BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. ORDER/GG/BS/2021-22/15796

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:

Sanjay Kumar Poddar HUF

(PAN: AALHS2122L)

In the matter of Dealings in Illiquid Stock Options at the BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an investigation into the trading activity in illiquid stock options on BSE Limited (hereinafter referred to as "**BSE**") for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as the "**Investigation Period")** after observing large scale reversal of trades in the stock options segment of the BSE.

2. Pursuant to a preliminary examination conducted in the Illiquid Stock Options matter an Interim order was passed by SEBI on August 20, 2015 against 59 entities which were confirmed vide Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to trading in stock options segment of BSE which was completed in the year 2018. The investigation findings revealed that of all trades executed in the stock options

segment of BSE during the Investigation Period, 81.38% of the trades, that is 2,91,643 trades, were trades which involved a reversal of buy and sell positions by the clients and counterparties in a contract. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock options segment during the investigation period. The proceedings initiated against the first set of 59 entities, vide the aforementioned Interim Order were disposed of vide final Order dated April 05, 2018, without any further directions, observing that the Adjudicating Officer shall continue the proceedings in accordance with the SEBI Act, 1992 and SEBI (Procedure for Holding and Imposing Penalties by Adjudicating Officer) Rules, 1995 and pass appropriate order on merits. It was also recorded therein that SEBI has decided to take appropriate action against all 14720 entities in phases. The captioned proceedings initiated against the Noticee is part of the aforesaid mass action initiated by SEBI against the large number of entities.

3. In the meantime, the Hon'ble Securities Appellate Tribunal (Hon'ble SAT), vide its Order dated October 14, 2019, in the case of *R. S. Ispat Ltd Vs SEBI*, *inter alia,* observed that "*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options".*

4. Thereafter, a Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided a one-time opportunity for settlement of proceedings in the Illiquid Stock Options matter. The said scheme was kept open from August 01, 2020 till December 31, 2020. Finally, adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement.

5. It was observed that 13,186 entities had not availed of the opportunity of settlement. Therefore, Adjudication proceedings were initiated against the entities in a phased manner. In order, to duly expedite the Adjudication proceedings against the entities, SEBI had appointed additional Adjudicating officers to adjudicate against the said entities. However, owing to the huge

number of alleged entities, the adjudication proceedings are being conducted in a phased manner that would require adequate time to complete the proceedings against all entities.

6. It was observed that **Sanjay Kumar Poddar HUF (PAN: AALHS2122L)** (hereinafter referred to as the "**Noticee**") was one of the entities, who did not seek settlement under the Settlement Scheme in 2020. The reversal trades allegedly contributed to the generation of artificial volumes, leading to allegations that the Noticee had violated the provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1) and 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices relating to Securities Markets) Regulations, 2003 (hereinafter referred to as the "**PFUTP Regulations**").

APPOINTMENT OF ADJUDICATING OFFICER

7. SEBI initiated adjudication proceedings and appointed me, as the Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the "**SEBI Act**") read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the "**SEBI Adjudication Rules**") *vide* order dated November 12, 2021 to inquire into and adjudge under section 15HA of the SEBI Act, with respect to the allegations against the Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

8. A show cause notice dated 11.02.2022 (hereinafter referred to as "**SCN**") was served upon the Noticee under rule 4(1) of the SEBI Adjudication Rules to show cause as to why an inquiry should not be initiated against him and why penalty should not be imposed against him under section 15HA of the SEBI Act for the alleged violation of the provisions of regulations 3(a),(b),(c),(d), 4(1) and 4(2)(a) of the PFUTP Regulations.

9. The SCN issued to the Noticee, *inter alia* alleged, that the Noticee engaged in 4 non-genuine trades through 2 contracts, on 2 days viz. 19.06.2015 and 08.07.2015 through 2 counterparties viz. N M Impex Private Limited and Ankita Financial Services Pvt.Ltd. which led to generation of artificial volume of 26,000 units. The trades executed by the Noticee were reversed on the same day with the same counterparties at a substantial price difference without there being any rationale. The summary of the dealings of the Noticee in the 2 (two) stock option contracts, in which the Noticee allegedly executed the 4 (four) non-genuine trades during the investigation period is as follows:

Table-1

Summary of dealings in contracts wherein the Noticee executed reversal trades as given below:

S. No.	Contract Name	Date of transaction	Trade Time	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Trade Time	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	Total vol 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.	CANB15JUN360.00PE	19.06.2015	13:06:44.514687	38	10,000	14:17:55.286266	67.25	10,000	2,53,000	100	7.91
2.	BIOC15JUL510.00PEW2	08.07.2015	13:03:23.111966	23	3,000	13:20:27.254410	43.40	5,000	4,26,000	60	1.41

10. The allegation is that the above trades were non-genuine trades executed by the Noticee in the stock options contract, through two contracts, involving reversal of trades in two days with the same counterparty at a substantial price difference, as shown above in Table-1.

11. The abovementioned reversal trades creating artificial volumes are illustrated through the dealings of Noticee in the contract viz. "CANB15JUN360.00PE" (Serial.no. 1 of the above table), which is as follows:

(a) During the investigation period, in the said contract viz. “CANB15JUN360.00PE”, the Noticee on 19/06/2015 has executed 2 trades for a total volume of 20,000 units with counterparty, viz. N M Impex Private Limited.

(b) While dealing in the said contract on 19/06/2015, the Noticee at 13:06:44.514687 hrs. executed buy trade for 10,000 units at Rs.38/- with counterparty viz. N M Impex Private Limited. The Noticee reversed the trade by executing 1 sell trade at 14:17:55.286266 for 10,000 units at rate of Rs. 67.25/- with same counterparty.

(c) From the above, it is noted that while dealing in aforesaid contract (i.e. CANB15JUN360.00PE) during the investigation period, the Noticee executed 2 trades (1 sell trade and 1 buy trade). This accounts for 7.91% of the total market volume for this contract during the investigation period. Likewise, in the contract shown at Sr.no.2 of Table 1, the Noticee has executed 2 reversal trades, which constituted 1.41% of market volume in the contract viz. BIOC15JUL510.00PEW2.

12. Based on the above, it was alleged that the Noticee by indulging in execution of the aforesaid non-genuine reversal trades, has violated Regulations 3(a),(b),(c),(d) and 4(1) & 4 (2) (a) of the PFUTP Regulations, text of which is reproduced as under:

PFUTP Regulations

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 Noticee submitted his reply to the SCN *vide* letter dated 07.03.2022 (hereinafter referred to as the "**Reply of the Noticee**"). The reply of the Noticee is reproduced as under:

1. In your letter you have alleged that we have made violations of regulation of SEBI in entering into the transactions which we deny completely. It seems that you have made a wrong interpretation about the transactions entered by us during 2015-16. It is really surprising that a matter relating to F.Y. 2015-16 has been called by you in February 2022 i.e. after 7 years from the date of making the transactions and it is really impossible for a normal prudent person to remember and collect all necessary documents and information and as such your notice is against natural justice.

2. You have stated in your show cause notice u/s 4(1) of the SEBI Rule 1995 that upon investigation of the trading done during the period from April 1, 2014 to September 30, 2015. You have observed large scale reversal if trade by various entities including the Noticee. We request you send us the full text of the investigation report relying on which you have drawn adverse inference against us.
3. It has been alleged that we have indulged in reversal trades in unique contracts with same counter parties on the same day in the stock options segment of BSE in the contracts of CANB15JUN360.00PE on 19.06.2015 & BIOC15JUL510.00PEW2 on 08.07.2015. In this regard we

would like to inform you that we have not entered into the contract of the alleged scripts and as such your Notice by itself is not tenable and hence voidable. Factually we have entered into the contract of CANB25/06PE360.00 & BIOC09/07PE510.OO, copies of contract notes for such transactions are submitted herewith in support of our contention. As your allegation differs from the actual transaction made by us, it is clearly established that we are not the person who has entered in the alleged transactions specified by you in your notice.

4. We have entered into a contract of purchase and sale of put option of 10000 units of CANB which has been squared off by us on 19.06.2015 itself through our brokers, Odyssey Securities Pvt. Ltd. having office at 16, India Exchange Place. Kolkata 700001 duly registered with SEBI under registration No. INZ010013332 and BSE code no. 4029 and further entered into a contract of purchase and sale of put option of 5000 units of BIOC which has been squared off by us on 08.07.2015 itself through above brokers.

5. It may please be noted that your noticee has entered into the shares traded in the stock exchange and has executed the transactions on the floor of the exchange complying with all the rules and regulations of the exchange at the time of purchasing as well as selling the derivatives. At the floor of exchange the transactions are undertaken through the brokers and any person purchasing or selling the shares is not at all aware with whom his shares are transacted. It is completely a confidential matter of stock exchange and in no circumstances your Noticee can be aware of the opposite party in the transaction and as such allegation of reversal trade with same counter party on the same day on your Noticee is wrong, false, arbitrary and unlawful. It may be by chance that the counter party was same on the particular segment. Your Noticee is not a regular share trader and hence they are not aware of any such persons, any such system of reversal transactions and any such influence to manipulate the transactions and for a small transaction your noticee should not be made scape-goat.

6. It may please be taken into consideration that the quantity entered by your noticee is very small and it can never influence the market and such small volume never can be significant for influencing the market.

7. Your honour will find that the noticee has bought the put option for 10,000 units at Rs. 38.00 of CANB and sold out the same at Rs. 67.25 per option. Thus, the noticee has mainly earned on increase in the price of underlying asset i.e. in the stock of CANB. It may please be noted that the put option units were purchased at 13.08 P.M. and due to the increase in the prices the same were sold at 14.13 P.M. Further we have bought the put option for 5000 units at Rs. 23.00 of BIOC and sold out the same at Rs. 43.40 per option. It is very clear that such rates in purchase and sale were possible only when such rates were available on the floor of stock exchange otherwise your noticee could not have entered into such transactions.

8. Your noticee is a small HUF having limited means and resources and do not have any control in the market. From the price value involved in the contract your honour will find that the amount of trading done by your noticee is too low and as such any question of involvement in reversal trading and dealing in illiquid stock is not at all possible. It can only be possible for the big giant brokers and traders to deal and control the prices and get involved in reversal trade or any other kind of malafide dealing but the people like your noticee do not have such power and control and thus get involved in any reversal trade is beyond his imagination.

9. Further your honour will find that the noticee has entered into the put option through broker duly registered with SEBI. The trading at that time involved purchase and sale through computer system wherein the broker on the opposite side and client for whom he is dealing are unknown. Wherein the person on the opposite side is anonymous and such platform has been designed by the SEBI itself then how can the noticee get involved in reversal trading and be known to the opposite broker and Client.

10. It is a well-known fact that it is impossible for any person to know the person who is the counter broker and counter party. The only organizations that know it is BSE or SEBI and thus it is impossible for the broker and client to know to whom the option is being sold or from whom it is purchased. Any finding

by the noticee of the counterparty broker and client is impossible and beyond his control. The question of managing the reversal trade does not arise at all in such circumstances.

11. Your honour has alleged that the noticee has entered into reversal trade with the same counter party and the noticee was allegedly involved in the same. Your honour is requested to provide any confession against the noticee which states that the said transaction was entered with the intention to involve into reversal and non-genuine trades.

12. Your honour is also requested to arrange for the cross examination with the counterparty and broker of counterparty so that it can be duly examined that as to how the noticee was connected to them and had entered into alleged non-genuine trades, if any.

13. Your noticee has entered into the trade on the platform of the exchange and in the derivatives which was created by the exchange itself. In such case how is it possible that a trade can be non-genuine. The meaning of the word non-genuine is fake. The transaction entered into by the noticee is on the platform of BSE and in the derivative created by BSE then how can the same be fake. The fake transaction would have been the case wherein the noticee would not have under taken transaction at all. But in this case, your honour will find that the noticee has undertaken transaction and same has been accepted by you also. Then how can the same be fake in real terms.

14. Your honour has mentioned that the noticee has generated 7.91% a 1.41% of the total volume in the contract during that period. There are number of derivative contracts at various strike price for different expiry dates involving different underlying assets and hence in such case such volume seems to be genuine and clearly establishes that even other people have traded in same. Thus the question of same being illiquid stock does not arise at all. If the noticee was the only person trading in such derivative, there would have been a question mark of same being ingenuine but where the contract involves other persons too then question of same being ingenuine vanishes.

15. Your honour has mentioned that the name of the contract in which your noticee was involved is CANB15JUN360.OOPE & BIOC15JUL510.OOPEW2 but the noticee has not entered into any such contract Contrary to that your noticee has entered in the put & option of CANB25JUNPE360.00 evident from the contract note herein. According to you the expiry date of the put option was 15th June whereas your noticee has entered the transactions on 19.06.2015. Moreover, your noticee has entered in the put option of BIOC09JUNPE510.00 which has expiry date on 09.072015 and not 15th July as specified by you and thus the information gathered by you and used against noticee is incorrect. We are submitting herewith the contract note along with the bills raised by the broker which clearly shows that the reported contract was not dealt by your noticee. Factually your noticee has entered in other derivatives and not the mentioned derivatives.

16. Your noticee was not involved in entering the transaction directly in the system and it involved the brokers. If in any case trade reversal has occurred it is beyond the control of your noticee and the broker is the only person who should be asked for explanation and if found guilty should be penalised and not the noticee who does not have any control over the system.

17. The counter party and counter broker are unknown to the noticee and nowhere connected to him. Your honour is requested to provide the documents which establishes that the noticee has any sort of connection or relationship with them.

18. In the exchange everyone is free to enter into any sort of transaction that is available in the system. Such transactions are further controlled by SEBI and the noticee has no control over the same. Thus question of any reversal by the noticee is beyond its mean.

19. The said put option was nowhere marked as illiquid stock by SEBI. If the noticee would have slightest idea that the said option is an illiquid stock option then she would not have entered into any transaction involving the same. But no such marking was done by the Exchange nor SEBI and as such your noticee has entered into the transaction in bonafide manner and should not be made a scapegoat for the transaction.

20. Even the broker through whom the noticee has entered are duly recognized broker and have not been

suspended. Under such circumstances, it is impossible for the noticee to judge that the broker would have got involved the noticee into illiquid stock option with reversal trade.

21. The penalty should be imposed only when there is malafide intention of the noticee. Here, your honour will find that the transactions carried out by the noticee were bonafide as those were done through registered broker on the platform of the Bombay Stock Exchange and in the contract which was duly recognized by the exchange. Thus, imposing penalty on such bonafide transaction is uncalled for and against the principle of natural justice.

22. With regard to our dealings in stock options on the platform of BSE which is the subject matter of your notice, we would finally clarify as under:
    a) We acted as bonafide investor and have transacted in stock option segment in normal course of business and our trading in the same was very much within our own financial and risk bearing capacity.
    b) It is a fact that in any purchase and sale in the stock market one can either make a profit or a loss and at the time of entering into the first transaction the person involved is not aware about the profit or loss from such transactions and under such scenario we have also traded in option segment taking into on account risk and reward parameters.
    c) We are in no way connected to the counter party of our transaction in option segment and have no relationship with the promoters. Directors, Key management persons of underlying script in cash segment.
    d) We also reiterate that we have followed and complied with all the procedures and requirements of capital market while dealing through SEBI registered intermediary. All the pre-trade, trade and post- trade activities were carried out on the trading, clearing and settlement system of stock exchange which itself has online surveillance and systems in place.
    e) We believe that there has been no grievance by any investor broker, Stock exchange or other agency concerned with respect to our dealing in the option segment of Bombay Stock Exchange.
    f) We further state that we have an impeccable record of dealing in stock market and no action has ever been taken against us in past in respect of dealing in securities market.
    g) Your noticee is not involved in any manipulated transactions and have not violated the regulations enacted by SEBI. Any monetary penalty u/s 15HA should not be imposed on your noticee.

23. It is hereby stated that the noticee has duly paid each type of Government taxes on such transactions. We have duly paid the service tax, securities transaction tax and stamp duty. If the said transactions were not genuine then the said authorities collecting the taxes would have declared so and penalized for the same. But your honour will find that all the involved Government authorities have duly accepted the taxes and duties and have not considered the same to be non-genuine. Thus, considering the same to be non-genuine by SEBI is uncalled for and no penalty should be imposed on same.

From the above explanation and submission, your honour will find that neither the stock option was illiquid nor the transaction entered into by your noticee is non-genuine. The transactions undertaken by the noticee are genuine and bonafide one with no control to be imposed by us on such trading and thus imposing penalty on same is uncalled for and should not be imposed on noticee. Further, your noticee is a small HUF having limited means and resources and imposing any penalty would adversely affect them and is incapable of paying the same. Your honour is requested to look the matter in the light of justice and do not impose penalty on the noticee as it will cause hardship and financial instability.

14. Vide Hearing Notice No. EAD-6/GG/BS/8613/2/2022 dated 28.02.2022, it was communicated to the Noticee that an opportunity of personal hearing on 15.03.2022 is granted to the Noticee in accordance with rule 4 (3) of the Adjudication Rules. The aforesaid Hearing Notice was delivered by SPAD on

03.03.2022. Said hearing notice was also sent through email id available on record on 03.03.2022. However, the Noticee vide email dated 15.03.2022 expressed his inability to attend the hearing citing some other pre-occupation and requested for postponement of hearing. Therefore, second opportunity of hearing was granted to the Noticee on 21.03.2022 and the same was communicated to the Noticee vide letter dated 16.03.2022 sent through SPAD which was delivered on 21.03.2022. Said hearing notice was also sent through email on 16.03.2022. Authorized Representative (AR) of the Noticee, Mr. Sushil Kumar Rungta, Advocate appeared before me on the scheduled date and reiterated the submission made vide reply dated 07.03.2022. Hearing was conducted through Web platform due to Covid -19 Pandemic.

CONSIDERATION OF ISSUES AND FINDINGS

15. The issue that arises for consideration is whether the trading in illiquid stock options done by the Noticee during the Investigation Period was in violation of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations? If yes, whether the Noticee is liable for monetary penalty under section 15HA of the SEBI Act and what should be the quantum?

16. I note that SCN dated 11.02.2022 alleged that the Noticee contributed to the generation of artificial volumes by entering reversal trades thereby violated the provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1) and 4(2) (a) of the SEBI (PFUTP) Regulations, 2003.

Analysis of one of the contracts traded by the Noticee is tabulated hereunder for illustration. (Ref. Annexure-B of the SCN):

Table 2: Summary of dealings in contract CANB15JUN360.00PE

S. No.	Date of transaction	Name of the client	Name of the counter party client	Trade Time (in hrs)	Order Time of N M Implex	Order time of Noticee i.e. Sanjay Kumar Poddar HUF	Trade Rate (Rs.)	Trade Volume (no. of units)
1	19.06.2015	SANJAY KUMAR PODDAR HUF	N M IMPEX PRIVATE LIMITED	13:06:44.514687	13:06:44.514687	13:06:43.718239	38	10,000
2	19.06.2015	N M IMPEX PRIVATE LIMITED	SANJAY KUMAR PODDAR HUF	14:17:55.286266	14:17:55.286266	14:17:54.880284	67.25	10,000

17. I note from the trade log that the trades executed by the Noticee in the aforesaid contract were reversed with the same counterparty. To illustrate, the Noticee on 19.06.2015 at 13:06:44.514687 executed one buy trade with counterparty N M Impex Private Limited for 10,000 units at Rs. 38 per unit. Order time of the Noticee being 13:06:43.718239 and order time of the counterparty being 13:06:44.514687. The difference in order time of the Noticee and that of counterparty is a few seconds indicating that the trade was executed in synchronized manner. The attribute tagged with the orders of Noticee and counterparty under 'order type' and 'CP_order Type' column is "L" , as seen from columns 49 & 50 of Annexure B to SCN, which implies that Limit orders were placed by both the parties at a prefixed price.

18. Thereafter, on the same day, the Noticee reversed the trade by executing sell trade. The Noticee at 14:17:55.286266 (Order time of the Noticee: 14:17:54.880284 and order time of the N M Impex: 14:17:55.286266) executed one sell trade with counterparty N M Impex Private Limited for 10,000 units at Rs. 67.25 per unit. The trade was executed in a synchronized manner as the difference in order time of the Noticee and that of counterparty is a few seconds. Both the parties placed Limit orders for their respective orders at exact matching price.

19. I note that while dealing in the said contract during the investigation period, the Noticee executed reversal trades in a synchronized manner with the same counterparty. The Noticee reversed the trade with same counterparty on the same day and garnered profits. The circumstances surrounding the trades point towards a prior understanding between the two parties to the trades, indicating the trades were not bona fide. Thus, the Noticee, through his dealing in the said contract, generated artificial volume in the contract. In the process, one side intentionally booked loss and the other party booked gains.

20. Similarly, reversal of trades were observed in the other contract viz. BIOC15JUL510.00PEW2 with two different counterparty viz. Ankita Financial Services Private Limited which are mentioned in the Table 1 at paragraph 9 above.

21. I note from the trading pattern of the Noticee and the manner of placing buy and sell orders resulting in reversal of trades on the same day indicate that the trades executed by the Noticee were not genuine trades. Both the parties to the trades constituted 7.91% of the market volume in one contract and 1.41% in other contract and being non-genuine trades, created an appearance of artificial trading volumes and misleading impression of trading in respective contracts. By engaging in such trades, the Noticee violated provisions of Regulation 3(a), (b), (c) and (d) and Regulation 4 (1), 4(2) (a) of PFUTP Regulations, 2003 which states that dealing in securities will be deemed to be a fraudulent and unfair trade practice if it involves “indulging in an act which creates false or misleading appearance of trading in the securities market.

22. The Noticee in his reply dated 07.03.2022 submitted that name of the contracts in which Noticee executed reversal of trade is mentioned as CANB15JUN360.00PE and BIOC15JUL510.00PEW2 in the SCN. The Noticee contested that he has not entered into any such contract. The Noticee submitted that he has executed trades in the contract CANB25JUN360.PE360.00 and BIOC09JUNPE510.00, thus, the information

gathered and used against the Noticee is incorrect. The Noticee also provided the copies of the contract notes issued by broker Odyssey Securities Pvt.Ltd. through whom the trades were executed by the Noticee. I note that contract details provided in the SCN dated 11.02.2022 are based on the data made available by the stock exchange on which such trades were executed by the Noticee. I note from the perusal of the contract notes issued by Odyssey Securities Private Limited to the Noticee that expiry dates of the contracts CANB15JUN360.00PE and BIOC15JUL510.00PEW2 have been rightly recorded as June 25, 2015 and July 09, 2015 respectively. The said expiry dates also tally with Column 54 of Annexure B furnished to the Noticee along with SCN. However, it appears that the Noticee's understanding about the expiry date of the contracts is not correct. I also note that other parameters relating to trades in the contracts CANB15JUN360.00PE and BIOC15JUL510.00PEW2 viz. date, price and quantity as mentioned in the SCN tallies with the details mentioned in the reply of Noticee.

23. I note that Noticee has requested for the cross examination of counterparty broker and counterparty. In this regard, I note that no statement of the aforesaid entities has been recorded or relied upon in the present matter and the details of the trades is borne out of the trade log which has been duly supplied to the Noticee. Thus, the question of cross examination does not arise. Further, vide email dated March 22, 2022, relevant extract of the investigation report was provided to the Noticee on the request of the Noticee made during the course of hearing on March 21, 2022.

24. The Noticee in his reply while denying the charges levelled against him, contested that issuing SCN after 7 years for transactions executed during 2015-16 is against natural justice. This contention of the Noticee has already been discussed in paragraphs 2, 3, 4 and 5 of this order.

25. In the context of artificial trades, it is pertinent to rely on the judgment of the Hon'ble Supreme Court in the matter of Rakhi Trading (SEBI Vs. Rakhi Trading- CANo.1969/2011, Order dated February 8, 2018)

"1. Fairness, integrity and transparency are the hallmarks of the stock market in India".

"35. Nobody intentionally trades for loss. An intentional trading for loss per se, is not a genuine dealing in securities. The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently make loss and that too in pre-planned and rapid reverse trades, it is not genuine; it is an unfair trade practice."

"38. Their Lordships have considered similar transactions in the same segment, "The repeated reversals and predetermined arrangement to book profits and losses respectively, made it clear that the parties were not trading in the normal sense and ordinary course. Resultantly, there has clearly been a restriction on the free and fair operation of market forces in the instant case."

"41. The stock market is not a platform for any fraudulent or unfair trade practice. The field is open to all the investors. By synchronization and rapid reverse trade, as has been carried out by the traders in the instant case, the price discovery system itself is affected. Except the parties who have pre-fixed the price, nobody is in the position to participate in the trade. It also has an adverse impact on the fairness, integrity and transparency of the stock market."

"38. The smooth operation of the securities market and its healthy growth and development depends upon large extent on the quality and integrity of the market. Unfair trade practices affect the integrity and efficiency of the securities market and the confidence of the investors. Prevention of market abuse and preservation of market integrity are the hallmark of securities law …" (Paragraph No.1, 35, 38 and 41 of the part of the judgment authored by His Lordship Mr. Justice Kurian Joseph).

For this, the Hon'ble Judge also relied on the apex court observations in N.Narayanan Vs. Adjudicating Officer, Securities and Exchange Board of India(2013) 12 SCC 152 wherein it was inter alia observed: "Market abuse" impairs economic growth and erodes investor's confidence."

"42. Where certain unscrupulous elements are trying to manipulate the market to serve their own interest, it becomes imperative on the part of SEBI to intervene and to curb further mischief and to take necessary action to maintain public confidence in the integrity of the securities market…" (Paragraph No.42 of the part of the judgment authored by Her Ladyship Ms. Justice R. Bhanumathi).

26. Finally, to answer the question as to whether these trades fall within the ambit of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations, I would like to rely on the following extract of the judgment of the Hon'ble Supreme Court in the matter of **Rakhi Trading:**

*"**40.** Regulation 3(a) expressly prohibits buying, selling or otherwise dealing in securities in a fraudulent manner. Under Regulation 4(2) dealing in securities shall be deemed to be fraudulent if the trader indulges in an act which creates a false or misleading appearance of trading in the securities market. It is a deeming provision. Such trading also involves an act amounting to manipulation of the price of the security in the sense that the price has been artificially and apparently prefixed. The price does not at all reflect the value of the underlying asset. It is also a transaction in securities entered into without any intention of performing it and without any intention of effecting a change of ownership of such securities, ownership being understood in the limited sense of the rights of the contract." (per His Lordship Mr.Justice Kurian Joseph's findings in paragraph No. 40)*

27. The Hon'ble Appellate Tribunal has summarized the circumstances identified by the Apex court in **Rakhi Trading Judgment** in the case of **Global Earth Properties and Developers Pvt. Ltd. Vs Securities and Exchange Board of India (Appeal No.212 of 2020 decided on September 14, 2020).** In para 14 of the said order, the Hon'ble Appellate Tribunal enlisted the following circumstances:

"**14** The Supreme Court in Rakhi Trading had found that the trades were fraudulent and manipulative in the following circumstances:

a. If the trades are synchronized and reversed with the same counterparty within a time span of seconds to minutes during the same day.

b. The prices at which the trades are undertaken is such that one party is making profit and other making loss.

c. The orders are placed at unattractive prices which does not reflect the value of the underlying asset.

d. An intentional trading for loss *per se*, is not a genuine dealing in securities. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in preplanned and rapid reverse trades, it is not genuine and the same is an unfair trade practice.

e. In case of trade in a scrip in cash segment, there is a physical delivery of the asset. In the derivative segment there is a change of rights in a contract. In synchronized and reverse trades, there is no genuine change of rights in the contract.

28. Further in paragraph No. 20 of the said order in **Global Earth (supra),** the Hon'ble Tribunal held as below:

*"**20.** From the aforesaid cumulative analysis of the reversed transactions with the counter party, quantity, time and significant variation of the price clearly indicates that the trades were non-genuine and had only misleading appearance of trading in the securities market without intending to transfer the beneficial ownership. One finds it to be naïve to presume that the perception of the two counter parties to a trade changed within few seconds/minutes and positions were interchanged and the contracts were changed where one party made profit and the other party ended up making losses every time without prior meeting of mind. 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."*

29. Thus, from the facts of the matter and the legal position laid down by the Hon'ble Supreme Court of India, I find that the subject trades are non-genuine and artificial. I am, therefore, inclined to levy penalty on the Noticee. Taking into consideration, the facts & circumstances of the case and being convinced of the generation of artificial volumes in the market, I am of the view that a penalty ought to be imposed on the Noticee.

30. In this context, I note that section 15HA of SEBI Act 1992 provides that, 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. In view of the specific mandate contained in Section 15 HA and bearing in mind the factors laid down in Section 15 J of the SEBI Act, 1992, I am of the view that a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) ought to be imposed on the Noticee.

ORDER

31. In exercise of powers conferred upon me under section 15-I (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., **Sanjay Kumar Poddar HUF (PAN: AALHS2122L)** under section 15HA of the SEBI Act for violation of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of the PFUTP Regulations.

32. 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 favor 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

In case further assistance would be required in payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

33. The Noticee shall forward the said demand draft or the details / confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-I, DRA-I, SEBI, in the format given in table below:

Case name	
Name of payee	
Date of payment	
Amount paid	
Transaction no	
Bank details in which payment is made	
Payment is made for	Penalty

34. In terms of rule 6 of the SEBI Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: March 31, 2022
Place: Mumbai

GEETHA G.
ADJUDICATING OFFICER