BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. ORDER/NH/KL/2023-24/29413]

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

In respect of

ASHOKKUMAR K THAKKAR

[PAN: AIWPT7136N]

In the matter of Trading in Illiquid Stock Options at BSE

FACTS OF THE CASE IN BRIEF

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI'**) observed large scale reversal of trades in stock options segment of Bombay Stock Exchange (hereinafter referred to as '**BSE'**). SEBI observed that such large scale reversal of trades in stock options led to creation of artificial volume at BSE. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in illiquid stock options at BSE for the period April 1, 2014 to September 30, 2015 (hereinafter referred to as '**IP'**).

2. Pursuant to investigation, it was observed that a total of 2,91,744 trades were executed by 14,720 entities in the stock options segment of BSE during the

investigation period. The aforesaid trades comprised 81.40% of all the trades executed in the BSE Stock Options Segment during the said period. These trades resulted in creation of artificial volume in stock options segment of BSE during the IP. It was observed that one Mr. Ashokkumar K Thakkar (PAN – AIWPT7136N) (hereinafter referred to as the '**Noticee'**) was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the IP. Such trades were observed to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore were alleged to be manipulative, deceptive in nature. In view of the same, it is alleged that the Noticee violated the provisions of Regulations 3(a), (b), (c), (d), 4(1) and 4 (2) (a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations'**). Therefore, SEBI initiated adjudication proceedings against the Noticee.

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI appointed the undersigned as Adjudicating Officer in the matter, vide order dated July 27, 2022, under Section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as '**SEBI Act'**) read with Section 19 of the SEBI Act and Rule 3 of the 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 SEBI Act, the aforesaid alleged violations by Noticee.

SHOW CAUSE NOTICE AND REPLY

4. A Show Cause Notice bearing reference no. SEBI/EAD2/NH/KL/2022/35192 dated August 01, 2022 (hereinafter referred to as '**SCN**') was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be initiated against him for the alleged violation of Regulations 3(a),(b),(c),(d) and 4(1), 4(2)(a) of PFUTP Regulations, 2003 and why penalty should not be imposed under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee. In the SCN, the Noticee was informed about the SEBI Settlement Scheme, 2022, commenced in terms of Regulation 26 of the Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 in the matter of Illiquid Stock Options. Further, in case, the Noticee did not wish to avail of the facility under the SEBI Settlement Scheme, 2022, the Noticee was advised to file a reply to the SCN within 30 days of the receipt of the SCN. Thereafter, reminder email dated January 10, 2023 and reminder letter dated January 11, 2023 were also sent to the Noticee, giving an additional opportunity to submit response/reply to the SCN.

5. In response to the said SCN, a letter dated March 11, 2023, was received from one 'Jayshri A Thakkar, widow of Late Mr. Ashokkumar Khengarbhai Thakkar', *inter-alia* informing the undersigned that the Noticee had expired on September 25, 2015 and requested to drop the proceedings qua the Noticee. Further, vide letter dated April 28, 2023, Ms. Jayshri A Thakkar also stated and submitted a notarized copy of the Death Certificate of the Noticee. Thereafter, on further follow up for the necessary documents vide SEBI letters dated May 17, 2023, and June 27, 2023, Ms. Jayshri A

Thakkar vide email dated September 07, 2023, submitted the documents as regards the Noticee. A scanned copy of the death certificate of the Noticee with date of registration i.e. September 28, 2015, Application No. DA 2338542 and stating the issuance by *Department of Health and Family Welfare, Government of Gujarat* was enclosed with the said mail. Further, Ms. Jayshri A Thakkar also stated and submitted that scanned copies of PAN and Election card of the Noticee are also enclosed with the aforesaid email.

6. In this context, based on the material on record, I note that the Noticee expired on September 25, 2015. Before proceeding further in the matter on merit, it would be in the fitness of things to first decide as to whether on the death of the Noticee, the present adjudication proceedings against the Noticee would continue or abate.

7. In this context, I note that in the matter of **Girijanandini Devi v. Bijendra Narain Choudhary** (AIR 1967 SC 1124), the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal in **Chandravadan J. Dalal v. SEBI** (Appeal No. 35/2004 decided on June 15, 2005) wherein it was held that: *"The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004. The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates."*

8. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee, Mr. Ashokkumar K Thakkar are liable to be abated without going into the merits of the case qua him and the SCN dated August 01, 2022 issued against him is disposed of accordingly.

9. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to SEBI, to the last known address of deceased Noticee and also to Ms. Jayshri A Thakkar.

Place: Mumbai **N HARIHARAN**

Date: September 22, 2023 **ADJUDICATING OFFICER**