BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. : Order/VS/AJ/2021-22/14782]

UNDER SECTION 15- I (2) 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 –

DHARAM BIR HUF (PAN: AAGHD2798Q) having address at G-19, Bali Nagar, New Delhi - 110015.

In the matter of trading in Illiquid Stock Options on BSE Limited

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BACKGROUND

1. The Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed large scale reversal of trades in stock options segment of BSE Limited (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**")

2. Purusant to investigations, it was observed that a total of 2,91,744 trades comprising substantial 81.38% of all the trades executed in Stock Options Segment by various cliemts/entities 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. 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 resulted into generation of artificial volumes in the Stock Options Segment at BSE. 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 and have resulted in the creation of artificial volumes in the stock options segment at BSE

3. It was observed that Dharam Bir HUF [PAN: AAGHD2798Q] (hereinafter referred to as "**the Noticee**") was was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the investigation period. It was observed that the Noticee had entered into reversal trades with his counterparty which involved squaringoff transaction with significant difference in sell value and buy value of the transaction. Therefore, it is alleged that the Noticee had executed the reversal trades which were non-genuine in nature and has created false or misleading appearance of trading in terms of creation of artificial volume in the Stock Options segment at BSE. In view of same, it is alleged that the Noticee has violated the provisions of Regulations 3(a),(b),(c),(d) and Regulation 4(1), 4(2)(a) 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

4. 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 the Noticee, initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer (hereinafter referred to as, "**AO**") under Section 19 read with Section 15-I of the SEBI 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 be referred to as the "**Adjudication Rules**") vide order dated April 30, 2021, to inquire into, and adjudge under section 15 HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations, 2003, by the Noticee. The appointment of the AO in the instant matter was communicated vide order dated June 28, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice (hereinafter referred to as **"SCN"**) bearing reference number SEBI/HO/IVD/ID16/AJ/VS/ON/P/2021/15618/1 dated July 19, 2021 was issued to the Noticee in terms of Rule 4 (1) of the Adjudication Rules, to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under section 15 HA of the SEBI Act, for alleged violation of PFUTP Regulations, 2003. The aforesaid SCN was issued through Speed Post Acknowledgement Due (hereinafter referred to as **"SPAD"**) to the Noticee and served to the Noticee on July 24, 2021 as per the tracking details obtained from the India Post website.

6. The allegations levelled against the Noticee in the SCN are summarized as below:
    a) The 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.

b) The Noticee is alleged to have engaged in 1 such reversal trade in 1 unique contract, which led to generation of alleged artificial volume of 40000 units, on March 12, 2015.

c) The trade 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 indicates that these trades are artificial and are non-genuine in nature.

d) A summary of dealings of Noticee in 1 Stock Option contract in which Noticee allegedly executed non genuine reversal trades during the Investigation Period, provided in the SCN is reproduced below-

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	VOLT15MAR250.00CEW3	26.7	20000	22.5	20000	100	66.7

e) By indulging in execution of aforesaid non-genuine reversal trades, the Noticee was alleged to have violated regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003.

7. The Noticee vide email dated September 07, 2021, *inter-alia* made following submissions:

   a. *"I mainly deal in shares for investment purpose in cash segment, the number of shares in each deal being approximately 5-20 and sometimes 100-200 (if value is small) so that the total trade amount is approximately about Rs 25000 or so. This can be verified from my records of last 30 years.*

b. I ordered for 20 shares of voltas in cash section for sale but due to miscommunication or misunderstanding, approximately 20 lots of voltopt were sold. After seeing the traded quantity of 20,000 shares, I realized the mistake and I panicked for squaring as this quantity was beyond my usual limit.

c. I do not deal in F & O. This error also answers your query about dealing in ill -liquid stock with high volume. I would like to further clarify that higher the volume higher is the brokerage, STT etc resulting in higher loss. I had not taken such a step willingly. I have already paid Rs4543 approximately as brokerage, STT etc.

d. In panic, shares were covered immediately, at market rate so that my loss/gain was limited.

e. The seller and purchaser were unknown, as their names are not displayed on the screen. Action had to be taken within seconds, so I purchased at market rates. There was no time to think who was at fault. I was worried if action is not taken in seconds I may be left with these shares and arrange funds for broker. I suffered a loss of approximately Rs 85000, but got rid of trade which I could not manage as I am NOT USED to trade in F&O. Trade was done on an authorized exchange. Further, no warning letter was issued to me at that time. With a heavy heart, I bore the loss and paid by selling shares from my holdings. So in short this was mere bad luck and the trade happened due to miscommunication or misunderstanding or wrong punching.

f. I am a small investor who deals only in cash segment and that too around Rs. 25000 per trade. This can be verified from my records of last 30 years and 90-95 % of my deals end on delivery. As per my memory, I have never indulged in F & O in my life except this one deal. This deal happened purely on misunderstanding. It was an unintentional error.

g. In the end I will again request you to please take a lenient view.

h. I have already suffered heavy loss of Rs 85000 approx."

8. In the interest of natural justice and in terms of the adjudication rules, the Noticee was provided with an opportunity of personal hearing on October 05, 2021 thorugh Notice of Hearing bearing SEBI/HO/IVD/ID16/AJ/VS/ON/P/2021/25822/1dated September 27, 2021, through the online Cisco webex platform. The Notice of Hearing was served through SPAD on October 01, 2021.

9. The Noticee attended the hearing on the scheduled date i.e. October 05, 2021 and reiterated the submissions made in its reply dated September 07, 2021. During the proceedings of hearing, the Noticee was provided an opportunity to make additional sunmissions, if any, within seven days of recipt of the recrod of proceedings. The Noticee vide email dated Ocotber 11, 2021, in furtherance to the previous written and oral submissions, requested to drop the proceedings.

CONSIDERATION OF ISSUES AND FINDINGS

10. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticee, I record my findings hereunder:

11. The issues that arise for consideration in the instant proceddings before me are:

Issue No. I	Whether the trading in lillquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?
Issue No. II	If yes, whether the violation, on the part of the Noticee would attract monetary penalty under section 15HA of the SEBI Act?

Issue No. III If the answer to Issue No. II is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

Issue No. I : Whether the trading in Iillquid Stock options carried out by the Noticee during the Investigation Period were in violation of regulations 3(a),(b),(c),(d), 4(1), 4(2)(a) of the PFUTP Regulations, 2003?

12. Before moving forward, it is pertinent to refer to the relevant provision of the PFUTP Regulations which are alleged to have been violated. The said provisions are reproduced hereunder:

*"**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"

13. The allegation that the Noticee carried out reversal trades is directly supported by evidence from the integrated trade log records in Annexures B and C of the SCN. Noticee is seen to have indulged in 1 reversal trade in 1 unique contract on March 12, 2015.

14. I note from the trade log of the Noticee that it had traded in one unique contract in the stock options segment of BSE during the IP. The Noticee had executed two non-genuine trades in this one contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of a total of 40000 units in the said contract. A summary of the 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 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	VOLT15MAR250.00CE W3	26.7	20000	22.5	20000	100	66.7

15. I note that the Noticee executed a total of two trades (1 sell trade and 1 buy trade) while dealing in the above said contract during the Investigation

Period. This generated an artificial volume of 40000 units which made up 66.67% of total market volume in the said contract during the period.

16. To illustrate, on March 12, 2015, the Noticee executed a sell trade for 20000 units at rate of Rs. 22.50 per unit at 12:16:24.442404 hrs with counterparty viz, Ashlar Securities Private Limited of the contract named "VOLT15MAR250.00CEW3". Thereafter, on the same day, at 12:16:34.143952 hrs i.e. after 9.70 seconds of the above sell trade, Noticee executed a buy trade, for 20000 units at 26.70 per unit in the same contract with the same counterparty. The aforesaid reversal trades were executed within few seconds of each other, generating artificial volumes to the extent of 40,000 units in the said contract.

17. I also note from the Annexure to SCN that the buy and sell orders in the aforesaid tardes were placed within fraction of second of each other. I also note that there is wide variation in the prices of 2 legs of the reversal trades i.e Rs.22.50 at 12:16:24.442404 hrs and then Rs.26.70 at 12:16:34.143952 hrs, in 9.70 seconds, without there being any justification for the wide variation in prices.

18. I also note that the Noticee has admitted to carry out the reversal trade due to miscommunication, misunderstanding or wrong punching which was an unintentional error.

19. The contentions of the Noticee that there has been no objection/warning letter does not absolve the Noticee from responsibility for carrying out reversal trades which generated artificial volume without change of beneficial ownership.The trading volumes generated by the aforesaid trades of the Noticee were non-genuine and artificial.

20. I place 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....."*

21. Considering the manner of placing buy and sell orders in a synchronised manner within seconds of each other, reversal of the trades within a short time on the same day, and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, I find 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.

22. I find that the Noticee by engaging in non-genuine transactions which created a misleading impression of trading in respective contracts, dealt in the stock options contracts in a fraudulent manner in violation of Regulation 3(a) and 4(1) of the PFUTP Regulations, 2003. Further, I find it relevant to refer to the decision of the Hon'ble Supreme Court in the matter of ***Securities and Exchange Board of India*** v. ***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 oblitaion as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant...."*

Issue No. II : If yes, whether the violation, on the part of the Noticee would attract monetary penalty under section 15HA of the SEBI Act?

AND

Issue No. III : If the answer to Issue No. II is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

23. I find it appropriate to deal with Issue No. II and III together in the following paragraphs.

24. As it has been established that the Noticee violated provisions of Regulations 3(a), 4(1) and 4(2) (a) of the PFUTP Regulations, 2003; hence I am of the view that the same warrants imposition of monetary penalty upon the Noticee under Section 15 HA of the SEBI Act text of which is produced 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*

25. 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

26. As established above, the trades by the Noticee were non genuine in nature and created a misleading appearance of trading. I note that the trading was in illiquid stock option contracts where there was negligible participation by the public. Investigation has shown amount of profit / loss of the counterparties to the trades as a result of the non-genuine trades. However, considering that the violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trades are such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the two counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, it is not possible from material available on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counterparties or the consequent loss caused to investors as a result of the default.

27. The Noticee has contributed to artificial volumes in 1 contract on 1 day during the Investigation Period. Therefore , taking into account the facts and circumstances of this matter, and the proportion o ftrading by the Noticeeas compared to the total volume of reversal trades in the market during the Investigation Period, I am of the view that a penalty of Rs. 5,00,000 (Rupees

Five Lakh only) under Section 15HA of the SEBI Act will be commensurate with the violations committed by the Noticee.

ORDER

28. After taking into consideration all the facts and circumstances of the case,the material available on records, the factors mentioned in Section 15J of the SEBI Act, 1992 and in exercise of powers conferred upon me under Section 15I (2) of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) upon the Noticee, i.e. Dharam Bir HUF, under Section 15HA of the SEBI Act, for violation of Regulations 3(a),(b),(c),(d) and Regulation 4(1), 4(2)(a) SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003

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

30. 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

31. In case of any difficulties in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in

32. The Noticee shall forward the aforesaid Demand Draft or the details / confirmation of penalty so paid to the Division Choef Enforcement Department -1, Division of Regulatory Action –3 of SEBI. SEBI Bhavan, Plot

No.C4-A,'G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai–400051 and also send an emai lto tad@sebi.gov.in with the following detail:

a) Name of the case / matter
b) Name and PAN of the entity (Noticee)
c) Date of Payment
d) Amount Paid
e) Purpose of Payment – Payment of penalty under AO proceedings
f) Bank Name and Account Number
g) Transaction Number

33. 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 SEBI Act, 1992 for realization of the said amount of penalty along with interest theron, *inter alia*, by attachment and sale of movable and immovable properties.

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

DATE: January 25, 2022
PLACE: MUMBAI

VIKAS SUKHWAL
ADJUDICATING OFFICER