BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: Order/YJ/AR/2023-24/29847)

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

Gurukul Enclave Private Limited

(CIN: U70109WB2011PTC170361)

In the matter of Illiquid Stock Options at BSE

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (herein after 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 Gurukul Enclave Private Limited (CIN: U70109WB2011PTC170361) (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. The undersigned was appointed as the Adjudicating Officer (hereinafter referred to as “AO”) vide Order dated June 28, 2021 under Section 19 read with Section 15(I) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “SEBI Act”) and Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as “SEBI Adjudication Rules”) to inquire into and adjudge in the manner specified under Rule 4 of Adjudication Rules read with Section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty as deemed fit in terms of Rule 5 of Adjudication Rules and section 15HA of SEBI Act.

SHOW CAUSE NOTICE, HEARING AND REPLY

4. Show Cause Notice No. AO/YJ/AB/OW/O/9950/1/2022 dated March 09, 2022 (hereinafter referred to as “SCN”) was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against the Noticee for the alleged violation of the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 and why penalty should not be imposed under section 15HA of the SEBI Act.

5. I find that the SCN dated March 09, 2022, which was issued to the Noticee had returned undelivered. Subsequently**,** during the course of the proceedings, the status of the Noticee was ascertained from the Ministry of Corporate Affairs (MCA) website. It was observed that the name of the Noticee has been struck off from the list of companies by the Office of Registrar of Companies, West Bengal as on August 24, 2018. As per the Public Notice (Form No. STK-7), which was downloaded from the MCA website, a list of

7145 companies were attached as per the Notification issued by ROC, West Bengal in terms of sub-section (5) of section 248 of the Companies Act, 2013 and rule 9 of the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016. I find that the name of the Noticee was mentioned in the said list (at sl.no. 4552 under CIN U70109WB2011PTC170361). The Notification downloaded from the Ministry of Corporate Affairs (MCA), Government of India, (www.mca.gov.in) website inter alia, mentioned the following:

"…….Notice is hereby published that pursuant to sub-section (5) of Section 248 of the Companies Act, 2013 the name of 7145 no. of companies as per list attached as ***Annexure "A"*** *have this day i.e. 24th day of August, 2018 been struck off from the Register of the Companies and the said companies are dissolved."*

6. Strike off essentially means removing the name of the company from the Register maintained by the Registrar of Companies. It is like closure of the company and the company will not be in existence after being struck-off and cannot perform any operations. In view of the fact that the Noticee has been struck-off and liabilities in respect of the present proceedings had not accrued as on the date of dissolution of the Noticee, it would not be appropriate to determine liability against a company which no longer exists. Hence, the proceedings are hereby disposed of 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. It is an established fact that when a company's name is struck-off from the RoC list and the company is also dissolved, then it is a non-existing company and the adjudication proceedings against the non-existing company is thus nullity. In this context, I would 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. Further, Black's Law Dictionary explains 'dissolution' as termination or winding up. It further clarifies that the dissolution of a corporation is the termination of its legal existence. Strike off essentially means removing the name of the company from the Register maintained by the Registrar of Companies. It is like closure of the company and the company will not be in existence after being struck- off and cannot perform any operations.

9. I further note that the SEBI Act in section 28B states the following in respect of liability for penalty in the case of a death of a person: -

   Continuance of proceedings

   28B(1) *Where a person dies, his legal representative shall be liable to pay any sum which the deceased would have been liable to pay, if he had not died, in the like manner and to the same extent as the deceased:*

   Provided that, in case of any penalty payable under this Act, a legal representative shall be liable only in case the penalty has been imposed before the death of the deceased person.

10. Therefore, in view of the facts and circumstances noted in the preceding paragraphs and also the fact that the Noticee's name has been struck-off from the RoC list and also 'dissolved' as on August 24, 2018 as per the RoC notification, I conclude that the present adjudication proceedings initiated against the Noticee vide SCN dated March 09, 22 cannot be proceeded with.

ORDER

11. In view of the above observations/findings and in exercise of the powers conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby dispose of the Adjudication Proceedings initiated against the Noticee viz. Gurukul Enclave Private Limited vide SCN dated March 09, 2022.

12. In terms of the provisions of rule 6 of the Adjudication Rules, 1995, copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Place: Mumbai	**Yogita Jadhav**
Date: December 04, 2023	**Adjudicating Officer**