<u>BEFORE THE ADJUDICATING OFFICER</u>

<u>SECURITIES AND EXCHANGE BOARD OF INDIA</u>

[ADJUDICATION ORDER NO. Order/SM/KH/2022-23/24973]

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

Late Sumitra Devi Kheria

[PAN: AFVPK4450J]

In the matter of Trading in Illiquid Stock Options at BSE

FACTS OF THE CASE IN BRIEF:

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 2,91,744 trades comprising substantial 81.40% 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 in stock options segment of BSE during the IP. It was observed that Sumitra Devi Kheria [PAN: AFVPK4450J] (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. Vide order dated April 20, 2021, SEBI appointed the undersigned as Adjudicating Officer under Section 15I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**) read with Section 19 of the SEBI Act and Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules'**) to inquire into and adjudge under the provisions of 15HA of SEBI Act, the aforesaid alleged violation by Noticee.

SHOW CAUSE NOTICE AND REPLY

4. A Show Cause Notice dated December 21, 2021 (hereinafter referred to as '**SCN**') was sent to the Noticee through Speed Post Acknowledgement Due (hereinafter referred to as '**SPAD'**) on December 21, 2021 and through digitally

signed email dated December 22, 2021 and January 04, 2022 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 for the alleged violation of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of PFUTP Regulations, 2003 and why penalty should not be imposed under section 15HA of the SEBI Act for the violations alleged to have been committed by Noticee. In the SCN, the Noticee was informed 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 SCN. However, the SCN was returned undelivered. Therefore, SCN was sent again along with letter dated August 01, 2022 through SPAD and the same was duly served to the Noticee.

5. With regard to the SCN, vide letter dated August 25, 2022 and email dated August 26, 2022, Mr. Arnab De had informed that the Noticee had expired and a copy of the Death certificate of the Noticee, issued by the Department of Health & Family Welfare, Government of West Bengal was also enclosed. However, Mr. Arnab De has not stated his relationship with Noticee in the aforesaid email. Therefore, vide email dated December 23, 2022, Mr. Arnab De was requested to provide his relationship with Noticee along with a copy of his identity card. Vide email dated December 23, 2022, Mr. Arnab De informed that he was the accountant of Noticee and provided a copy of his identity card. Thereafter, the death certificate has been verified from the official website of Kolkata Municipal Corporation and appears to be in order. On perusal of the death certificate, I note that Noticee passed away on February 09, 2021. In this regard, it would be in the fitness of things to first decide as to whether on the death of the Noticee, the present adjudication proceedings against her would continue or abate.

6. In this context, it is worth mentioning that in Girijanandini Vs Bijendra Narain (AIR 1967 SC 2110), the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal in Chandravadan J. Dalal vs. SEBI (Appeal No. 35/2004 decided on June 15, 2005) wherein it was held that: *"The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates."*

7. 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 qua her and the SCN dated December 21, 2021 issued against her is disposed of accordingly.

8. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to SEBI and to the last known address of deceased Noticee as well as to the last known address as well as email id of Mr. Arnab De, who informed SEBI about the demise of the Noticee and who is stated to be the accountant of the deceased Noticee.

Place: Mumbai **SOMA MAJUMDER**

Date: March 28, 2023 **ADJUDICATING OFFICER**