BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
(ADJUDICATION ORDER NO: Order/AK/BS/2023-24/26425)

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

CHEERS CONSULTANCY PRIVATE LIMITED
PAN: AAECC6554G

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 the stock options segment of Bombay Stock Exchange (here in after referred to as **'BSE'**) leading to creation of artificial volume at BSE. 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. In this regard, SEBI conducted an investigation into the trading activity in the illiquid stock options Segment at BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as "Investigation Period/IP") and 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.

2. It was observed during the course of investigation that a total of 2,91,643 trades comprising 81.38% of all the trades executed in the stock options segment at 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 also observed that the aforesaid 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 investigation period.

3. In view of the large scale reversal of trades that were observed in the illiquid stock options segment at BSE, it is alleged that these trades were non-genuine in nature. It was observed that **Cheers Consultancy Private Limited** (hereinafter referred to as **"Noticee"**) was one of the various entities which indulged in execution of the non-genuine trades in the stock options segment at BSE during the above referred investigation period. It was observed that Noticee had entered into reversal trades with its counterparties which involved squaring off transactions with significant difference in sell value and buy value of the transactions.

4. Therefore, it was alleged that Noticee had executed the reversal trades which were non-genuine in nature and have created false or misleading appearance of trading in terms of creation of artificial volume in the stock options segment at BSE and therefore, it is alleged that the Noticee has violated the provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1), 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 (here in after referred to as "PFUTP Regulations"). In view of the above, adjudication proceedings had been initiated against the Noticee under the provisions of Section 15 HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as 'SEBI Act').

APPOINTMENT OF ADJUDICATING OFFICER

5. In this connection, SEBI had initiated adjudication proceedings against Noticee, under SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995

(hereinafter referred to as **'Adjudication Rules'**) for allegedly violating Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Markets) Regulations, 2003 (hereinafter referred to as **'PFUTP Regulations'**), in the matter of trading in illiquid stock options at BSE and appointed Ms. Geetha G. as Adjudicating Officer under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**) to inquire into and adjudge the alleged violations by Noticee and determine whether penalty under Section 15HA of the SEBI Act is liable to be imposed. Pursuant to transfer of Ms. Geetha G. to other department, vide order dated September 19, 2022, undersigned was appointed as Adjudicating Officer in the instant matter.

SHOW CAUSE NOTICE, REPLY AND HEARING

6. A Show Cause Notice dated August 08, 2022 (hereinafter referred to as **'SCN'**) was served on the Noticee, in terms of the provisions of rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act, requiring the Noticee to show cause as to why an inquiry should not be held against it in terms of Rule 4 of the Adjudication Rules read with section 15-I of the SEBI Act, and penalty, if any, should not be imposed on Noticee under Section 15HA of the SEBI Act for the aforesaid alleged violations.

7. Thereafter, during the course of the proceedings, the status of the Noticee was ascertained from the website of Ministry of Corporate Affairs (MCA). As per company master data available on www.mca.gov.in, company status for "Cheers Consultancy Private Limited" is showing as "Strike Off". Further, I note that Form No. STK -7 is issued by Office of Registrar of Companies (ROC) in terms of sub-section (5) of section 248 of the Companies Act, 2013 and rule 9 of the Companies (Removal of Names of companies from the Register of Companies) Rules, 2016. As per Form No. STK-7- "Notice of Striking Off and Dissolution" dated February 3, 2022, downloaded from the website of Ministry of Corporate Affairs (MCA), Government of India (www.mca.gov.in), it is observed that the

name of the Noticee has been struck-off from the list of companies by Registrar of Companies, Kolkata (ROC) and dissolved as on February 3, 2022.

8. Form No. STK-7 “Notice of Striking Off and Dissolution” dated February 3, 2022, *inter-alia,* mentioned the following:-

   “This is with respect to this office's notices in Form STK-1 issued on various dates and Notice in form STK-5 No. ROC/WB/Drive.IV/STK-5/2021/1 issued on dated 28.12.2021, Notice is hereby published that pursuant to sub-section (5) of Section 248 of the Companies Act, 2013, the names of 4414 no. of Companies as per list mentioned below have on this day, i.e. 3rd day of February, 2022, been struck off from the Register of the companies and the said companies are dissolved.”

   I find that the name of the Noticee is mentioned in the said list of 4414 companies at Sl. No. 1428 under CIN No. U74999WB2011PTC170501.

9. In view of the above, I note that name of Noticee has been struck off the register of companies and consequently the Noticee stands dissolved with effect from February 03, 2022. It is an established fact that when a company’s name is “struck-off” from ROC records and the company is dissolved, it is a non-existing company and the adjudication proceedings against the non-existing company is thus nullity. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee is liable to be abated without going into the merits of the case.

10. In this context, I would also like to draw reference to a judgment of the Hon’ble Delhi High Court in the case of **Commissioner of Income Tax (CIT) vs Vived Marketing Services (P) Ltd**., ITA NO. 273/2009 dated September 17, 2009 in which it was held that –
    “When the Assessing Officer passed the order of assessment against the respondent company, it had already been dissolved and struck off the register of the Registrar of companies under Section 560 of the Companies Act. In these

circumstances, the Tribunal rightly held that there could not have been any assessment order passed against the company which was not in existence as on that date in the eyes of law it had already been dissolved. We are of the opinion that the view taken by the Tribunal is perfectly valid and in accordance with law."

11. After taking into consideration the aforesaid facts and circumstances, the Adjudication Proceedings initiated against Noticee vide SCN dated August 08, 2022, is disposed of without going into the merits of the case.

12. In terms of rule 6 of the Adjudication Rules, 1995, copy of this order is sent to SEBI and to the last known address of the Noticee.

PLACE: MUMBAI	**AMIT KAPOOR**
DATE: MAY 15, 2023	**ADJUDICATING OFFICER**