BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER No. Order/SV/RM/2023-24/27026]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of –

Late Mr. Man Prakash Biyani (PAN:ADXPB3321P) having address at C/o India Bearing and Mills Stores, 18A Sukeas Lane, Kolkata, West Bengal - 700001

In the matter of dealing in Illiquid Stock Options at BSE.

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had conducted an investigation into large scale reversal of trades in Stock Options segment of Bombay Stock Exchange (hereinafter referred to as 'BSE') during the period of April 01, 2014 to September 30, 2015 (hereinafter referred to as 'investigation period'). Pursuant to investigation, it was observed that during the investigation period, a total of around 2.92 lakh trades comprising of 81.40% of all the trades executed in the BSE Stock Options Segment were reversal trades, which involved squaring off transactions (i.e buy and sell positions) by the same set of counterparties in a contract, 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. Late Mr. Man Prakash Biyani (hereinafter referred to as 'Noticee') was one among the entities who 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 reversal trades through 2 trades (one on the buy side and one on the sell side) in the contract of

‘DLFL15JUL100.00PEW4’, which led to generation of alleged artificial volume of 4,00,000 units (buy side + sell side) which made up 31.4% of the total market volume in the said contract. These trades entered by the Noticee were reversed within a few minutes with same counterparty at a substantial price difference without any basis for significant change in the contract price. This prima facie indicated that these trades were artificial and are non-genuine in nature.

APPOINTMENT OF ADJUDICATING OFFICER

2. 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 Trade Practices) Regulations, 2003 (hereinafter referred to as the “PFUTP Regulations”). SEBI, vide Order dated July 02, 2021 and communique dated July 02, 2021 appointed Mr. Bibhudutta Samal, DGM in the matter. as Adjudicating Officer under Section 19 read with sub-section (1) of section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘SEBI Act’) and Rule 3 of the Adjudication Rules, 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. Subsequently, vide order dated March 17, 2023 the matter was transferred to Ms. Asha Shetty, CGM. Subsequently, pursuant to the transfer of the erstwhile Adjudicating Officer Ms. Asha Shetty, vide Communique dated April 17, 2023 the instant matter was transferred to the undersigned.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice No. SEBI/OCH/BS/22496/2021 dated September 03, 2021 (hereinafter be referred to as, the “SCN”) was served upon the Noticee under Rule 4 of the Adjudication Rules read with sub-section (1) and (2) of Section 15I of the SEBI Act, to show cause as to why an inquiry should not be held and penalty be not imposed against him under Section 15HA of the SEBI Act for the alleged violations of Regulations 3(a), (b), (c), (d) and 4(1), (2)(a) of the PFUTP Regulations. Subsequently, a notice no. SEBI/HOOCH/P/OW/2022/325121 dated

August 02, 2022 was served on the Noticee, informing him 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 did 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. The SCN as well as the notice were served through SPAD and Email.

4. The undersigned notes from records that, Mr. Sunil Maheshwari, the son-in-law of Noticee, informed erstwhile AO vide email dated November 07, 2022 that Noticee had passed away on September 15, 2018. Mr. Sunil Maheshwari had also provided, an image of death certificate to this effect. The death certificate was verified by visiting the website of Rajasthan Civil Registration System Website "pechchan.raj.nic.in".

5. Before proceeding further in the matter on merit, 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 him 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 him and the SCN dated September 03, 2021 issued against him 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 his son-in-law Mr. Sunil Maheshwari.

SHASHI KUMAR VALASKUMAR

Digitally signed by SHASHI KUMAR VALASKUMAR
Date: 2023.06.01 16:43:35 +05'30'

DATE: June 01, 2023 **SHASHI KUMAR VALSAKUMAR**

PLACE: MUMBAI **ADJUDICATING OFFICER**