BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO: Order/SD/KS/2021-22/14938]

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:

SHRUTI SARAF

PAN: BOMPS2557B

MANI KALA APARTMENT FLAT NO.13
DA 156C MANICKTALA MAIN ROAD
KANKURGACHI, KOLKATA
WEST BENGAL 700054

In the matter of
Dealings in illiquid stock options at BSE

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed large scale reversal of trades in the Stock Options segment of Bombay Stock Exchange (hereinafter referred to as '**BSE**') leading to alleged creation of artificial volume in the stock options segment. In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options Segment at BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period**").

2. It was observed during the course of investigation that a total of 2,91,643 trades comprising 81.38% of all the trades executed in the Stock Options Segment by various entities at BSE during the investigation period were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was also observed that the aforesaid trades resulted into alleged creation of artificial

volume to the tune of 826.21 crore units in the Stock Options segment of BSE during the investigation period. In view of the large scale reversal of trades that were observed in the illiquid Stock Options segment at BSE, it is alleged that these trades were non-genuine in nature.

3. It was observed that Ms. Shruti Saraf (hereinafter referred to as "**Noticee**") was one of the various entities who indulged in the execution of alleged non-genuine trades in the Stock Options Segment at BSE during the above referred investigation period. It was observed that Noticee had entered into reversal trades with her counterparty which involved squaring off transaction with significant difference in sell value and buy value of the transaction. Therefore, it is alleged that Noticee had executed the reversal trades which were non-genuine in nature and have created false or misleading appearance of trading in terms of creation of artificial volume in the Stock Options segment at BSE and therefore, it is alleged that the Noticee has violated the provisions of Regulations 3 (a), (b), (c), (d) and Regulation 4(1), 4(2) (a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Markets) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**"). In view of the above reasons, adjudication proceedings have been initiated against the Noticee under the provisions of section 15HA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**).

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer, vide communique dated June 28, 2021 under Section 19 read with Section 15-I of the SEBI Act read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as '**Adjudication Rules**') to inquire into and adjudge under the provisions of section 15HA of the SEBI Act for the aforementioned alleged violation of the provisions of law by the Noticee.

SHOW CAUSE NOTICE, HEARING AND REPLY

5. Show Cause Notice ref. SEBI/HO/EFD1/EFD1_DRA5/P/OW/16219/1/2021 dated July 23, 2021 (hereinafter referred to as '**SCN'**) was issued to the Noticee in terms of Rule 4 of the Adjudication Rules requiring the Noticee to show cause as to why an inquiry

should not be held against her and why penalty, if any, should not be imposed on the Noticee under the provisions of section 15HA of the SEBI Act. The SCN issued to the Noticee, *inter alia*, mentioned the following-:

i. *It is noted that Noticee was one of the various entities which were indulged in execution of such alleged non-genuine trades in Stock Options Segment of BSE during the Investigation period. Following points deal with the dealings of Noticee during the Investigation period and allegations against it for execution of non-genuine trades.*

Date	Buyer	Seller	Buy Order Time	Sell Order Time	Trade Time	Trade Rate (Rs.)	Trade Quantity
27/03/2015	SHRUTI SARAF	ADARSH CREDIT CO OP SOCIETY LIMITED	10:44:14.128460	10:45:54.114521	10:45:54.114521	11.3	52000
27/03/2015	ADARSH CREDIT CO OP SOCIETY LIMITED	SHRUTI SARAF	11:05:50.796057	11:05:50.620577	11:05:50.796057	19.6	52000

ii. *It is observed from the table above that the trades entered by the Noticee in the contract of "DISH15APR60.00CEW2" on March 27, 2015, with her counterparty viz. ADARSH CREDIT CO OP SOCIETY LIMITED were reversed between the Noticee and the same counterparty on the same day resulting in reversal of trades which are, prima facie, considered to be non-genuine. Therefore, in the process artificial volume in the stock option contract at BSE has been generated by the Noticee through such non-genuine trades. From the table above, it is observed that the artificial volume created as no. of units reversed in non-genuine trades is 104000 units comprising both volume of initial trade and volume of reversal trade, while not considering the volume which is not reversed.*

iii. It is further observed from the trade data of the Noticee that it has allegedly entered into non-genuine trades in 1 contract wherein she executed a total of 2 trades all of which were, prima facie, non-genuine trades. In view of this, it is alleged that such fraudulent trades of the Noticee had resulted into creation of artificial volume of total 104000 units.

iv. From the perusal of the trade data of the alleged non-genuine trades of the Noticee, it is observed that Noticee has allegedly executed non-genuine trades in 1 contract. The total volume of 104000 units generated by the Noticee in this 1 contract. Due to her alleged non-genuine trades, an Artificial Volume was generated by the Noticee in the Stock Option Segment of BSE. These alleged non-genuine trades, executed by Noticee in above contract, had significant differential in buy rates and sell rates considering that the trades were reversed on same day

v. *In view of the foregoing, it is alleged that the Noticee, by indulging in execution of reversal trades in Stock Options with same entities on the same day, which were non-genuine in nature, has created false or misleading appearance of trading in the aforementioned contracts traded in the option segment of BSE. In view of the fact that these options contracts were illiquid in nature, having very small volume in trading, the Noticee allegedly created artificial volumes in stock options which was manipulative and deceptive in nature. Therefore, in view of above, it is alleged that the Noticee has violated Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003*

6. The SCN with reference number SEBI/HO/EFD1/EFD1_DRA5/P/OW/16219/1/2021 dated July 23, 2021 was issued to the Noticee via Speed Post Acknowledgement Due (SPAD), which was duly served on the Noticee as per the Tracking details obtained from the India Post website and the SCN was also sent to Noticee via email dated July 30, 2021, which was also duly delivered to the Noticee.

7. In response to the SCN, Advocate Mr. Shubhankar Ghosh (Junior of Kuntal Kumar Goswami) the Authorized Representative('AR') of Noticee had made interim reply vide letter dated September 16, 2021, wherein AR inter alia submitted the following:

   Reply dated <u>September 16, 2021</u>

   (a) My client is a salaried individual earning income from salary and other sources (including income from purchase and sale of shares and commodities traded in the recognized stock exchange).
   (b) She actively trades on BSE (Bombay Stock Exchange) and the transactions are genuine, bonafide and are executed in compliance with all the requirements of Securities Exchange Board of India (SEBI) and the Stock Exchanges
   (c) The complete materials/documents in support of the allegations against my client have not been made available to my client so she is unable to effectively answer the charges ancT allegations levied against her in the above referred notice which is against the settled Principles of Natural Justice.
   (d) The' words "Artificial and Non-Genuine" are not defined in the Prohibition of Fraudulent and Unfair Trade Practices related to Securities Market (PFUTP) Regulations, 2003 or in the SEBI Act or Regulations. Therefore the trades of my client are genuine and not artificial merely going by the dictionary meanings of the terms..
   (e) the said notice does not mention the trades of other entities or counterparties which executed the alleged reversal trades, the SEBI has taken action only against selected entities and not against them who are actually involved in the alleged reversal trades.

(f) my client's case she was completely unaware of the identity of the counterparties while trading on the screen-based transactions, there could not have been any meetings of minds of my client with the counterparties and there is no evidence in the said notice to this effect either.

(g) the pricing allegation made in the notice is unjustified and not tenable

8. Thereafter, AR vide his further reply dated October 18, 2021 inter alia submitted the following

Reply dated <u>October 18, 2021</u>

(a) purported allegations in the said notice are clearly out of surmises, conjectures and hearsay and are totally misplaced and contrary to factual position on record.

(b) Noticee contended that all the relevant documents were not provided to its client and submitted that certain documents are crucial and critical for responding to the allegations in the said notice and non-providing of the same will gravely prejudice my client in the said matter.

(c) Noticee also submitted that non providing investigation report or any cogent evidence is violation of principles of natural justice.

(d) Noticee in this regard also relied upon the Judgment of the Hon'ble Supreme Court, in the case of Price Waterhouse Coopers vs SEBI in Civil Appeal no. 6003-6004 of 2012 and ANDAMAN TIMBER INDUSTRIES vs. COMMISSIONER OF CENTRAL EXCISE, in Civil Appeal No. 4228 of 2006

(e) And submitted that making allegations against my client, without providing even the Investigation Report, is against principles of natural justice.

(f) Noticee also submitted that after almost 6 years of the transactions, SEBI is making unsubstantiated allegations, which are without any merit and seemingly, the allegations have been based on just surmises & conjunctures.

(g) just based on the fact that a buy or sell position are reversed with the same counterparty it cannot be alleged that such trades are fraudulent or manipulative unless and until there is some cogent connection or 'mischievous meeting of minds7 between the counter parties. In this regard Noticee had relied upon various case laws viz., Jagruti Securities vs. SEBI [2008 SCC Online SAT 184: 2008 SAT 184] Hon'ble SAT; S.P.J. Stock Brokers Pvt. Ltd. vs SEBI [2013 SCC Online SAT 67; 2013 SAT 17]; H.B. Stockholdings Ltd. vs SEBI [2013] SAT 44; Hon'b;e SAT order dated May 18, 2012 in the matter of Sanjay Agarwal vs. SEBI.

(h) Noticee submitted that the allegation levelled against her are on assumption and suspicion, based solely on the fact that she had traded on one (1) day during the Investigation period.

(i) Noticee mentioned that She had traded in the ordinary course and at no point of time she were aware of counterparty to her trade or the counterparty brokers Such trades were executed in the anonymous screen. The matching of trade with same counterparty is just coincidental and not be design.

(j) *She also mention that the underlying scrips in which she traded, can be established that these scrips are highly liquid in nature i.e. frequently traded in market. She had traded in derivatives contract of "DISH 15 APR 60.00 CEW2" on March 27, 2015 that scripts are regularly traded in the Cash & Derivatives segment on Stock Exchanges*

(k) *Noticee submitted that she had no prior meeting of minds with counterparty to her trade or their broking entities, nor she had any contemporaneous knowledge about any alleged wrong doing. She was not guilty of any conduct which is contumacious or dishonest or acted in conscious disregard of law.*

(l) *There was no major movement in price of underlying scrip which itself proves that her trades had no impact on market. Thus her transactions neither distorted the equilibrium in market no caused any loss or prejudice to investors at large.*

(m) *Noticee also submitted that derivative market is 'zero-sum game' and thus in each and every case one party will inevitably make profit and counterparty will make loss. In capital market neither BSE nor SEBI can guarantee profit or loss to any individual/entity. In derivative trading, traders often make profit or loss over a period of time since the market does not always behave as per their prediction/expectation. Thus, profit and loss is concomitant to trading in derivative segment. The mere fact that we earned profit of Rs.4,31,600/-, while dealing in option segment cannot be a ground to rope us into present proceedings.*

9. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4 (3) of the Adjudication Rules, vide Hearing Notice dated September 29, 2021, the Noticee was granted an opportunity of Personal Hearing in the matter on October 11, 2021, through the online Cisco webex platform. The said hearing Notice was delivered to the Noticee via SPAD and email dated September 30, 2021. However, the Noticee requested for the adjournment of said hearing, in view of the same, the hearing was rescheduled on November 02, 2021 and the same was informed to the Noticee.

10. I note that during the proceedings vide letter dated November 01, 2021 the AR made further submission, wherein inter-alia made following submissions:

"I had already placed before Your Honour, the written submission-I dated 16.09.2021, written submission-II dated 18.10.2021 afterwards my client's matter is fixed for hearing as on 02.11.2021 and in regard to this Your Honour kindly acknowledge my both submission I and II on behalf of my client as final submission for the matter under consideration and kindly take the submission on your record for your kind consideration and adjudication."

11. Further, the Authorized Representative ('**AR**') appeared on behalf of the Noticee on the stipulated date of hearing. During the course of hearing, the AR reiterated the submissions made by the Noticee in her reply dated September 16, 2021, October 18, 2021 and November 01, 2021

CONSIDERATION OF ISSUES AND FINDINGS:

12. I have taken into consideration the facts and circumstances of the case, the material available on record. It is alleged that the Noticee had executed reversal trades, which were non-genuine trades and the same has resulted in the generation of artificial volume in the Stock Option contracts at BSE. In view of the same, it is alleged that Noticee has violated the provisions of Regulations 3(a), (b), (c), (d) and Regulation 4(1), 4(2)(a) of PFUTP Regulations and, therefore, it is alleged that Noticee is liable for penalty under the provisions of Section 15HA of the SEBI Act.

13. Before moving forward, the relevant provisions of law allegedly violated by the Noticee and as mentioned in the SCN are reproduced below:--

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;

14. Before proceeding with the matter on merits, I first deal with the preliminary issues raised by the Noticee regarding delay in proceedings. i.e Noticee had raised that after almost 6 years of the transactions, SEBI is making unsubstantiated allegations, which are without any merit and seemingly, the allegations have been based on just surmises & conjunctures. In this regard, I have seen that Noticee was provided with all relevant and relied upon documents along with Show Cause Notice and the Noticee was provided enough time to file its detailed reply and submissions. Notwithstanding the same, I also note that there is no provision with prescribed time limit in the SEBI Act which may have the effect of prohibiting SEBI from taking action by issuing Show Cause Notice or passing any order beyond a particular period of time in a given case.

15. In the instant case, I note that pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 which was confirmed vide Orders dated July 30, 2016 and August 22, 2016. Meanwhile, SEBI initiated a detailed investigation relating to stock options segment of BSE which was completed in the year 2018. The investigation revealed that 14,720 entities were involved in executing non-genuine trades in BSE's stock option segment during the investigation period. The proceedings initiated vide the aforementioned Interim Order were disposed of vide Final Order dated April 05, 2018 also considering that appropriate action was initiated against the said 14,720 entities in a phased manner.

16. During the course of hearing in the case of R. S. Ispat Ltd Vs SEBI, the Hon'ble Securities Appellate Tribunal (SAT), vide its Order dated October 14, 2019, 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”.

17. A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided 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. Adjudication proceedings were initiated against those entities who had not availed of the opportunity of settlement. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of the undersigned as AO vide communique dated June 28, 2021, the SCN was issued on July 23, 2021.Thus, the Adjudication Proceeding was initiated after a series of legal and judicial developments.

18. In this regard, I am inclined to rely upon the decision of Hon'ble SAT in the matter of Bipin R Vora vs SEBI held that, "*As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market'*.

19. Further, I note that in Rajendra Aggarwal. v. SEBI(Appeal No. 552/ 2019) decided on September 17, 2021, Hon’ble SAT held that

“*On issue of delay, we find that the show cause notice was issued in the year 2013 and the trades were executed in 2009. The investigation was against a large number of entities which apparently took time and ultimately notices were issued to 35 entities. Consequently, we do not find any inordinate delay in the issuance of the show cause notice nor do we find any merit in the contention that there was an inordinate delay in the delivery of the impugned order after the last date of hearing by the AO. We are of the opinion that after the conclusion of the arguments the data of 35 entities was required to be analysed and collated which took time and, therefore, we do not see any reason to vitiate the judgment only on the ground of delay in delivering the order. In any case, such delay in the delivery of the judgment does not cause any prejudice to the appellants”*

20. The Hon’ble SAT in the matter of M/s Adamina Traders P. Ltd (Appeal No. 331/2020) decided on December 15, 2021 held that

“We find that the trades in question are of the year 2013. The show cause notice was issued on September 28, 2017 by the WTM and January 18, 2018 by the AO. We do not find any evidence to hold that there was an inordinate delay in the issuance of the show cause notice. This contention is accordingly rejected.”

21. In view of aforesaid Judgments, I conclude that there is no merit in the preliminary objections made by Noticee, regarding the delay in issuance of SCN in the instant proceedings.

22. I note that Noticee had contended that Investigation report and other relevant documents have not been provided to her along with SCN and she also contended that the principle of Natural Justice has not been followed in the present proceeding. In this regard, I note that in Shruti Vora matter, the Hon’ble SAT has clearly mentioned that “the AO is required to supply the documents relied upon while serving the show cause notice. This is essential for the person to file an efficacious reply in her defence”. Thus, I note that all documents relied upon for the present proceedings have been shared with the Noticees as per the ratio mentioned in the Shruti Vora matter in the backlight of principles of natural justice.

23. Further, the Hon’ble SAT in the matter of Anant R Sathe Vs SEBI (Appeal No. 150 of 2020) vide Order dated July 17, 2020 has reaffirmed the principle elucidated in the judgment of Shruti Vora’s case, which was reproduced herein above and ruled that “the Authority is required to supply the documents that they rely upon while serving the show cause notice which in the instant case has been done and which is sufficient for the purpose of filing an efficacious reply in her defence”.

24. In view of the above, since all the documents which are relevant and relied upon in the instant proceedings have been provided to the Noticees, I am of the opinion that principles of natural justice have been duly complied with in the instant proceedings and no prejudice in filing reply has been caused to the Noticees.

25. In view of the above, I note that the preliminary objections raised by the Noticees have been decided in terms of the directions of the Hon’ble SAT as discussed here in above.

26. I note that the allegation against the Noticee is that, she had executed reversal trade while dealing in the stock option contracts at BSE during the IP, which were allegedly non-genuine and had resulted in the creation of artificial volume in the stock options contracts at BSE. Reversal trades are considered as those trades in which an entity reverse her buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversal trades are alleged to be non- genuine trades as they are not executed in the normal course of trading, lack basic trading rationale, and allegedly lead to false or misleading appearance of trading in terms of generation of artificial volumes, hence these trades are deceptive and manipulative. From the facts/material made available on record, I find that reversal trades executed by the Noticee, which were observed in the present case, were undertaken by the Noticee with her counterparty with a predetermined arrangement to book profit or losses respectively, and therefore, the parties to the trades were not trading in the normal sense and ordinary course of business. Therefore, it is alleged that the Noticee by indulging in such reversal trades with her counterparty in the illiquid stock option segment at BSE has managed to generate artificial volume in the Stock Options segment at BSE during the investigation period.

27. In this regard, it is observed from the trade log of the Noticee that she had traded in 1 contract in the Stock Options segment of BSE during the above mentioned investigation period. The examination of the Trade log of the Noticee during the relevant period revealed that she had executed 2 non-genuine trades in 1 contract in the Stock Options segment of BSE. I note that the abovementioned trades of the Noticee had resulted in the creation of artificial volume of a total of 104000 units in the given 1 contract. Further, it is observed that the trade executed by the Noticee was squared up within a short span of time with the same counterparty i.e. trade was reversed within few minutes on the same day. Thus, it is observed that Noticee had indulged in reversal trades with her counterparty in the stock option segment of BSE and the same were non-genuine trades.

28. Further, it is observed that these trades were squared up by the Noticee with her counterparty with a significant price difference. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no

commercial basis to suddenly, within a matter of few minutes, reverse the position with her counterparty with significant price difference when the value of the underlying had not undergone any significant change. **The trade reversals in the said case points out to the fact that the parties to the transactions, including the Noticee, did not intend to transfer the beneficial ownership and through these orchestrated transactions, the intention of which was not regular trading, other investors have been excluded from participating in these trades/ contracts**. As already mentioned above, there was very little time gap between the buy and sell orders placed by the Noticee with her counterparty in different trades. The both the trades were done with minimum time gap on the same day. Given the fact that the Stock Option contracts were illiquid in nature at BSE and also in view of the observations made above, I am convinced that Noticee has entered into reversal/non-genuine trades with her counterparty and in the process also generated artificial volume in the otherwise illiquid stock option contracts at BSE.

29. To illustrate, it is observed that the Noticee had executed a total of 2 trades during the Investigation period in the contract "DISH15APR60.00CEW2". The aforesaid trades were done by the Noticee on March 27, 2015 wherein Noticee bought 52000 units from ADARSH CREDIT CO OP SOCIETY LIMITED at 10:45:54 at the rate of Rs. 11.3 per unit. The Noticee then sold 52000 units to ADARSH CREDIT CO OP SOCIETY LIMITED at 11:05:50 at the rate of Rs. 19.6 per unit. This resulted in 2 trades with total trade quantity of 104000 units at a price of Rs. 11.3 and Rs. 19.6. Thus, in the above manner, the Noticee executed a total of 2 trades in the contract "DISH15APR60.00CEW2" and generated artificial volume of 104000 units through such non-genuine and reversal trades. It is also observed that, out of the 2 trades done through 1 unique contract, the Noticee as instrumental in contributing significantly towards the total volume recorded on BSE in the said contracts.

30. The Noticee has contended that there cannot be collusion or meeting of mind unless the buyer and seller are connected, related or known to each other. The Noticee has also contended that in the screen based trading system, which is virtually anonymous, it is not possible for anyone to enter into such reversal trades However, considering the precision at which the reversal transactions had taken place, the quantity, price

and time and sale, party in a trade transaction with huge price variation, I am of the view that it will be too naïve to hold that these transactions are through platform of the screen-based trading and such meeting of mind is not possible without both the parties being related or connected to each other. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order w.r.t the transactions entered into by the Noticee with her counterparty and such synchronized trading is clearly violative of the transparent norms of trading in the securities market. In view of the above observations, I hold that all the 2 transactions executed by the Noticee in the 1 Option Contract were synchronized trades, which were reversed within short span of time with prior meeting of mind between the parties to the trade. Needless to mention the fact that these transactions were manipulative/deceptive device with a view to create a desired loss and/or profit in the books of the party to the transactions and in the process, artificial volumes were also generated through such contracts. As per the material available, the Noticee made a profit of Rs. 431,600/- as result of these trades.

31. At this juncture, it is pertinent to refer to the decision of the Hon'ble Supreme Court of India in the matter of **Securities and Exchange Board of India v. Rakhi Trading Private Limited** (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 dated February 08, 2018) wherein, the Hon'ble Supreme Court while cumulatively analyzing the reversal transactions held that, price discovery system itself was affected by synchronization and rapid reverse trade, which also had the impact of excluding other investors from participating in the market. The Supreme Court, therefore found that the traders 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 the PFUTP Regulations. The Apex Court also held that *"considering the reversal transactions, quantity, price and time and sale, parties being persistent in the number of such trade transactions with huge price variations, it will be too naïve to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the Board's circular. The impugned transactions are manipulative/deceptive device to create a desired*

loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities." The Hon'ble Apex Court has also held that in the absence of direct proof of meeting of minds, the test should be one of preponderance of probability and also stated that the conclusion has to be gathered from various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time between the two and such other relevant factors.

32. In the same matter, Hon'ble Supreme Court had further stated that-

> "……..*quantity, time and significant variation of prices, without major variation in the underlying price of the securities clearly indicate that Respondent's trades are not genuine and had only misleading appearance of trading in the securities market*………."

> "*35…. Contextually and in simple words, it means a practice which does not conform to the fair and transparent principles of trades in the stock market. In the instant case, one party booked gains and the other party booked a loss. Nobody intentionally trades for a 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 makes losses and that too in a pre-planned manner and rapid trades, it is not genuine……*"

33. Additionally, the Hon'ble Securities Appellate Tribunal (hereinafter referred to as "SAT")in its Order dated September 14, 2020 in the matter of Global Earth Properties and Developers Pvt Ltd Vs SEBI(Appeal No. 212 of 2020) relied upon the aforesaid Order of the Hon'ble Supreme Court and held that "…*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*."

34. In this context, I also find it relevant to refer to the decision of Hon'ble Supreme Court in the matter of ***Securities and Exchange Board of India v. Kishore R Ajmera*** *{(2016)} 6 SCC 368 : AIR 2016 SC 1079}* wherein, the Hon'ble Supreme Court has 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. The test, in our considered view, is one of preponderance of probabilities so far as adjudication of civil liability arising out of violation of the Act or the provisions of the Regulations framed thereunder is concerned….."*

35. In the same matter, the Hon'ble Supreme Court, has further held that, "……… *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 trade effected; the period of persistence in trading in a particular scrip; the particulars of buy and sell orders, namely the volume thereof; the proximity of time between the two and such relevant factors……..."*

36. 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 the 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 mind with a view to execute the reversal trade at a pre-determined price. It is observed that in respect of these trades executed in the illiquid stock options contract, the only reason for the wide variation in prices of the same contract and execution time within few minutes was a clear indication that there was pre-determination in the prices by both the counterparties when executing the trades. Thus, the nature of trading, as brought out above, clearly

indicates an element of prior meeting of minds and therefore, a collusion of the Noticee with her counterparty to carry out the trades at predetermined prices.

37. 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 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 in the contract. By synchronization and reversal trade as has been carried out by the Noticee in the instant case, the price discovery system has been 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 Noticee has contended that the derivatives market is 'zero-sum game' and thus in each and every case one party will inevitably make profit and counterparty will make loss. Thus, Noticee's trades should not be singled out as the same were in line with usual market functioning. I note that the allegations against the Noticee pertain to the reversal trades executed by her, on the same day with same counterparty with substantial price difference between buy and sell rates without any change in the price of underlying scrips, thus leading to generation of artificial volume. Thus, I do not agree with the contention of the Noticee.

39. Noticee has also contended that there was no major movement in the price of the underlying scrip, which proves that Noticee's trades had not impacted the market. I note that the underlying scrip was traded on equity market of BSE, however, instant considerations are based on the reversal trades in stock options contracts which are traded on derivative market of BSE, resulting in generation of artificial volume in the said market. Therefore, considerations of Noticee in this regard are not germane to facts of the case. I note that the aforesaid facts are not in dispute and have not been relied upon in the SCN for framing allegations

40. Therefore, from the foregoing paragraphs and the observations/findings contained therein, I hold that the Noticee has violated the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003

41. In view of the above, I conclude that the Noticee is liable for monetary penalty under the provisions of Section 15HA of the SEBI Act, which reads as under :

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.*

42. In this regard, the provisions of Section 15J of the SEBI Act and Rule 5 of the Adjudication Rules require that while adjudging the quantum of penalty, the adjudicating officer shall have due regard to the following factors namely :-

(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.

43. Clearly, from the above observations, the Noticee was instrumental in the creation of artificial volume in the illiquid stock option contracts at BSE during the investigation period by executing reversal / non-genuine transactions in the illiquid stock options segment at BSE. It is not possible from the material available on record to quantify the amount of loss caused to genuine investors as a result of the reversal trades/ non-genuine trades executed by the Noticee with her counterparty. From the manner in which Noticee executed the above mentioned transactions, the Noticee has violated the statutory provisions of law. In this context, reliance is placed upon the order of the Hon'ble Supreme Court of India in the matter of Chairman, **SEBI Vs Shriram Mutual Fund** { [2006]5 SCC 361 } – wherein the Hon'ble Supreme Court of India held that "*In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant…………...*"

ORDER

44. Having considered all the facts and circumstances of the case, the material available on record and the factors mentioned in the preceding paragraphs, I, in exercise of the powers conferred upon me under Section 15-I of the SEBI Act read with Rule 5 of the Adjudication Rules, hereby impose a penalty of Rs.5,00,000/- (Rupees Five Lakh only) on the Noticee viz. Ms. Shruti Saraf under the provisions of Section 15HA of the SEBI Act for the violation of Regulations 3(a), (b), (c), (d), 4(1) and 4(2) (a) of the PFUTP Regulations. I am of the view that the said penalty is commensurate with the default committed by the Noticee.

45. The Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of the receipt of this order either by way of Demand Draft (DD) in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai and the said DD should be forwarded to the Division Chief, Enforcement Department - I (EFD), Division of Regulatory Action - I [EFD1-DRA-3] SEBI Bhavan, Plot No.C4-A,' G' Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 and also send an email to tad@sebi.gov.in with the following details:

1. Case Name:	
2. Name of Payee:	
3. Date of payment:	
4. Amount Paid:	
5.Transaction No:	
6. Bank Details in which payment is made:	
7. Payment is made for: (like penalties /disgorgement/recovery/Settlement amount and legal charges along with order details)	

OR

Payment can also be made online by following the below path at SEBI website www.sebi.gov.in ENFORCEMENT → Orders → Orders of AO → Click on PAY NOW or at https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html.

46. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated 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.

47. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee viz. Ms. Shruti Saraf and also to Securities and Exchange Board of India.

Place: Mumbai
Date: February 09, 2022

SANDEEP P DEORE
ADJUDICATING OFFICER