BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/AS/VC/2022-23/24922)

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

Lemonmint Commercial Private Limited

(PAN: AACCL1889R)

In the matter of dealings in Illiquid Stock Options at BSE

BACKGROUND OF THE CASE

1. As part of ongoing surveillance, Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) came across large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as **'BSE'**). Subsequently, SEBI conducted an investigation into the trading activity in illiquid stock options at BSE for the period of April 01, 2014 to September 30, 2015 (hereinafter referred to as **'investigation period'**).

2. Pursuant to investigation, it was observed that during the investigation period, a total of 2,91,643 trades comprising 81.38% of all the trades executed in BSE stock options segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. The reversal trades involved squaring off transactions, but with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly led to generation of artificial volumes. Lemonmint Commercial Private Limited (hereinafter referred to as **'Noticee'**) was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in the stock options segment of BSE during the investigation period. The Noticee was alleged to have engaged in 29 such reversal trades in 11 unique

contracts, which led to generation of artificial volume of 1116500 units. These trades of the Noticee involved reversal with the same counterparty on the same day, but at different prices. The trades entered by the Noticee were reversed on the same day with same counterparties at a substantial price difference without any basis for significant change in the contract price which indicated that these trades were artificial and non- genuine in nature.

APPOINTMENT OF ADJUDICATING OFFICER

3. 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, in the matter of trading in illiquid stock options at BSE. Ms. Maninder Cheema was appointed as Adjudicating Officer vide order dated June 21, 2021 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 the Noticee and determine whether penalty under Section 15HA of the SEBI Act is liable to be imposed. Pursuant to the transfer of erstwhile Adjudicating officer Ms. Maninder Cheema, the instant matter was transferred to the Ms. Anitha Anoop. Further, pursuant to the transfer of erstwhile Adjudicating officer Ms. Anitha Anoop, the instant matter *vide* order dated September 06, 2022, was transferred to the undersigned.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice no. EAD5/MC/RM/17885/2021 dated August 04, 2021 (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 contraventions done by it. Subsequently, a notice no. EAD5/AA/PR/2022/46721 dated August 30, 2022 was served on the Noticee, informing it about the SEBI Settlement Scheme, 2022, in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options and in case, Noticee do not wish to avail of the facility under the SEBI Settlement Scheme, 2022, Noticee was advised to file a reply to the SCN within 30 days of the receipt of the notice. I note that the SCN and notice dated August 30, 2022 issued to the Noticee through SPAD returned undelivered.

5. 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 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 the Registrar of Companies, Kolkata (ROC) and dissolved as on February 3, 2022. The said notice, 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 was mentioned in the said list (at sl.no. 1384 under CIN No U74999WB2012PTC174090).

6. From the above, it is clear that the name of the Noticee has been struck off from the ROC list with effect from February 03, 2022 and the Noticee stands dissolved from the said date. I note that it is an established fact that when a company's name is struck-off from the ROC list and the company is also 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 are liable to be abated without going into the merits of the case. Should the Noticee stand revived or restored at any stage, a decision to initiate proceedings may be taken afresh at that stage.

7. 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."

8. After taking into consideration the aforesaid facts and circumstances, the Adjudication Proceedings initiated against Noticee vide SCN dated August 04, 2021 and notice dated August 30, 2022, are disposed of without going into the merits of the case.

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

Place: Mumbai **ASHA SHETTY**

Date: March 27, 2023 **ADJUDICATING OFFICER**