

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO.: Order/VV/DD/2023-24/28555]

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
SEETA DEVI AGRAWAL
(PAN: AHBPA5097M)

In the matter of trading in Illiquid Stock Options on BSE

BACKGROUND OF THE CASE

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 activity in illiquid Stock Options at BSE for the period between April 1, 2014 to September 30, 2015 (hereinafter referred to as, “**Investigation Period**”) after observing large scale reversal of trades in 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 14,720 entities were involved in executing non-genuine trades in BSE’s stock options segment during the investigation period and also 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. It was observed that, Seeta

Devi Agrawal (herein after referred to as “**Noticee**”) was one such various entities whose reversal trades involved squaring off transactions with significant difference in the sell value and buy value of the transactions. In view of the same, SEBI initiated adjudication proceedings against 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 relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”).

3. 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 (hereinafter referred to as the “**SEBI Act**”) and SEBI (Procedure for Holding and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the “**Adjudication Rules**”) and pass appropriate order on merits. It was also recorded therein that SEBI has decided to take appropriate action against all 14,720 entities in phases.
4. In the meantime, the Hon’ble Securities Appellate Tribunal (“**SAT**”), vide its order dated October 14, 2019, in the case of R. S. Ispat Ltd Vs SEBI, *inter-alia*, held that “*SEBI may consider holding a Lok Adalat or adopting any other alternative dispute resolution process with regard to the Illiquid Stock Options*”.
5. Accordingly, 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 did not avail the opportunity of settlement.
6. It was observed that 13,186 entities did not avail the opportunity of settlement and 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 were being conducted in a phased manner that required adequate time

to complete the proceedings against all entities. The Adjudicating officers had passed Orders with respect to certain entities in a phased manner.

7. It was observed, that some of the entities against whom Orders were passed in the adjudication proceedings appealed before the Hon'ble SAT. During the course of the hearing in a group of appeals, Hon'ble SAT, vide its Order dated May 13, 2022, *inter-alia*, held that *"SEBI should reconsider and seriously give a thought in coming out with a fresh Scheme under Clause 26 of the Settlement Regulations, 2018. Such scheme can be a onetime scheme for this class of person. The terms of settlement should be attractive so that it could attract the noticees/entities to come forward and settle the matter which will ameliorate the harassment of penalty proceedings to the noticees and at the same time would help to clear the backlog of these pending matters before various AOs"*.
8. Accordingly, SEBI introduced a Settlement Scheme i.e. SEBI Settlement Scheme, 2022 (hereinafter referred to as **"Scheme 2022"**) in terms of Regulation 26 of the SEBI (Settlement Proceedings) Regulations, 2018 (hereinafter referred to as **"Settlement Regulations"**). The Scheme provided a onetime opportunity to the entities against whom proceedings had been initiated and/or appeals against the said proceedings are pending before any forum or authority.
9. I note that SEBI framed the Scheme in accordance with the provisions of the Settlement Regulations and issued a Public Notice dated August 19, 2022, about the Scheme and the modalities for availing the benefit of the Scheme. The Notice was also made available on the website of the BSE. The Scheme was initially kept open for a period of three months commencing from August 22, 2022 to November 21, 2022 (both days inclusive). Considering the interest of a large number of entities to avail the Scheme, SEBI extended the period of the Scheme till January 21, 2023 vide public notice dated November 22, 2022. A total of 10,980 Noticees availed the benefit of the Scheme and remitted the specified settlement amount respectively. Accordingly, a settlement order was passed on March 08, 2023, settling the matter with respect to 10,980 Noticees.
10. I note that Noticee did not avail settlement under the Settlement Scheme in 2020 or 2022 and therefore Adjudication proceedings have been revived against Noticee

APPOINTMENT OF ADJUDICATING OFFICER

11. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer (hereinafter referred to as “**AO**”) under Section 15-I(1) of the SEBI Act read with Rule 3 of Adjudication Rules vide order dated June 21, 2021 to inquire into and adjudge under Section 15HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations by Noticee. The appointment of the AO was communicated vide communique dated July 27, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

12. Show Cause Notice dated August 04, 2022 (hereinafter be referred to as, the “**SCN**”) was issued to Noticee under Rule 4 of the Adjudication Rules read with Section 15-I of the SEBI Act, to show cause as to why an inquiry should not be held and penalty be not imposed against Noticee under Section 15HA of the SEBI Act for the alleged violations of Regulations 3(a), (b), (c), (d), 4(1), and 4(2)(a) of the PFUTP Regulations by Noticee. The SCN dated August 04, 2022, was sent to Noticee through digitally signed email dated August 12, 2022.
13. In the aforesaid SCN, it was alleged that Noticee, by indulging in execution of aforesaid non-genuine reversal trades, had violated Regulation 3(a), (b), (c), (d), 4(1), 4(2)(a) of PFUTP Regulations, which are reproduced as follows:
- “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”

14. The SCN sent through digitally signed email was delivered to Noticee. I note that Noticee failed to submit the reply to the SCN. I also note that vide letter dated December 28, 2022, Noticee was informed about extension of scheme 2022 till January 21, 2023. The said letter sent to Noticee through SPAD. However, the same was returned undelivered. Vide digitally signed email dated March 03, 2023, Noticee was granted an opportunity of personal hearing before me on March 20, 2023. However, the hearing notice sent through email faced problem in getting delivered. Subsequently, vide News Paper Publication dated March 28, 2023, published on Times of India(English) Indore Edition, Dainik Bhaskar (Hindi) Indore Edition, Noticee was granted an opportunity of personal hearing before undersigned on April 11, 2023. In the said publication, Noticee was also informed that SCN issued to Noticee is already published on SEBI website under the section Enforcement-Unserved Summons/Notices. Further, it was also informed that Noticee may obtain a copy of SCN along with its Annexures from the Office of the Adjudicating Officer of SEBI. On the schedule date of hearing Noticee failed to attend the hearing. I also note that Noticee has not submitted reply to the SCN till date of this order.

15. I am of the view that the principles of natural justice have been adhered to, as the SCN and the Hearing Notice was duly served upon Noticee, which is on record and sufficient opportunity was granted to Noticee to reply to the SCN and appear for the personal hearing. Considering the fact that Noticee has neither filed any reply nor has availed the opportunity of personal hearing despite service of notices upon it, I am of the view that Noticee has nothing to submit and in terms of Rule 4(7) of the Adjudication Rules the matter is being proceeded ex-parte in its regard on the basis of

material available on record. As Noticee did not file any reply to the SCN, it can be presumed that Noticee has admitted the charges levelled against it.

16. In this regard, it is pertinent to note that the Hon'ble SAT in the matter of Classic Credit Ltd. vs. SEBI (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, held that, *"...the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them"*.
17. Further, the Hon'ble SAT in the matter of **Sanjay Kumar Tayal & Others vs SEBI** (Appeal No. 68 of 2013 decided on February 11, 2014), has also, *inter- alia*, held that: *".... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges leveled against them in the show cause notices..."*
18. Additionally, the same position reiterated by the Hon'ble SAT in the matter of **Dave Harihar Kirti bhai vs SEBI** (Appeal No. 181 of 214 dated December 19, 2014), wherein it has been held that: *"...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal..."*
19. In view of the observations made by the Hon'ble SAT, I find no reason to take a different view and accordingly, I deem it appropriate to proceed against Noticee ex parte, based on the material available on record as laid down by Hon'ble SAT in its order dated May 12, 2017 in the matter of Shri. B. Ramalinga Raju vs. SEBI (Appeal no. 286 of 2014), *"even though the Noticees remained ex-parte, I find it relevant that I should be guided by the documents available on record"*. Thus, I hereby proceed with

the matter, based on the material available on record and in absence of response of Noticee, presume that the allegations/charges have been admitted by Noticee.

CONSIDERATION OF ISSUES AND FINDINGS

20. The issues arising for consideration in the instant proceedings are: -

- I. Whether Noticee has violated the provisions of regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) of the PFUTP Regulations?
- II. If yes, whether Noticee is liable for imposition of monetary penalty under Section 15HA of SEBI Act?
- III. If yes, what would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

ISSUE- I: Whether Noticee has violated the provisions of regulations 3(a), (b), (c), (d), 4(1), 4(2)(a) of the PFUTP Regulations?

21. It has been alleged in the SCN that Noticee had executed reversal trades which involved squaring off transactions with significant difference in the sell value and buy value in the illiquid Stock Options segment at BSE. It has been alleged that the aforesaid reversal trades resulted into generation of artificial volumes in the illiquid stock options contracts traded by Noticee.
22. In this regard, I note that the allegation that Noticee carried out reversal trades is directly supported by evidence from the BSE trade log records which were provided to Noticee along with the SCN. I note from the BSE trade log that on March 18, 2015, March 23, 2015 and March 24, 2015, Noticee is seen to have indulged in 8 reversal trades in all respective 3 unique contracts as illustrated below:

Trade Date	Client Name	Counterparty Client Name	Trade Time	Trade Rate	Scrip name
18.03.15	Parivesh Sahu	Seetadevi Agrawal	15:13:18.29 7852	18	TCOM15MAR460.00PE
18.03.15	Madhu Gupta	Seetadevi Agrawal	15:15:57.74 0272	18	TCOM15MAR460.00PE
18.03.15	Seetadevi Agrawal	Parivesh Sahu	15:12:57.24 0970	38	TCOM15MAR460.00PE
18.03.15	Seetadevi Agrawal	Madhu Gupta	15:15:14.88 8301	38	TCOM15MAR460.00PE
23.03.15	Seetadevi Agrawal	Karan Raman Taori	14:26:49.33 2137	19.5	JSPL15MAR160.00PE

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Trade Date	Client Name	Counterparty Client Name	Trade Time	Trade Rate	Script name
23.03.15	Karan Raman Taori	Seetadevi Agrawal	14:46:41.48 3743	6.5	JSPL15MAR160.00PE
24.03.15	Seetadevi Agrawal	Manoj Kumar Sethia	13:46:24.42 0490	113.05	STAC15MAR1140.00PE
24.03.15	Manoj Kumar Sethia	Seetadevi Agrawal	13:49:14.29 4493	48.45	STAC15MAR1140.00PE

23. Summary of dealings of Noticee in the said 3 Stock Options contracts, in which it executed non-genuine trades during the investigation period, are as follows:

CONTRACTNAME	Average Buy rate	Buy Quantity	Average Sell rate	Sell Quantity	Number of non-genuine trades executed by Noticee in the Contract	Total number of trades executed in the contract	Artificial volume generated by Noticee in the Contract	Total volume in the Contract	% of Non-Genuine trades of Noticee in the contract to Total trades in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
JSPL15MAR160.00PE	19.5	67000	6.5	67000	2	12	134000	2072000	16.67	6.47
STAC15MAR1140.00PE	113.05	1500	48.45	1500	2	2	3000	3000	100	100
TCOM15MAR460.00PE	38	31000	18	31000	4	12	62000	250000	33.33	24.8

24. It is seen that in Stock option contract “STAC15MAR1140.00PE” on March 24, 2015, at 13:46:24 hrs. Noticee executed 1 buy trade for 1,500 units at the buy rate of Rs. 113.05 per unit with counter party viz. Manoj Kumar Sethia. Thereafter, within time gap of three minutes i.e. 13:49:14 hrs., Noticee executed 1 sell trade for 1500 units in the said contract at sell rate of Rs. 48.45 per unit, in the said contract with the same counter party. The aforesaid reversal trades generated volume to the extent of 3,000 units in the said contract which was 100% of the total market volume in the said contract during the IP.

25. Similarly, on March 18, 2015, in TCOM15MAR460.00PE contract, between 15:12:57 hrs. Noticee bought 23,000 units from Parivesh Sahu at the buy rate of Rs. 38. I note that within a gap of around 21 seconds, i.e. 15:13:18 hrs. Noticee executed 1 sell transaction with the same counterparty at sell rate of Rs. 18. I also note that on March 18, 2015, in TCOM15MAR460.00PE contract, between 15:15:14 hrs to 15:15:57 hrs. Noticee executed one buy transaction and one sell transaction of 8000 units at the buy rate of Rs. 38 and sell rate of Rs. 18 with the same counterparty i.e. Madhu Gupta. The aforesaid quantities traded by Noticee made up 24.8 % of the total market volume in the said contract during the IP.
26. Similarly, on March 23, 2015, in JSPL15MAR160.00PE contract, Noticee bought 67,000 units at 14:26:49. hrs. from Karan Raman Taori at the buy rate of Rs. 19.5 per unit in 1 buy trade and then in the same contract within a time gap of 20 minutes i.e. at 14:46:41 hrs. Noticee executed 1 sell trade of 67,000 units with the same counterparty at Rs. 6.5 per unit. The aforesaid quantities traded by Noticee made up 6.47% of the total market volume in the said contract during the IP.
27. I note from the trade log that there were only 2 trades executed in the STAC15MAR1140.00PE for a total trading volume of 3,000 units on one day during the IP. I also note that in TCOM15MAR460.00PE and JSPL15MAR160.00PE contract there were only 12 trades each respectively on one day for a total trading volume of 2,50,000 and 20,72,000 units respectively during the IP. Thus, I note that there was minimal trading activity in the aforesaid stock options contracts traded by Noticee. Therefore, I note from the number of trades and trading volume in the aforesaid stock option contracts that these contracts were illiquid in nature.
28. I note that the price of a particular option contract is known as the option premium. In the instant matter, there was a wide variation in the buy/sell price for without any corresponding change in the price of the scrip in the cash segment. Therefore, for a given strike price, the option premium could not have varied widely within such a short period of time in the absence of significant movement in the price of the underlying scrip. Due to the fact that there was no commercial basis as to why, within a short span of time from each other, Noticee reversed the position with its counterparties with significant price difference, in the absence of significant movement in the price of the underlying scrip, I am of the view that the transactions executed by Noticee in the

aforesaid contracts were non-genuine. Since these trades were done in illiquid option contracts, there was minimal trading in the stock options contracts traded by Noticee and hence, there was no price discovery w.r.t. the said contracts in the strictest terms. I note that the impugned reversal trades, which were carried out with prior meeting of minds as inferred from the case facts, affected the price discovery and execution of trades as per market mechanism on the stock options segment of BSE. Furthermore, the exactness of the quantity that got reversed between the two parties on a single day, the proximity in the time of the reversal of trades and above all the absence of rationale to justify the variation in the sell and buy price, certainly shows that these are non- genuine trades.

29. In this context, it is relevant to quote 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)***

“Fairness, integrity and transparency are the hallmarks of the stock market in India”. (Paragraph No. 1 of the part of the judgement authored by His Lordship Mr. Justice Kurian Joseph).

“... 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 nongenuine 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.” (Paragraph No. 35 of the part of the judgement authored by His Lordship Mr. Justice Kurian Joseph).

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.”* (Paragraph No. 38 authored by His Lordship Mr. Justice Kurian Joseph)

“.... 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.” (Paragraph No. 41 of the part of the judgement authored by His Lordship Mr. Justice Kurian Joseph).

“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.38 of the part of the judgment authored by Her Ladyship Ms. Justice R. Bhanumathi). For this, Hon’ble Judge also relied on the apex court observations in N. Narayanan Vs. Adjudicating Officer, SEBI (2013) 12 SCC 152 wherein it was inter alia observed: “Market abuse” impairs economic growth and erodes investor’s confidence.

“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)

30. Therefore, placing reliance upon the aforesaid judgement, I find that the wide variation in option premium of the said contracts in the trades executed by Noticee, without any significant movement in the price of the underlying scrip, within such a short span of time, is a clear indication that there was prior meeting of minds between Noticee and the counterparties while executing such trades. I note that since securities were illiquid, the fact that the transactions in a particular contract were reversed within a short period of time with the same counterparties indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. Thus, it is observed that Noticee had indulged in reversal trades with its counterparties in the stock options segment of BSE and the same were non-genuine trades, and being non-genuine, Noticee’s trades created misleading appearance of trading by generating artificial trading volumes in respective contracts.
31. I further note that it is not mere coincidence that, Noticee could match its trades with the same counterparty with whom it had undertaken first leg of the respective trades. The fact that the transactions in a particular contract were reversed with the same counterparty for the same quantity of units, indicates a prior meeting of minds with a

view to execute the reversal trades at a pre- determined price. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a manner. I note in matters dealing with violation of PFUTP Regulations, the reason as regards execution of non- genuine trades might not be immediately forthcoming. However, the correct test instead, is one of preponderance of probabilities. Here I would like to rely on the judgment of Hon'ble Supreme Court in SEBI v Kishore R Ajmera (AIR 2016 SC 1079) decided on February 23, 2016, wherein it was held that- *"...According to us, knowledge of who the 2nd party / client or the broker is, is not relevant at all. While the screen based trading system keeps the identity of the parties anonymous it will be too naïve to rest the final conclusions on the said basis which overlooks a meeting of minds elsewhere. Direct proof of such meeting of minds elsewhere would rarely be forthcoming...in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*.

32. The Hon'ble Supreme Court further held in the same matter that – *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof, the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion."*
33. The observations made in the aforesaid judgments of Hon'ble Supreme Court apply with full force to the facts and circumstances of the present case. Therefore, applying

the ratio of the above judgments, I am convinced that the execution of trades by Noticee in the illiquid options segment with such precision in terms of order placement, time, price, quantity etc. and also the fact that the transactions were reversed with the same counterparty clearly indicates a prior meeting of minds with a view to execute the reversal trades at a pre- determined price. The only reason for the wide variation in prices of the same contract, within short span of time was a clear indication that there was pre- determination in the prices by both the counterparty when executing the trades.

34. I further note that the impugned reversal trades, which were carried out with prior meeting of minds as inferred from the case facts, affected the price discovery and execution of trades as per market mechanism on the stock options segment of BSE. In this regard, I further note the following from the judgement of the Hon'ble SC in the matter of SEBI vs Rakhi Trading Pvt Ltd (*Supra*):

"According to SAT, only if there is market impact on account of sham transactions, could there be violation of the PFUTP Regulations. We find it extremely difficult to agree with the proposition. As already noted above, SAT has missed the crucial factors affecting the market integrity, which may be direct or indirect. 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."

35. 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:

"39. Regulation 2(1)(c) defines fraud. Under Regulation 2(1)(c)(2) a suggestion as to a fact which is not true while he does not believe it to be true is fraud. Under Regulation 2(1)(c)(7), a deceptive behavior of one depriving another of informed consent or full participation is fraud. And under Regulation 2(1)(c)(8), a false statement without any reasonable ground for believing it to be true is also fraud. In synchronized and reverse

dealing in securities, with predetermined arrangement to book loss or gain between prearranged parties, all these vices are attracted.

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.” (His Lordship Mr. Justice Kurian Joseph’s findings in paragraph Nos. 39&40).

36. The Hon’ble SAT 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 SEBI (Appeal No.212 of 2020 decided on September 14, 2020)**. In para 14 of the said order, the Hon’ble SAT enlisted the following circumstances:

“14 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 synchronised and reverse trades, there is no genuine change of rights in the contract.”

37. 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.”

38. I also find it relevant to note here that in the matter of SEBI vs. Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 08, 2018), which was a similar case involving execution of reversal trades in index options, the Hon’ble Supreme Court held that “... *the traders thus having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of PFUTP Regulations...*”
39. In view of the foregoing and placing reliance upon the aforesaid judgements, I am, therefore, of the view that the trades executed by Noticee were not genuine trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts, were fraudulent/ manipulative, as contemplated in the PFUTP Regulations. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations by Noticee stands established.

Issue II: If yes, whether the failure, on the part of Noticees would attract monetary penalty under Section 15HA of the SEBI Act?

&

Issue III: If yes, what would be the monetary penalty that can be imposed upon Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with Rule 5(2) of the Adjudication Rules?

40. Since the violation of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations has been established against Noticee, as brought out in the foregoing paragraphs, Noticee is liable for monetary penalty under Section 15HA of SEBI Act which is reproduced as follows:

SEBI Act: 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*

41. While determining the quantum of penalty under Section 15HA of SEBI Act, the following factors stipulated in Section 15J of the SEBI Act have to be given due regard:

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.

42. As established above, the trades by Noticee were non-genuine in nature and created a misleading appearance of trading. I note that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by Noticee and the losses, if any, suffered by the investors due to such violations on part of the said Noticee and does not demonstrate any repetitive default on the part of the said Noticee. However, considering that the violation by Noticee led to creation of artificial trading volumes which had the effect of distorting the market mechanism in the illiquid stock options segment of BSE, I find that the aforesaid violations were detrimental to the integrity of securities market and therefore, the quantum of penalty must be commensurate with the serious nature of the aforesaid violations.

43. Therefore, taking into account the facts and circumstances of this matter, I am of the view that a penalty of **Rs. 5,00,000 (Rupees Five Lakhs only)** under Section 15HA of the SEBI Act will be commensurate with the violations committed by Noticee.

ORDER

44. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act and in exercise of power conferred upon me under Section 15-I of the SEBI Act read with rule 5 of the

Adjudication Rules, I hereby impose a penalty of **Rs.5,00,000/-(Rupees Five Lakhs only)** on Noticee i.e. **Seeta Devi Agrawal** under Section 15HA of the SEBI Act for violation of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations.

45. Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order 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

46. Noticee shall forward the confirmation of penalty so paid to the Enforcement Department –Division of Regulatory Action –V of SEBI. In case of any difficulties in payment of penalties, Noticee may contact the support at portalhelp@sebi.gov.in
47. 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 the SEBI Act, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.
48. Copy of this Adjudication Order is being sent to Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date: August 08,2023

Place: Mumbai

Vijayant Kumar Verma

Adjudicating Officer