BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO.: Order/AC/LM/2021-22/13952

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:
Late Ms.Kusum Saraf

(PAN: AKVPS8371H)

In the matter of dealings in Illiquid Stock Options at the Bombay Stock Exchange

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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 2,91,744 trades comprising 81.40% 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. Kusum Saraf (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 said 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 “SEBI Rules”) vide order dated July 02, 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/AO/AC/P/OW/2021/ 21137 /1 dated August 26, 2021 (hereinafter referred to as “SCN”) was served upon the Noticee under Rule 4(1) of the SEBI Rules to show cause as to why an inquiry should not be initiated against the Noticee and why penalty should not be imposed upon the Noticee under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.

5. The undersigned was informed vide letter dated September 14, 2021 that the Noticee had passed away on September 04, 2021 and a copy of death certificate was attached with the said letter. Thereafter, vide email dated October 06, 2021 a notarized copy of death certificate was sought. Accordingly, vide email dated October 08, 2021, a duly notarized copy of death certificate was submitted. Subsequently, the physical copy of duly notarized death certificate was also received on October 20, 2021. The Noticee expired after initiation of the present adjudication proceedings against her and issuance of SCN.

6. Thus, the proceedings are against the acts of omission and commission of person who is no more to face the charges. In this regard, it is relevant to note that the

Hon’ble Supreme Court in the case of *Girijandini vs. Bijendra Narain* (AIR 1967 SC 1124), inter-alia, held that in case of personal action, 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.

7. Relying on the aforementioned Order of the Hon’ble Supreme Court, I am of the view that the adjudication proceedings initiated against the Noticee do not survive and are liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee who is since deceased and the Adjudication Proceedings against the Noticee stand abated.

ORDER

8. In view of the foregoing, the Adjudication Proceedings initiated against the Noticee, viz. Late Ms.Kusum Saraf (PAN: AKVPS8371H) vide SCN bearing reference no. SEBI/AO/AC/P/OW/2021/ 21137 /1 dated August 26, 2021 are disposed of.

9. In terms of Rule 6 of the Adjudication Rules, 1995, a copy of this order is sent to the Noticee’s last known address and also to SEBI.

PLACE: MUMBAI **ANUPMA CHADHA**

DATE: OCTOBER 28, 2021 **ADJUDICATING OFFICER**