BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO.: Order/SU/VA/2022-23/16017]

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:

Priti Raika

PAN: AZQPR2200N

In the matter of dealings in Illiquid Stock Options at BSE

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed large scale reversal of trades in the Stock Options segment of the Bombay Stock Exchange (hereinafter referred to as "**BSE**") leading to the 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 the 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 at the 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 observed that Ms. Priti Raika (hereinafter referred to as "**Noticee**") was one such client whose reversal trades involved squaring off open positions

with a significant difference without any basis for such change in the contract price. The aforesaid reversal trades allegedly resulted into generation of artificial volumes, leading to allegations that the Noticee had violated the provisions of regulations 3(a),(b),(c),(d) and regulations 4(1),4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") vide order dated April 30, 2021 to inquire into and adjudge under section 15HA of the SEBI Act against the Noticee for the alleged violation of the aforesaid provisions of PFUTP Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. SEBI/HO/CFID/CFID_2/VA/P/OW/2021/18867/1 dated August 11, 2021 (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 and why penalty should not be imposed on the Noticee under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.
5. The SCN issued to the Noticee, *inter alia*, mentioned / alleged the following:

"….

5. The Noticee was one of 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 EP.

6 (f) A summary of dealings of the Noticee in 1 Stock Options contracts, in which the said Noticee allegedly executed reversal trades, during the EP, is as follows:

S. No.	Contract Name	Avg. Buy Rate (Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (Rs.)	Total Sell Volume (no. of units)	% of Non Genuine trades of Noticee in the contract to Noticee's Total trades in the Contract	% of Non Genuine trades of Entity in the contract to Total trades in the Contract	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1	*KOTB15APR1350.00CEW4*	*3*	*31,250*	*19*	*31,250*	*100%*	*33.33%*	*100%*	*33.33%*

6. Following are the observation from the trades executed by the Noticee in the contract of KOTB15APR1350.00CEW4, during the EP, as mentioned at para 3 above:

(a) The Noticee has executed 2 trades, on 30/03/2015, for 62,500 units with the same counterparty i.e. Open Futures And Derivatives Private Limited.

(b) It is observed that the Noticee placed a limit order of Rs. 3 per unit to buy 31,250 units at 14:00:17 hrs on March 30, 2015, at the same time as the limit order entered by Open Futures And Derivatives Private Limited to sell the same number of units, at exactly the same price.

(c) Similarly, while reversing the trades on the same day within a gap of 4 seconds, it is also observed that the Noticee placed a limit order of Rs.19 per unit to sell 31,250 units at 14:00:21 hrs on March 30, 2015, at the same time as the limit order entered by Open Futures And Derivatives Private Limited to buy the same number of units at exactly the same price.

(d) It is observed that both the trades were executed on the same day which led to generation of alleged artificial volume of 62,500 units which made up 33.33% of total market volume in the said contract, during this period. The trades entered by the Noticee were reversed on the same day with same counter-parties at a substantial price difference without any basis for significant change in the contract price thereby accumulating a profit of Rs 5,00,000.

8. In view of the foregoing, it is alleged that the Noticee, indulged in execution of reversal of trades in Stock Options segment of BSE with same counterparties on the same day. Such trades are non-genuine in nature and have created false and misleading appearance of trading in terms of artificial volumes in the stock options segment and therefore alleged to be manipulative and deceptive in nature. Thus, Noticee, has allegedly violated the provisions of Regulation 3 (a), (b), (c), (d), and 4(1), 4(2) (a) of the PFUTP Regulations, 2003.

SUBMISSION BY THE NOTICEE

6. The SCN was served on the Noticee via Registered Post Acknowledgement Due ("**RPAD**"). Thereafter, the Noticee, vide letter dated January 05, 2022 and February 01, 2022 acknowledged the receipt of the SCN and submitted the following:

   i. Noticee denied that she has indulged in any fraudulent or an unfair trade practice in securities or created false or misleading appearance of trading in the securities market. The Noticee denied violation of SEBI PFUTP Regulations.

   ii. SEBI has observed transactions in 'illiquid options' on the basis that Noticee's trades were in far off strike prices and therefore, very few entities were trading in such strike rates. However, in that case, it may also be concluded that said trades could have had no effect on other investors or market at large and that such illiquidity would be the reason for volatility and alleged reversal transactions since variations in options price would be dramatic if the chosen strike price is thinly traded.

iii. BSE and SEBI have themselves allowed and permitted trading in options for far months' with a strike price which are at large variance to current market price. The fact that such parameters are laid down clearly, indicative of fact that options will always be 'in the money' and 'out of money' and since regulators have themselves permitted trading in same, no adverse inference be drawn against Noticee.

iv. Stock exchanges regularly come out with list of illiquid scrips in cash segment. However, no such list is issued by exchanges or the regulator for dealing in stock options contracts. Thus, to fasten the responsibility or allege a single individual investor that it traded in illiquid option is unwarranted.

v. 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.

vi. The total number of alleged non-genuine trades were 2, in 1 contract, which is a meagre part of overall 62,500 trades as mentioned in SCN in the market (constituting a miniscule 0.21%). Hence, the question of influencing market price or volume does not make depress the price here. There was no major movement in price of underlying scrip which itself proves that Noticee's trades had no impact on market and her trades neither distorted the equilibrium in market nor could have caused any loss or prejudice to investors at large.

vii. Any kind of alleged fictitious/manipulative trade in cash segment may create distorted impression in minds of investors that price of scrip is rising/falling who may invest/divest from said scrip. However, in case of option segment there is no such effect since each contract expires at end of contract period and for every party who makes profit there is counter party who makes a loss.

viii. The Examination Period pertains to the period from 01.04.2014 to 30.09.2015 and was surprised to receive the SCN over 6 years there from, especially in the light of the fact that not a single warning/alert/alarm was raised, either by BSE or by SEBI. Also, no satisfactory reasons or even a whisper is recorded in the SCN to explain or justify the delay in issuing the SCN. Thus, Noticee is not in a position to recollect and explain the logic behind her trading decisions in each stock option, collate the data fully and offer her clarification effectively. In this regard, the Noticee has relied on the judgements of Hon'ble SAT in the matter of **Rajeev Banot vs SEBI**, **Ashok Rupani vs SEBI**, **Rakesh Kathotia vs SEBI, Khandwala Securities Limited vs. SEBI**, **Ms. Aditi Dalal vs. SEBI** and the judgement of Hon'ble Supreme Court of India in the matter of **Mansaram v. S.P. Pathak and Others.**

ix. SCN is totally silent on the connection of parties, counter parties, broker and counterparty broker to her trades. The SCN proceeds on the assumption that there was meeting of minds on mere surmises and conjectures. There is no credible evidence to deduce, leave aside allege, meeting of minds between the counter party to the impugned trades and the Noticee. In this regard, the Noticee has relied on the judgements of SAT in the matter of **Nishith Shah HUF vs SEBI, Pine Animation vs SEBI, Labhu Gohil vs SEBI, Jagruti Securities vs SEBI, S.P.J. Stock Brokers Pvt. Ltd. vs SEBI, HB Stockholdings Limited vs SEBI and SEBI vs Rakhi Trading Pvt Ltd.**

x. There is no direct evidence forthcoming or any allegation in the SCN pertaining to meeting of minds or her collusion with any other entities. It is pertinent to note that there have been no complaints and/or loss caused to any investor as regards the matter, and that no person has been claimed to be defrauded and as a matter of fact and record, all taxes including STT, stamp duty, etc. have been paid by the Noticee.

xi. The Noticee was never aware of counterparty to her trades. The SCN has grossly erred in concluding that her trading behavior" confirms that the trades executed by her were not normal.

xii. The buy and sell rates should have been compared on the basis of notional values, instead of the premium. It may be appreciated that the notional value represents the total underlying amount of the derivative, which is much larger than the market value of contracts. The volume of derivatives was very small vis-à-vis the volume of underlying securities and therefore, such a small volume is not sufficient to create any kind of artificial volume.

xiii. Noticee denied that since her mere one contract was reversed on the same day with same counterparty at a substantial price difference without any basis for significant change in the contract price, it would indicate that this contract is non genuine in nature which eventually resulted in generating artificial volumes, as wrongly concluded. In this regard, the Noticee has relied on the judgements of Hon'ble SAT in the matter of **Narendra Vallabji Bahuva vs SEBI, Dhvani Darshan Kothari vs SEBI, Ketan Parekh vs SEBI.**

xiv. Noticee submitted that in terms of Clauses 1.2 and 1.3 of Risk Disclosure Document (RDD), which deals with risk of low liquidity and risk of wider spread, it can be safely concluded that SEBI is well aware of the possibility of trades being executed at substantial price difference and possible loss due to lower liquidity and wider spreads in illiquid stock options.

xv. No penalty was levied in the Adjudication Order dated January 20, 2022 in the case of Neha Sethi.

xvi. The Noticee prayed that no penalty be imposed against her under the provisions of Section 15 HA of the SEBI Act, 1992 and the proceedings against her be dropped.

HEARING

7. In the interest of natural justice and in terms of the Adjudication Rules, the Noticee was provided with an opportunity of personal hearing in the matter on January 25, 2022, through the online Webex platform. Mrs. Poonam D. Gadkari, Partner, Juris Matrix Partners LLP, Advocates & Solicitors, appeared as the Authorized Representative ("**AR**") on behalf of the Noticee on the stipulated date of hearing. During the course of the hearing, the AR reiterated the submissions made by the Noticee in her reply dated January 05, 2022 and sought additional two weeks' time

for making additional submissions. The notice submitted her final reply on February 01, 2022.

8. Thus, submissions made by the Noticee in her reply to the SCN and during the course of the hearing have been taken on record. Therefore, sufficient opportunity was provided to the Noticee to defend her case effectively and requirements of principles of natural justice have been fulfilled in the instant proceeding. In view of the same it is fit and proper to proceed with the consideration of issues and findings involved in the instant Adjudication proceeding.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have taken into consideration the facts and circumstances of the case, the material/documents made available on record and the submissions of the Noticee. The issues that arise for consideration in the instant case are:

    a. Issue No. I: Whether the Noticee has violated the provisions of Regulations 3 (a), (b),(c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?

    b. Issue No. II: If yes, whether the violation, on the part of the Noticee would attract monetary penalty under section 15HA of the SEBI Act?

    c. Issue No. III: If the answer to Issue No. II is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee?

10. Before advancing into the merits of the case, I would like to deal with the issue pertaining to the delay, as alleged by the Noticee, in the issuance of the SCN.

11. I note that there is no provision under SEBI Act which prescribes a time limit for taking cognizance of a breach of the provision of SEBI Act and Rules and Regulations made thereunder. Further, as per Section 11C of SEBI Act, SEBI can initiate investigation at any point of time, for any period of alleged violation or any period of alleged transactions. I also note that the investigations relating to the PFUTP Regulations, 2003 are complex (considering the volume of transactions, connections and examination of trading of shares, etc.) and time consuming. In this regard, I feel it is pertinent to note that, in the matter of **SEBI Vs Bhavesh**

Pabari (2019) SCC Online SC 294, the Hon'ble Supreme Court of India has, inter alia, observed as follows:

"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third¬party rights had been created etc."

12. I note that in the instant matter, SEBI has investigated large scale reversal of trades in stock options which were entered into by large number of entities. As far as Noticee's transactions are concerned, the SCN provides adequate details of her trades. Further, I note that the Hon'ble SAT in the matter of *Pooja Vinay Jain vs SEBI (Appeal No. 152 of 2019, Date of Decision – 17.03.2020)* held the following:

    "12. The decision would show that the power to initiate the proceedings must be exercised by the authorities within a reasonable time. This would depend upon the facts and circumstances of the case, nature of the default / statute and prejudice caused to the Noticee.

    13. In the present case, the appellant neither put a plea of prejudice before the AO nor before us. It was simply stated that since the proceedings were launched by respondent SEBI after a period seven years, the same should be quashed on the ground of delay. The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same. Further, as explained by the learned counsel for the respondent as recorded in paragraph No. 6.4 above, large numbers of entities and transactions were analyzed by SEBI which took some time. In the result, the following order:-

    ORDER

    14. The appeal is hereby dismissed without any order as to costs."

    I find that the aforementioned decision of the Hon'ble Tribunal is squarely applicable to the instant case. Accordingly, I don't find any merit in the plea of the Noticee that it is untenable to suddenly label these transactions as artificial and non-genuine after a period of 6-7 years from the date of the transaction on completely untenable grounds and unjustified reasons.

13. I also note that the 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".*

14. In view of the aforesaid and considering the facts of the aforesaid matter, I do not find any merit in the contentions of the Noticee.

Issue No. 1: Whether the Noticee has violated the provisions of Regulations 3 (a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?

15. Before moving forward, it is pertinent to refer to the relevant provision of the PFUTP Regulations which are alleged to have been violated. The said provisions are reproduced hereunder :

PFUTP Regulations, 2003

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 6[manipulative] 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;

16. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation Period, the Noticee had executed reversal trades which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in stock options contracts at BSE.

17. I note that reversal trades have been considered as those trades in which an entity reverses its 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 non-genuine trades as they are not executed in normal course of trading, lacks basic trading rationale, and lead to false or misleading appearance of trading in terms of generation of artificial volume, hence are deceptive and manipulative. Artificial

volume is considered to be the volume (no. of units) reversed in both legs of said reversal trades while keeping out the volume, if any, which is not reversed.

18. The Noticee has denied all allegations made in the SCN. The Noticee states that she has not violated the PFUTP Regulations. I note from the trade log of the Noticee that the Noticee had traded in 1 unique contract in stock options segment of BSE during the Investigation Period. It is observed that the Noticee had executed 2 non-genuine trades in 1 contract. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of a total of 62,500 units in the said 1 contract. The summary of the non-genuine trades of the Noticee are as follows:

Details	**Original Trade**	**Reversal Trade**
Scrip Name	KOTB15APR1350.00CEW4	KOTB15APR1350.00CEW4
QTY	31250	31250
Pan No	AZQPR2200N	AABCO1139Q
Client Name	Priti Raika	Open Futures And Derivatives Private Limited
Counter party Pan No	AABCO1139Q	AZQPR2200N
Counter party client name	Open Futures And Derivatives Private Limited	Priti Raika
Order last modified rate	3	19
Counter party order last modified rate	3	19
Last modified order time	14:00:17	14:00:21
Counter party last modified order time	14:00:17	14:00:21
Trade Time	14:00:17	14:00:21
Trade Rate	3	19
Trade Value	4,22,81,250	4,27,81,250

19. It is noted that the Noticee had executed non-genuine trades in 1 contract, wherein the percentage of non-genuine trades of the Noticee to the total trades in the contract was 33.33 %. Further, the artificial volume generated by the Noticee in the contract amounted to a substantial 100% of total volume generated by her in the contract. It is also noted that artificial volume generated by the Noticee contributed 33.33% to the total volume from the market in the said contract. The non-genuine trades executed by the Noticee in the above contract had significant difference between buy and sell rates considering that the trades were reversed on the same day.

20. I shall now proceed to deal with the transactions executed by Noticee in the alleged non-genuine trades:

    i. I note from table at para 18 above that while dealing in the contract of KOTB15APR1350.00CEW4 on March 30, 2015, the Noticee engaged in reversal trade (altogether 2 trades, 1 on buy side and 1 on sell side), which led to generation of alleged artificial volume of 62,500 units (buy side + sell side). These trades of the Noticee involved reversal with the same counterparty within a short time-span.

    ii. Noticee placed a limit order of Rs. 3 per unit to buy 31,250 units at 14:00:17 hrs on March 30, 2015, at the same time as the limit order entered by Open Futures And Derivatives Private Limited to sell the same number of units, at exactly the same price.

    iii. Similarly, while reversing the trades on the same day within a gap of 4 seconds, it is also observed that the Noticee placed a limit order of Rs.19 per unit to sell 31,250 units at 14:00:21 hrs on March 30, 2015, at the same time as the limit order entered by Open Futures And Derivatives Private Limited to buy the same number of units at exactly the same price.

    iv. Both the trades were executed on the same day which led to generation of alleged artificial volume of 62,500 units which made up 33.33% of total market volume in the said contract, during this period. The trades entered by the Noticee were reversed on the same day with same counter-parties at a substantial price difference without any basis for significant change in the contract price thereby accumulating a profit of Rs 5,00,000.

21. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time (viz. approx. 4 seconds), the Noticee reversed the position with the same counterparty client with a significant price difference. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non genuineness of these trades executed by the Noticee. The fact that the orders of the Noticee and her counterparty matched with such precision (considering that there was a perfect match of price and quantity as well as a short time difference between placing of the orders by the Noticee and counterparty) indicates a prior meeting of minds with a view to execute the reversal trades at a predetermined price. Since these trades were done in illiquid option contracts, there was very little trading in the said contract and hence, there was no price discovery in the strictest terms. The wide variation in prices of the said contracts, within a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Therefore, it is observed that the Noticee had indulged in reversal trades with her counterparty in the stock options segment of BSE and the same were non-genuine trades.

22. The buying of illiquid stock options by the Noticee and subsequent reversal trade with the same counterparty for the same quantity, within a short span of time with a significant difference in buy and sell value of stock options, where order time, order price and order quantity were matched by both the parties for both legs of the reversal trade, in itself, exhibits abnormal market behaviour and defies economic rationality. I note from the above trading pattern of the Noticee that she has deliberately made blatant misuse of trading platform for creating artificial volume in the illiquid stock options.

23. Noticee has denied that since her mere one contract was reversed on the same day with same counterparty at a substantial price difference without any basis for significant change in the contract price, it would indicate that this contract is non genuine in nature which eventually resulted in generating artificial volumes, as wrongly concluded. Further, Noticee has, inter alia, contended that all taxes including STT, stamp duty, etc. have been paid by the Noticee. In this regard, I note from the SCN and trade log of the Noticee that she had traded in 1 unique contract in the stock options segment of BSE during the investigation period. It is observed that the Noticee had executed 2 non-genuine trades in said contract. I further note that the above mentioned trades of the Noticee had resulted in the

creation of artificial volume of 62,500 units in the said contract, which have been summarized, in paragraph above.

24. Noticee submitted that any kind of alleged fictitious/manipulative trade in cash segment may create distorted impression in minds of investors that price of scrip is rising/falling who may invest/divest from said scrip. However, in case of option segment there is no such effect since each contract expires at end of contract period and for every party who makes profit there is counter party who makes a loss. In this regard I note that the contentions of the Noticee are not relevant as regards the charges made in the SCN which relate to generation of artificial volume in Illiquid Stock Options contracts and do not relate to any profit or loss. In this regard, 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 analysing reversal transactions held that, "*From the facts before us, it is clear that the traders in question did not intend to transfer beneficial ownership and therefore these trades are non- genuine. Rather than allowing the market forces to operate in their natural course, the traders repeatedly carried out the impugned transactions which deprived other market players from full participation. 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 the market forces in the instant case….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… one does not have to labour much on the meaning of unfair trade practices in securities. 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.*"

25. Noticee has stated 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. Further, Noticee has inter alia contended that stock

exchanges regularly come out with list of illiquid scrips in cash segment. However, no such list is issued by exchanges or the regulator for dealing in stock options contracts. I note that the same does not absolve the Noticee from the responsibility of trading in the exchange in a genuine manner. I also note that it is clear from the trade log that the Noticee failed in her primary obligation to comply with PFUTP Regulations, 2003 by executing reversal trades as explained above. The exchange provides a platform for trading. The primary responsibility to comply with the PFUTP Regulations, 2003 lies on the Noticee. Thus, the contentions of the Noticee are devoid of merit. Noticee has also submitted that BSE and SEBI have allowed trading in options for far months with strike price which are at large variance with each other. I note that while there is no such restriction, however at the same time it amounts to conceding that trading were in far-off strike prices, which were at large variance from current market prices, and that very few entities were trading in such strike rates. The same would lead to matching the trades with the same counterparty thus leading to the execution of both legs of reversal trades. Therefore, the contention of the Noticee is not acceptable in this regard.

26. Noticee has contended that there was no connection or nexus between her and her counterparties and the SCN proceeds on the assumption that there was meeting of minds on mere surmises and conjectures. In this regard, I note that it is not mere coincidence that Noticee could match her trades with the same counterparty with whom she had undertaken first leg of the trades. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a fashion. Moving forward, I note in matters dealing with violation of PFUTP Regulations, 2003, the reason as regards execution of non-genuine trades might not be 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 - "…*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...*"

27. 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.*

28. I note that direct evidence is not forthcoming in the present matter as regards to meeting of minds or collusion of the Noticee with other entity. However, I note that the trading behaviour of the Noticee makes it clear that aforesaid non-genuine trades could not have been possible without meeting of minds at some level. In this context, I deem it appropriate to refer to the Hon'ble SAT order dated July 14, 2006, in the case of Ketan Parekh vs. SEBI (Appeal no. 2/2004), wherein the Hon'ble SAT has held that - *"The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."*

29. In the matter of **SEBI Vs Rakhi Trading Pvt Ltd** (Civil Appeal no, 1969 of 2011, 3174-3177 of 2011 and 3180 of 2011, decided on February 08, 2018), the Hon'ble Supreme Court of India held that "…*Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade transactions with huge price variations, it will be too naive 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*...."

30. In line with the above judgements of Hon'ble SAT and Hon'ble Supreme Court, I note from the foregoing findings that the trading pattern of the Noticee in terms of reversal of trades, proximity of buy/sell and subsequent reversal evidences the indulgence of the Noticee beyond a reasonable doubt of the manipulative intent in creation of artificial volume through non-genuine trades.

31. In this regard, I would also like to rely on the judgement of Hon'ble Supreme Court in the matter of ***SEBI vs Rakhi Trading Private Ltd.*** (*supra)*, wherein the Apex Court held that:

    "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.

32. The Noticee has contended that no penalty was levied on single reversal trade in the adjudication order dated January 20, 2022 in the case of Neha Sethi. In this regard, it is pertinent to note that the Hon'ble SAT in its judgement dated September 14, 2020 in the matter of Global Earth Properties and Developers Pvt. Ltd relied upon the judgement of Hon'ble Supreme Court, in the matter of SEBI vs. Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018) 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*." The Hon'ble SAT reaffirmed its stand taken in Global Earth Properties and Developers Pvt. Ltd. vs. SEBI (Appeal No. 212 of 2020), in its judgment dated November 24, 2021 in the matter of Radha Malani vs. SEBI (appeal no. 698 of 2021), has held the that "*Having heard the learned counsel for the appellant, in our view the controversy involved in the present appeal is squarely covered by a decision of this Tribunal in Global Earth Properties and Developers Pvt. Ltd. vs. SEBI (Appeal No. 212 of 2020 decided on September*

14, 2020). In view of the aforesaid, the appeal is dismissed with no order as to costs". Therefore, I note that contentions of Noticee in this regard are not tenable.

33. The observations made in the aforesaid judgments apply 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, quantity and price and also the fact that the transactions were reversed within few seconds clearly indicates a prior meeting of mind with a view to execute the reversal trade at a pre-determined price.

34. Noticee has conceded that SEBI has observed that the Noticee transacted in 'illiquid option' on the basis that its trades were in far-off strike prices, which were at large variance from current market prices, and that very few entities were trading in such strike rates. I note from the trade log of the Noticee that the time taken by the Noticee for reversing the non-genuine trades was approximately 4 seconds. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non-genuineness of these trades executed by the Noticee. Since these trades were done in illiquid option contract, there was no trading in the said contract and hence, there was no price discovery in the strictest terms. There was no significant change in the price of the underlying scrip to justify the wide variation in prices of the said stock options contract. The wide variation in prices of the said contract, within such a short span of time, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. 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.

35. 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. It is also a transaction 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 trades, 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. Therefore, it has an adverse impact on the fairness, integrity and transparency of the stock market.

36. Noticee has submitted that the total number of alleged non-genuine trades were 2, in 1 contract, which is a meagre part of overall 62,500 trades (constituting a miniscule 0.21%) and hence, the question of influencing market price or volume does not make depress the price here. There was no major movement in price of underlying scrip which itself proves that Noticee's trades had no impact on market and her trades neither distorted the equilibrium in market nor could have caused any loss or prejudice to investors at large. In this regard, I note that, in totality of the circumstances, as observed above, it is not acceptable that the Noticee has not employed any manipulative and deceptive device in contravention of the SEBI Act or the rules and the regulations made there under. Further, the non-genuine and deceptive trades as found in this case are covered under the definition of 'fraud' and dealing of Noticee were 'fraudulent' as defined under Regulation 2(1)(c) of the PFUTP Regulations. The investigation has shown amount of profit / loss of the counterparties to the trades as a result of such non-genuine trades. The violation by the Noticee is creation of artificial trading volumes by trading between two counterparties and wider market is not involved in the trades, the trades are such that one of the counterparty books a profit while the other counterparty books a loss. Hence, it would be appropriate to consider the impact of these transactions between the counterparties in totality. When the impact of artificial volumes created by the two counterparties is seen as a whole, the making of loss or profit or causing investor grievance etc., is immaterial as the charge in this case is of creating false or misleading appearance of trading in the aforementioned contract. In view of the same, I find no merit in such contentions of the Noticee.

37. Noticee submitted that the buy and sell rates should have been compared on the basis of notional values, instead of the premium. This argument is erroneous because the price of a particular option contract is the premium price, and for a given strike price, the premium cannot vary widely within less than half an hour without significant movement in the underlying price or in other factors which determine option price. There was no such justification given for the price variation in the option price.

38. The Noticee has also submitted that her trades are genuine as the Risk Disclosure Document (RDD) issued by SEBI also envisages the possibility of significant price difference and losses / profits due to lower liquidity and wider spreads. In this context, I note that RDD is a document in the nature of general advisory to investors dealing in derivatives markets considering that derivatives products are

complex, risky and high leverage products. Such a document in any case does not either implicitly or explicitly permit deliberate structuring of manipulative trades which lack economic rationale and run contrary to the dynamics of price discovery in option trading. Therefore, the said contention of the Noticee is devoid of any merit.

39. The trading behavior of the Noticee which confirms that the trades executed by the Noticee were not normal, the wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not genuine trades and being non genuine, created an appearance of artificial trading volumes in respective contracts. In view of the aforesaid, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established.

Issue No. II: If yes, whether the violation, on the part of the Noticee would attract monetary penalty under section 15HA of the SEBI Act?

AND

Issue No. III: If the answer to Issue No. II is in affirmative, what would be the monetary penalty that can be imposed upon the Noticee?

40. I find it appropriate to deal with Issue No. II and III together in the following paragraphs. Since violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2) (a) of the PFUTP Regulations by the Noticee is established, I am of the view that the same warrants imposition of monetary penalty upon the Noticee under Section 15HA of the SEBI Act, text of which is produced 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.*

41. Further, while determining the quantum of penalty under section 15 HA of the SEBI Act, it is pertinent to consider the relevant factors stipulated in section 15J of the SEBI Act, which reads as under :

Factors to be taken into account while adjudging quantum of penalty

15J. *While adjudging quantum of penalty under 15-I, 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.

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E,clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

42. Though the records available before me does mention about amount of gain/loss of the entities involved in the non-genuine trades including the Noticee. However, it is worth considering that entities involved in these non-genuine trades have either booked gains or loss and the gains or loss appears to be of notional in nature. Generally, there is nil or negligible participation of the public in the trading in illiquid stock option contracts. Hence, the impact of these non-genuine trade has been considered. When the impact of artificial volume created by the two counterparties is seen as a whole, it is not possible from the material on record to quantify the amount of disproportionate gain or unfair advantage resulting from the artificial trades between the counter parties or the consequent loss caused to investors as a result of the default. The Noticee has entered into two non-genuine transactions in 1 stock option contracts which demonstrates the nature of the default on its part. In this regard, it is pertinent to refer to the decision of the Apex Court in the matter of ***SEBI vs Shri Ram Mutual Fund (Appeal Civil 9523-9524 of 2003) dated May***

23, 2006, wherein it 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.*

43. In the view of the above, I note that, in the present matter, the facts of the case clearly establish the violation committed by the Noticee and I consider it necessary to impose monetary penalty which would act as deterrent to the Noticee in future.

ORDER

44. After taking into consideration all the facts and circumstances of the case, the material / documents made available on record including the submissions of the Noticee, the factors mentioned in section 15J of the SEBI Act and in exercise of the 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 ₹5,00,000/- (Rupees Five Lakh only) on the Noticee, viz. Ms. Priti Raika, under section 15HA of the SEBI Act for the violation of regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFTUP Regulations, 2003. I am of the view that the said penalty is commensurate with the lapse / omission 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 or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in, i.e.

    ENFORCEMENT → Orders → Orders of AO → PAY NOW.

46. The Noticee shall forward the aforesaid DD / payment confirmation details to the Division Chief, Enforcement Department -I (EFD), Division of Regulatory Action -I [EFD1-DRA-1] 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 detail:

1.	Case Name	
2.	Name of the 'Payer / Noticee' along with PAN of Noticee	

3.	Date of Payment	
4.	Amount Paid	
5.	Transaction No.	
6.	Bank Name and Account No.	
7.	Purpose of payment	

47. In the event of failure to pay the aforesaid amount of penalty within 45 days of receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said penalty amount along with interest thereon, *inter alia,* by attachment and sale of movable and immovable properties.

48. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and also to the Securities and Exchange Board of India, Mumbai.

DATE: APRIL 13, 2022 **SAREENA P U**

PLACE: MUMBAI **ADJUDICATING OFFICER**