

BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/GR/BM/2021-22/14721]

**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

GOURI BANERJEE

(PAN: AEBPB9262Q)

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 2,91,643 trades comprising substantial 81.38% 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 to the tune of 826.21 crore units or 54.68% of the total market volume in stock options segment of BSE during the IP. It was observed that Gouri Banerjee (PAN-AEBPB9262Q) (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, 2003**”).

APPOINTMENT OF ADJUDICATING OFFICER

3. In this regard, SEBI, after being satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations as mentioned above inter-alia in respect of Noticee, appointed the undersigned as Adjudicating Officer (‘**AO**’) under section 19 read with section 15-I(1) 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, 1995**”) to conduct adjudication proceedings in the manner specified under rule 4 of Adjudication Rules, 1995 read with section 15-I (1) and (2) of SEBI Act, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of rule 5 of Adjudication Rules, 1995 and section 15HA of SEBI Act.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice dated September 2, 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 her and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 6 non genuine trades in 3 Stock Options contracts which resulted in artificial volume of total 3,72,000 units. Summary of dealings of the Noticee in 3 Stock Options contracts, in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

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 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	ALBK15SEP80.00PE	2.7	34000	5.7	34000	100	25	100	15.04
2	ANBK15MAY85.00PEW3	5	52000	6.8	52000	100	20	100	13.98
3	NHPC15JUN16.00CEW1	1.9	100000	2.9	100000	100	12.5	100	8.33

6. From the above table, following was noted as regard to dealings of the Noticee:

- (a) The Noticee had executed non genuine trades in 3 contracts, wherein all trades of Noticee in the said 3 contracts were non genuine trades.
- (b) No. of non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the above contracts, as 12.5% to 25% of the trades that happened in the 3 contracts were due to non-genuine trades executed by the Noticee.
- (c) The entire 100% of volume generated by Noticee in all of the above contracts was artificial volume, and further, the percentage of artificial volume generated by the Noticee in the above contracts to the total volume from the market in said contracts was in the range of 8.33% to 15.04%. Therefore, substantial volume generated by the Noticee in each of the above contracts were artificial volume.
- (d) Non genuine trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

7. The SCN ref no SEBI/HO/EAD/EAD4/P/OW/2021/0000022009/1 was served on the Noticee via Speed Post Acknowledgement Due (SPAD) and via email dated September 02, 2021. The proof of service is on record. The Noticee, vide mail dated September 11, 2021 submitted its reply. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, vide email dated September 15, 2021, the Noticee was granted an opportunity of personal hearing on September 30,

2021 through video conferencing on the Webex platform. The Noticee, vide mail dated September 25, 2021, requested for adjournment of hearing which was accepted and subsequently, the personal hearing was scheduled on October 21, 2021. The Noticee made further submission vide mail dated October 21, 2021. The Authorised Representative ('AR') of the Noticee attended the said hearing. During the course of hearing, the Authorized Representative (AR) reiterated the submissions made by the Noticee in her reply dated October 21, 2021. The Noticee made following submissions vide mail dated October 21, 2021:

- a) *"That I have transacted in the said securities through a SEBI registered Share Broker Concord Vinimay Private Limited and for a security code that is listed on BSE Ltd. Neither transacting through a SEBI Registered Stock Broker is illegal/prohibited nor, transacting in a security that is listed on BSE Ltd is illegal/prohibited.*
- b) *That the said transaction was done through an online terminal provided by the exchange where knowing the counterparty of the transaction is impossible*
- c) *That I have no relation or connection with the counterparty as mentioned in the annexure/trade details provided by you. It is only after the notices served you, I became aware about the counterparty in the said transaction.*

- d) *That in the said notice SEBI has erroneously clubbed me with the other parties, and drawn adverse inferences against me. It is reiterated that I do not have any link/ connection with the counterparties.*
- e) *That I have paid the necessary brokerages and transaction charges of the said transactions as levied on me.*
- f) *That I am bona-fide investor and any transaction entered into by me are genuine and devoid of any mala-fide intention.*

CONSIDERATION OF ISSUES AND FINDINGS

8. 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 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 the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?
9. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003, allegedly violated by the Noticee 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;*

Issue No. I: Whether the Noticee has violated the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations, 2003?

10. I now proceed to consider the matter on merits. I note that allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the IP, she had executed reversal trades which were allegedly non-genuine and the same had resulted in generation of artificial volume in stock option contracts at BSE. I note that 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 the 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. 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.

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

a) I note from the trade log of the Noticee that the Noticee had traded in 3 unique contracts in the stock options segment of BSE during the IP. It is observed that the Noticee had executed 6 non-genuine trades in 3 contracts. I further note that the above mentioned trades of the Noticee

had resulted in the creation of artificial volume of 3,72,000 units in the said 3 contracts. Summary of non-genuine trades of the Noticee is as follows:

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 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	ALBK15SEP80.00PE	2.7	34000	5.7	34000	100	25	100	15.04
2	ANBK15MAY85.00PEW3	5	52000	6.8	52000	100	20	100	13.98
3	NHPC15JUN16.00CEW1	1.9	100000	2.9	100000	100	12.5	100	8.33

b) It is noted that the Noticee had executed non-genuine trades in 3 contracts, wherein the percentage of non-genuine trades of the Noticee in stock options contracts to total trades in the contracts was in the range of 12.5% to 25% in the aforesaid contracts. Further, artificial volume generated by the Noticee in the contracts amounted to entire 100% of total volume generated by her in the 3 contracts. It is also noted that artificial volume generated by the Noticee contributed significantly viz. 8.33% to 15.04% of the total volume from the market in the said contracts. It is observed that the trades executed by the Noticee in the above contracts had significant difference in buy rates and sell rates and also were squared up within a short span of time with the same counterparty i.e. trades were reversed within the range of 13 seconds to 5 minutes on the same day. Thus, it is observed that Noticee had

indulged in reversal trades with her counterparties in the stock option segment of BSE and the same were non-genuine trades.

- c) The details of squaring up done by the Noticee is illustrated through the dealings in the contract “NHPC15JUN16.00CEW1” mentioned as under:

Trade Date	Client Name	CP Client Name	Trade Time	Trade Rate (Rs.)	Traded Quantity
04/06/2015	Gouri Banerjee	Sarswati Sales Pvt Ltd	14:18:47.630677	1.9	100000
04/06/2015	Sarswati Sales Pvt Ltd	Gouri Banerjee	14:22:34.866272	2.9	100000

- d) From the above table, I note that, the Noticee on June 04, 2015 at 14:18:47 hrs entered into 1 buy trade with counterparty viz. Sarswati Sales Pvt Ltd. for 1,00,000 units at the rate of Rs. 1.90 per unit in the contract “NHPC15JUN16.00CEW1”. Thereafter, on the same day, Noticee at 14:22:34 hrs entered into 1 sell trade with same counterparty for 1,00,000 units at the rate of Rs. 2.90 per unit in the same contract. It is noted that while dealing in the said contract during the I.P., the Noticee executed reversal trades with same counterparty viz. Sarswati Sales Pvt Ltd. on the same day and with significant price difference in buy and sell rate. Thus, the Noticee, through her dealing in the contract viz. “NHPC15JUN16.00CEW1” during the I.P., executed non genuine trades which was 12.5% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 2,00,000 units which was 8.33% of the volume traded in the said contract from the market during the I.P.

e) The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time, the Noticee reversed the position with her counterparties with significant price difference. I note from the trade log of the Noticee that the time taken by the Noticee for reversing the non-genuine trades ranged from 13 seconds to 5 minutes, on the same day. 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 counterparties indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contracts, there was no 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 her counterparties in the stock options segment of BSE and the same were non-genuine trades.

12. The Noticee, *inter alia*, contended in her reply that the said transaction was done through an online terminal provided by the exchange where knowing the counterparty of the transaction is impossible and that she has no relation or connection with the counterparty as mentioned in the

annexure/trade details provided. I note that in the contract i.e. “NHPC15JUN16.00CEW1” the sell order placed by the Noticee was at a very high price, and matched in a very short time by buy order placed by the counter party. Further, the same counter party, on the same day, placed a sell order at a low price without any market logic or substantial change in price of underlying scrip, which matched the buy order placed by the Noticee. Also, the allegation against the Noticee is that it executed reversal trades in illiquid stock options segment, and that it executed such trades with substantial price difference without any material change in fundamentals of the underlying scrip, so that when the attending circumstances were considered in toto, her trades were found to be non-genuine. On that basis, it is observed that such trading pattern, undertaken were defying market logic and intended to create misleading appearance of trading.

13. Further I note that it is not a mere coincidence that Noticee could match her trades with the same counterparties with whom she had undertaken the 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 the Hon’ble Supreme Court in SEBI v Kishore R Ajmera (AIR 2016 SC 1079) decided on February 23, 2016, 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..."

14. Further, the Hon'ble Supreme Court had held 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."*

15. I note in this regard that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entities. 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. In this context, I deem it appropriate to refer to the judgement of the Hon'ble SAT order dated July 14, 2006, in the matter of Ketan Parekh vs. SEBI (Appeal no. 2/2004), wherein the Hon'ble SAT has held that - *"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the*

conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."

16. I further 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 held 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....."*
17. Further, the Hon'ble SAT in its judgement dated September 14, 2020 in the matter of Global Earth Properties and Developers Pvt Ltd relied upon the aforesaid judgment of Hon'ble Supreme Court and held that, *"It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade. In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds*

between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price.”

18. The Noticee has also contended that she had transacted in the said securities through a SEBI registered Share Broker and for a security code that is listed on BSE Ltd and Neither transacting through a SEBI Registered Stock Broker is illegal/prohibited nor, transacting in a security that is listed on BSE Ltd is illegal/prohibited and she had paid the necessary brokerages and transaction charges. The Noticee has also contended that any transaction entered into by her are genuine and devoid of any mala-fide intention. I note that, the stock exchange merely provides a platform for carrying out the trades, while the obligation to ensure genuineness of trades as regards instant considerations primarily lies on the Noticee. Further, I note that the allegations pertaining to the violation of impugned provisions of PFUTP Regulations, 2003 by the Noticee depends upon the trading pattern exhibited by the Noticee which indicates her manipulative intent i.e. such trades with price differentials have been deliberately structured for manipulative purposes as one party to the contract had deliberately foregone profitable proposition at the time of executing trade. Such pattern completely runs contrary to economic rationale of any investor to buy at lesser price and sell at higher price. Any rational investor would never deal in the market to deliberately register loss to facilitate buyer to profit at the time of entering trades. Had the counterparties for trades of the Noticee been different, intraday squaring of positions would not have been possible

as no genuine counter party investor would ever forego profits. The fact that the counterparties are same, corroborates that the trades were not genuine and executed for manipulative purposes. Therefore, considering the fact that the Noticee has not disputed execution and subsequent reversal of trades as alleged in the SCN and 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. Therefore, I find no merit in the submission of the Noticee that the impugned reversal of trades are genuine in nature. Therefore, I note that the contentions of the Noticee in this regard are without merits.

19. Finally, the Noticee has denied all the allegations levelled against her as alleged in the SCN. In this regard, I note that the scheme, plan, device and artifice employed by the Noticee in this case of executing reversal trades in illiquid stock options contracts at irrational, unrealistic and unreasonable prices, tantamount to fraud on the securities market in as much as it involves non-genuine/ manipulative transactions in securities and misuse of the securities market mechanism. The non-genuine and deceptive transactions of the Noticee are covered under the definition of 'fraud' and the dealings of the Noticee as discussed herein above were "fraudulent", as defined under regulation 2 (1) (c) of PFUTP Regulation and prohibited under the provisions of Regulations 3 (a), (b), (c), (d) and 4 (1), 4 (2) (a) PFUTP Regulations, thereof. In this regard, the observations of the Hon'ble Supreme Court in the case of Rakhi Trading (supra) on whether such reversal of trades as has been detailed above, constitutes "fraud" under

PFUTP Regulations, is reproduced herein below: *“Regulation 2(1)(c) defines fraud. Under Regulation 2(1)(c)(2) a suggestion as to a fact which is not true while he does not believe it to be true is fraud. Under Regulation 2(1) (c)(7), a deceptive behaviour of one depriving another of informed consent or full participation is fraud. And under Regulation 2(1)(c)(8), a false statement without any reasonable ground for believing it to be true is also fraud. In a synchronised and reverse dealing in securities, with predetermined arrangement to book loss or gain between pre-arranged parties, all these vices are attracted.”*

20. Keeping in mind the dicta of the Hon'ble Supreme Court as reproduced above, I see no reason to take a different view in the present case. Therefore, I hold that the Noticee had indulged in execution of reversal trades in Stock Options with same entities on the same day, which are non-genuine in nature and had created false or misleading appearance of trading in terms of artificial volumes.
21. Therefore, I am of firm opinion that the Noticee by indulging in reversal of trades on the stock exchange platform, which are manipulative / unfair / fraudulent / non-genuine, in nature, had created artificial volumes in the contracts and thereby 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 No. II: Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act?

22. Considering the finding that the Noticee as mentioned above has executed non-genuine trades resulting in the creation of artificial volume, thereby violating provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 and in terms of the judgment of the Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) decided on May 23, 2006 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..."*, 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:

¹***[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 ²[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 No. III: If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in Section 15J of the SEBI Act?

¹ Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

² 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

23. 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.

24. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on part of the said Noticee. However, Noticee has entered into 6 non-genuine trades in 3 stock option contracts which demonstrates the repetitive nature of default on her part.

25. Therefore, I note that Noticee indulged in execution of reversal trades in stock options contracts in the IP which were non-genuine and created false

and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of regulation 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

ORDER

26. 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, 1992 and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under section 15HA of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Violation provisions	Penalty
GOURI BANERJEE PAN:AEBPB9262Q	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	Rs 5,00,000/- (Rupees Five Lakh only)

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

27. 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 through online payment facility available on the SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

28. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief, Enforcement Department (EFD1 – DRA I), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	
6. Bank details in which payment is	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	

29. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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.

30. 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: January 17

G RAMAR

Place: Mumbai

ADJUDICATING OFFICER