

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/AK/RA/2021-22/15001]**

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

Armour Commotrade Pvt. Ltd.

(PAN: AACCA2333H)

In the matter of Dealings in Illiquid Stock Options at 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 "Investigation Period / IP").
2. Pursuant to the investigation, it was observed that total 2,91,643 trades comprising 81.38% of all trades executed in stock options segment of BSE during the Investigation Period were non-genuine trades. These non-genuine trades resulted in 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 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 stock options and therefore alleged to be manipulative and deceptive in nature. It was observed that Armour Commotrade Pvt. Ltd. (hereinafter referred to as the “**Noticee**”) was one of the various entities which indulged in execution of reversal trades in stock options segment of BSE during the Investigation Period. 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 relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”).

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned has been appointed as the Adjudicating Officer under section 15I read with 15HA of the SEBI Act, 1992 (hereinafter referred to as “**SEBI Act**”) and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”), vide order dated April 30, 2021, to conduct adjudication proceedings in the manner specified under Rule 4 of Adjudication Rules read with section 15I of SEBI Act, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules and Section 15HA of SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice bearing reference no. SEBI/HO/MRD/DSA/OW/AK/RVA/2021/13332/1 dated June 24, 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 as per Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.
5. It was, inter alia, alleged in the SCN that the Noticee, through its trades, had indulged in creation of artificial volume of 52,500 units through 2 non-genuine trades in one stock option contract during IP.
6. The SCN dated June 24, 2021 issued to the Noticee was sent via Speed Post Acknowledgement Due (‘SPAD’) and via email dated June 24, 2021 at kck17@rediffmail.com - the email provided by the Noticee in its KYC application. The said SCN sent through SPAD returned undelivered. However, the Noticee

acknowledged the receipt of the SCN vide mail dated July 08, 2021 and sought time till August 31, 2021, to reply.

7. The Noticee made its submissions, vide letter dated on August 27, 2021, denying the aforesaid allegations on the following main grounds:
- The Noticee is a small entity and has no regular dealings in the capital market.
 - SCN is issued very late. Such a long delay in initiation of the proceedings by itself poses grave difficulties and extreme hardship for anybody's defence.
 - No relation with the counterparty. Neither the Noticee knows any Ms. Shreya Kumari nor could the Noticee have any access as to with whom the broker Giriraj Stock Broking Pvt. Ltd. was dealing or who the other party was against the transaction.
 - BSE should be held responsible as it could not cancel the alleged non-genuine transactions.
8. Further, although the Noticee has not sought any opportunity for personal hearing in its reply to the SCN, in the interest of natural justice, an opportunity of personal hearing was granted to the Noticee, vide letter dated December 14, 2021, to appear before me on December 30, 2021. However, the Noticee neither attended the hearing nor filed any further reply.
9. No further reply has been received from the Noticee till the time of this order. I am of the view that principles of natural justice have been complied with in the present matter since opportunities have been provided to the Noticee to appear for hearing, which the Noticee has failed to avail of.

CONSIDERATION OF ISSUES AND FINDINGS

10. I have carefully perused the charges levelled against the Noticee and the documents / material available on record. The issues that arise for consideration in the present case are:

- (a) Whether the Noticee has violated regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations?
- (b) Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act?
- (c) 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?

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

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.*

12. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation period, the Noticee had executed reversal trades which were allegedly non-genuine trades and the same have resulted in the generation of artificial volume in stock option contracts at BSE. Reversal trades are considered to be 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 alleged to be non-genuine trades as they are not executed in normal course of trading, lack basic trading rationale, lead to false or misleading appearance of trading in terms of generation of artificial volumes, and hence are deceptive & manipulative.

13. I note from the trade log that the Noticee had executed 2 trades in one contract. I further note that the above-mentioned trades of the Noticee had resulted in the creation of volume of a total of 52,500 units in the said one contract. Summary of trades of Noticee is as follows:

Stock Option Contract	Buy Quantity	Sell Quantity	No. of non-genuine trades executed by the entity in the contract	Total no. of trades executed by the entity in the contract	Total no. of trades executed by the entity in the contract	Artificial volume generated by the entity in the contract	Total volume generated by the entity in the contract	Total Volume in the contract	% of non-genuine trades of the entity in the contract to entity's total trades in the contract = (D/E)	% of Genuine trades of the entity in the contract to entity's total trades in the contract = (D/F)	% of Non-Artificial Volume generated by the entity in the contract to entity's total Volume in the contract = (G/H)	% of Artificial Volume generated by the entity in the contract to entity's total Volume in the contract = (G/I)
A	B	C	D	E	F	G	H	I	J	K	L	M
ACCL15APR1530.00CE	26,250	26,250	2	2	10	52,500	52,500	5,02,000	100%	20%	100%	10.46%

Trade Date	Scrip Name	Strike Price	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
25/03/2015	ACCL15APR1530.0 OCE	153000	Shreya Kumari	Armour Commo Trade Pvt Ltd	10:21:19.41	10:21:19.39	10:21:19.41	64	64	64	26250	26250	26250
25/03/2015	ACCL15APR1530.0 OCE	153000	Armour Commo Trade Pvt Ltd	Shreya Kumari	10:21:23.69	10:21:23.81	10:21:23.81	84	84	84	26250	26250	26250

14. It is noted that the Noticee had executed trades in one contract, wherein percentage of trades of the Noticee in stock options contracts to total trades in the said contracts is 20%. Further, percentage of volume generated by the Noticee in the contract to the total volume in the contracts is 10.46 %. Trades executed by the Noticee in the above contract had significant differential in buy rates and sell rates considering that the trades were reversed on same day.

15. I note from the trade log that the trades executed by the Noticee in a contract were squared up within a short span of time with its counterparty. It is noted that while dealing in the said contract during the IP, the Noticee executed two reversal trades (1 buy trades + 1 sell trade) with same counterparty viz. Ms. Shreya Kumari on the same day and with significant price differential in buy and sell rate. The Noticee placed the sell order for 26,250 units of the contract “ACCL15APR1530.00CE” for Rs. 64 per unit at 10:21:19.39 hrs. The counterparty of the Noticee on the same day i.e. March 25, 2015 at 10:21:19.41 hrs placed an order for buying 26,250 units of the said contract at Rs. 64 per unit. Accordingly, a trade for 26,250 units was executed between the Noticee and the counterparty at Rs. 64 per unit at 10:21:19.41 hrs. Thereafter, on the same day, Noticee, at 10:21:23.69 hrs placed a buy order to buy 26,250 units of the said contract at the rate of Rs. 84 per unit and the same counterparty placed a sell order to sell 26,250 units of the said contract at the rate of Rs. 84 per unit at 10:21:23.81 hrs. Accordingly, a trade for 26,250 units was executed between the Noticee and the counterparty at Rs. 84 per unit at 10:21:23.81 hrs. Thus, the Noticee, through its dealing in the contract viz. “ACCL15APR1530.00CE” during the IP, executed two trades which were 20% of the total trades in the market in the said contract during the IP, and thereby, Noticee

generated volume of 52,500 units which is 10.46% of the volume traded in the said contract during the IP.

16. The non-genuineness of these transactions executed by the Noticee is evident from the fact that in both the trades mentioned above, the Noticee and the counterparty placed the same order quantity, same price and almost at the same time. There was no commercial basis as to why, within a short span of time (less than five seconds), the Noticee reversed the position with its counterparty with significant price difference. I note from the trade log of the Noticee that the time taken by the Noticee for reversing its non-genuine trades is around 4 seconds. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non-genuineness of these trades executed by the Noticee. The fact that the transactions in a particular contract were reversed with the same counterparty indicates a prior meeting of mind with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contracts, there was 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. Thus, it is observed that Noticee had indulged in reversal trades with its counterparty in the stock options segment of BSE and the same were non-genuine trades.

17. The Noticee has contended that it had no knowledge of counterparty to the trades. I note that it is not mere coincidence that Noticee could match its trades with the same counterparty with whom it had undertaken first leg of the respective trades. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a fashion. Here I would like to rely on the judgment of Hon'ble Supreme Court in SEBI v 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...”

18. The Hon'ble Supreme Court further observed in the same matter 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.”*

19. Noticee has contended that there is inordinate delay in the initiation of proceeding. I note that there is no 'unexplained delay' that would vitiate the entire proceedings per se. 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.

20. 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”.

21.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.

22.As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on April 30, 2021, SCN was issued on June 24, 2021. In compliance with principles of natural justice, after receipt of reply, an opportunity of personal hearing was scheduled on December 30, 2021. The Noticee, however, neither attended the hearing nor filed any further reply.

23.Notwithstanding the same, I also note that there is no provision in the SEBI Act, 1992, which may have the effect of prohibiting SEBI from taking action beyond a particular period of time in a given case. Therefore, I am unable to accept the submissions made regarding delays in the instant proceedings. Moreover, in this regard reliance has been placed on SAT order in *Ravi Mohan & Ors. Vs. SEBI* (Appeal No. 97 of 2014 decided on December 16, 2015.)

22. Based on decision of this Tribunal in case of HB Stockholdings Ltd. vs. SEBI (Appeal no. 114 of 2012 decided on 27.08.2013) it is contended on behalf of the appellants that in view of the delay of more than 8 years in issuing the show cause notice, the impugned order is liable to be quashed and set aside. There is no merit in this contention, because, this Tribunal while setting aside the decision of SEBI on merits has clearly held in para 20 of the order, that delay itself may not be fatal in each and every case. Moreover, the Apex Court in case of Collector of Central Excise, New Delhi vs. Bhagsons Paint Industry (India) reported in 2003 (158) ELT 129 (S.C) has held that if there no statutory bar for adjudicating the matter beyond a particular date, the Tribunal cannot set aside the adjudication order merely on the ground that the adjudication order is passed after a lapse of several years from the date of issuing notice.....

24. Noticee has contended that BSE should be held responsible as it could not cancel the alleged non-genuine transactions and did not raise any objections at the relevant period of transactions. I note that stock exchange provides a platform for carrying out the trades, while the obligation to ensure genuineness of trades as regards instant considerations lies primarily on the Noticee. Nevertheless, the instant proceedings are limited to allegations made against the Noticee and undersigned has been appointed for limited purpose of conducting proceedings against the Noticee, as mentioned at para 3 of this order.

25. I note that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with its counterparty. However, I note that the trading behaviour of the Noticee makes it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level. It is noted that in the screen based trading, the manipulative or fraudulent intent can be inferred from various factors such as conduct of the party, pattern of transactions, etc. Further, in the absence of direct proof of meeting of minds, the conclusion can be derived from various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time and such other relevant factors. In this context, I deem it appropriate to refer to the Hon'ble SAT order dated July 14, 2006, in the case of Ketan Parekh vs. SEBI (Appeal no. 2/2004), wherein the Hon'ble SAT has observed 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."*

26. Further, I place my reliance on the judgment of Hon'ble Supreme Court in the matter in respect of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble Supreme Court observed 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 PFUTP Regulations”. The Apex Court also observed that - “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”

27. Reliance is also placed upon the observations of Hon'ble Supreme Court in the matter of SEBI vs. Rakhi Trading Private Ltd. (supra) where the Hon'ble Apex Court stated at Para 35 and Para 41 of that said Order that - *“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 loss and that too in pre-planned and rapid reverse trades, it is not genuine; it is an unfair trade practice” ... “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.”*

28. The trading behaviour of the Noticee confirms that such trades were not normal and quantity of order placed by the Noticee and the counterparty, the common rate at which the orders were placed, wide variation in prices of both trades in the same contract in almost no time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not genuine and being non-genuine, created an appearance of artificial trading volumes in the said 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 by the Noticee stands established. 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..."*.

29. In view of the same, 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, 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.

30. While determining the quantum of penalty under Section 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in Section 15J of the SEBI Act which reads as under:

Factors to be taken into account by the adjudicating officer.

15J. 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.

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.

31. Generally, there is nil or negligible participation of the public in the trading in illiquid stock option contracts. When the impact of artificial volume created by the two counterparties is seen as a whole, it is not possible from the material on record to quantify the loss caused to investors as a result of the said trades. Though the records available before me does not mention about amount of gain/loss of the entities involved in the said non-genuine trades, including the Noticee, however, it is worth considering that entities involved in these non-genuine trades have either booked gains or loss.

ORDER

32. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 5,00,000 (Rupees Five Lakhs only) on the Noticee viz. Armour Commotrade Pvt. Ltd. under the provisions of Section 15HA of the SEBI Act. I am of the view that the said penalty is commensurate with the commission/omission on the part of the Noticee.
33. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of demand draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, or online payment facility available on the website of SEBI, i.e., www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.
34. In case the payment is made by Demand Draft, the Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the “The Division Chief, EFD-1, DRA-I, SEBI, SEBI Bhavan 2, Plot No. C –7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051”. The Noticee shall provide the following details while forwarding DD/ payment information:

- a) Name and PAN of the entity
- b) Name of the case / matter
- c) Purpose of Payment – Payment of penalty under AO proceedings
- d) Bank Name and Account Number
- e) Transaction Number

35. 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 for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

36. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date: February 17, 2022
Place: Mumbai

AMIT KAPOOR
ADJUDICATING OFFICER