversal trades/ non-genuine trades

executed by the Noticee with its counterparty. From the manner in which Noticee executed the above mentioned transactions, the Noticee has violated the statutory provisions of law. In this context, reliance is placed upon the order of the Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund { [2006]5 SCC 361 } – wherein the Hon'ble Supreme Court of India 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..............."*

<u>ORDER</u>

35. Having considered all the facts and circumstances of the case, the material available on record and the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs.5,00,000/- (Rupees Five Lakh only) on the Noticee viz., Shri Ajay Kumar Baid under the provisions of Section 15HA of the SEBI Act for the violation of Regulations 3(a), (b), (c), (d), 4(1) and 4(2) (a) of the PFUTP Regulations. I am of the view that the said penalty is commensurate with the default committed by the Noticee.

36. The Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of the receipt of this order either by way of Demand Draft (DD) 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 –I (EFD), Division of Regulatory Action –I [EFD1-DRA-3] SEBI Bhavan, Plot No.C4-A,' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai –400 051 and also send an email to tad@sebi.gov.in with the following details:

1. Case Name:	
2. Name of Payee:	
3. Date of payment:	
4. Amount Paid:	
5.Transaction No:	
6. Bank Details in which payment is made:	
7. Payment is made for: (like penalties /disgorgement/recovery/Settlement amount and legal charges along with order details)	

Or

Payment can also be made online by following the below path at SEBI website www.sebi.gov.in ENFORCEMENT → Orders → Orders of AO → Click on PAY NOW or at https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html.

37. 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 SEBI 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.

38. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee viz., Shri Ajay Kumar Baid and also to Securities and Exchange Board of India.

DATE: March 30, 2022 **MEDHA SONPAROTE**

PLACE: MUMBAI **ADJUDICATING OFFICER**