

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO: Order/SBM/AK/2022-23/16839)

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:

Anil Kumar Gadodia HUF
PAN: AACHA4599N
Karta: Anil Kumar Gadodia
Room No. 208, 2nd Floor,
Diamond Prestige
41A, A.J.C Bose Road,
Kolkata - 700017

In the matter of

Dealing 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 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 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 persons/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 or 54.68% of the total market volume 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 Anil Kumar Gadodia HUF (hereinafter referred to as '**Noticee**') had indulged in the execution of the 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 its counterparties which involved squaring off transactions with significant difference in sell value and buy value of the transactions. It was therefore 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 15 HA 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 (hereinafter referred to as '**AO**'), vide *communiqué* dated July 27, 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 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/EAD1/SBM/AK/313/2021 dated December 31, 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 it 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/alleged the following-
 - a. *It is noted that said alleged non-genuine trades were not restricted to any specific contract or between any specific set of entities. It is noted that Noticee was one of the various entities which indulged in execution of such alleged non-genuine trades in Stock Options Segment of BSE during the Investigation period. Following points deals with the dealings of Noticee during the Investigation period and allegations against it for execution of non-genuine trades.*
 - b. *For the purpose of illustration of non-genuine trades and creation of artificial volume by the Noticee, details of trading done by the Noticee in the contract viz: "JISL15JUL60.00PEW2" on July 02, 2015 is given below:*

Date	Buyer	Seller	Buy Order Time	Sell Order Time	Trade Time	Trade Rate (Rs.)	Trade Quantity
02/07/2015	J B OVERSEAS	ANIL KUMAR GADODIA HUF	14:49:04	14:47:51	14:49:04	1.6	192000
02/07/2015	ANIL KUMAR GADODIA HUF	J B OVERSEAS	15:11:43	15:11:40	15:11:43	0.05	192000

- c. *It is observed from the table above that the trades entered by the Noticee in the contract of "JISL15JUL60.00PEW2" on July 02, 2015 with its counterparty viz. J B Overseas 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 as 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 3,84,000 shares comprising both volume of initial trade and volume of reversal trade, while not considering the volume which is not reversed. In the process, it is observed that the Noticee had made a loss of Rs. 2,97,600.*
 - d. *It is further observed from the trade data of the Noticee that it has allegedly entered into non-genuine trades in 2 contracts wherein it executed a total of 4 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 6,48,000 units.*
 - e. *In this regard, details of all the alleged non-genuine trades of the Noticee in the Stock Option Segment of BSE during relevant period are attached as Annexure B. 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 2 contracts. The total volume of 6,48,000 units generated by the Noticee in these 2 contracts due to its alleged non-genuine trades artificial volume was generated by the Noticee in the stock option segment of BSE. These alleged non-genuine trades, executed by Noticee in above contracts, had significant differential in buy rates and sell rates considering that the trades were reversed on same day.*
 - f. *In view of the foregoing, it is alleged that the Noticee, by indulging in execution of reversal trades in the Stock Options with same entities on the same day, which were non-genuine in nature, has created a 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 the stock options which was manipulative and deceptive in nature. Therefore, in view of above, it is alleged that the Noticee has violated the provisions of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003.*
6. The Noticee, vide its replies dated February 17, 2022 and March 28, 2022, *inter alia*, submitted the following:

- a. *The Noticee has only traded on the online trading platform of BSE, and only through SEBI registered Brokers. SEBI has not provided any evidence that trades were fraudulent. None of the ingredients of PFUTP regulations were attracted.*
- b. *SEBI itself has not discharged its obligation of quick investigation, seeking explanation at the time and declaring trades as illegal at the relevant time. Adjudication proceedings have been initiated after approx. 7 years. In this regard, reliance was placed inter alia on the following decisions:*
 - i. *Asbok Shirlal Rupani Vs. SEBI Appeal No. 417 of 2018 decided on August 22, 2019 by Hon'ble SAT.*
 - ii. *Shriram insight share brokers Ltd in Misc. Application No. 593 of 2020 and appeal no. 559 of 2020 decided by Hon'ble SAT.*
- c. *The Noticee has sought relevant extracts of the Investigation report, in view of the Judgement in the matter of T. Takano Vs SEBI decided on February 18, 2022 by Hon'ble Supreme court.*
- d. *For the transactions to be termed fraudulent there has to be inducement, SEBI has not alleged any inducement. Mere allegation of fraud without any specific particulars cannot be accepted as fraud. In this regard, reliance was placed inter alia on the following decision:*
 - i. *Electrosteel Castings Limited Vs UV asset Reconstruction Company Ltd. LL 2021 SC 681, CA 6669 of 2021.*
- e. *There is no Nexus, directly or indirectly with the alleged counterparties. We crave for cross examination of alleged counterparty and strict proof as to any exchange of cash for alleged non genuine trades.*
- f. *Our trades in during the Investigation period is miniscule.*
- g. *Execution of one trade held not to be treated as synchronized / circular or reversal. In this regard, reliance was placed inter alia on the following decision:*
 - i. *Almondz Entertainment Pvt Ltd, Hon'ble SAT order dated January 21, 202, Appeal no. 198 and 199 of 2020*
- h. *In a similar matter Adjudicating Officer of SEBI held that, it was not a fit case for imposing penalty. Adjudication order dated January 20, 2022 in the matter of Neha Sethi.*
- i. *The trades executed were on the floor of the exchange. No warning or caution were given by BSE or existing system. The observation that Noticee had dealt in illiquid stocks is absolutely incorrect. Trades were done in normal course of business. None of the trades are deceptive in nature nor do they have any impact on the investors or their investment decisions, which are a 'sine qua non' for a transaction to be rendered as 'fraudulent'. No inducement and No charge of price manipulation and the trades did not cause loss to investors.*
- j. *The scrips traded were highly liquid and are part of BSE 200 and BSE 500 indices. BSE and SEBI have allowed trading in options with a strike price which is at large variance to current market price. The derivative market is a 'zero sum game' hence in each transaction one party will inevitably make profit and counterparty will make loss.*

- k. *Our trades did not influence the price/ volume in the cash segment.*
- l. *No relationship or meeting of minds with the counterparties. Noticee did not act in concert or collusion with anyone. In this regard, reliance was placed inter alia on the following decision:*
- i. *Praveen vs State of Haryana, Criminal appeal No. 1571 of 2020, Decision dated December 07, 2021 of the Hon'ble Supreme Court.*
 - ii. *Jagruti Securities (2008 SCC online SAT 184)*
 - iii. *S.P.J.Stockbroker Pvt Ltd (2013 SCC Online SAT 67)*
 - iv. *Sanjay Agarwal Vs SEBI, decision dated May 18, 2012 of Hon'ble SAT.*
- m. *No specific role attributed to the Noticee in the SCN. In this regard, reliance was placed inter alia on the following decision:*
- i. *Commissioner of Central Excise, Bangalore vs. M/s Brindavan Beverages (P) Ltd [Civil Appeal No. 3417 of 2012] decided on June 15, 2007 by Hon'ble Supreme Court.*
- n. *Consequent to the disruption in economy due to COVID19 our financial position is precarious and any monetary penalty will cause irreparable hardship to us.*
- o. *Since all the allegations are based on conjectures and surmises without any proof of exchange of cash, benefit of doubt as contemplated by principles of natural justice be given to the Noticee. As the burden of proof is on the prosecutor. In this regard, reliance was placed inter alia on the following decisions:*
- i. *Digambar vaishnav Vs State of Chattisgarh [2019 CriLJ1901:2019]*
 - ii. *Babu Vs State of Kerala [2010 SSC189]*
7. In the interest of natural justice and in terms of the Adjudication Rules, Noticee was provided with an opportunity of personal hearing in the matter on March 23, 2022, through the online webex platform. Mr. Vinod Kumar Goyal appeared as the Authorized Representative ('AR') 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 its reply dated February 17, 2022 and requested additional time to make additional submission. Noticee vide email dated March 28, 2022, reiterated the earlier submissions and also made additional submissions in the matter which has been taken on record.

CONSIDERATION OF ISSUES AND FINDINGS

8. I have taken into consideration the facts and circumstances of the case, the material available on record and the replies submitted by the Noticee. 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.

9. The Noticee has contended that it craves opportunity to cross-examine its counterparties. In this context, it is noted that, the SCN dated December 31, 2021 and the allegations levelled in the said SCN were on the basis of the documents /records that were enclosed along with the said SCN, which were duly served upon the Noticee. The present Adjudication proceeding has only relied upon the documents/records, which were enclosed as annexures to the SCN and no statement of third parties/persons have been relied upon in the said proceeding. Thus, the contention of the Noticee seeking cross-examination of the counterparties, is without any merit.
10. The Noticee has contended that it has not been provided with the investigation report etc. In this context, the Noticee was provided with the relevant extracts of the Investigation report vide letter/email dated March 23, 2022, in line with the judgement of Hon'ble Supreme Court in the matter of *T. Takano Vs. SEBI & Anr.* In this regard, I note that all the relied upon records/documents based on which the charges/allegations were levelled against the Noticee in the SCN were already furnished to the Noticee along with the SCN. The same was also conveyed to the Noticee vide letter/email dated March 23, 2022. Therefore, in view of the above, the contention of the Noticee that it was not provided with the relevant records/documents pertaining to the matter is baseless and without any merit.
11. Further, the Noticee also contended that, there was inordinate delay in the issuance of SCN in the current proceedings. With regard to the argument of the Noticee regarding inordinate delay in the issuance of SCN and completion of proceedings, I find that the fact of delay in completion of investigation and / or initiation or completion of enforcement proceedings, in itself, cannot be a ground for dropping the proceedings. Only in cases where a Noticee is adversely affected, can such a submission be considered. In this context, I find it relevant to refer to the order passed by Hon'ble SAT in the case of *Metex Marketing Pvt. Ltd. vs. SEBI* (order dated June 4, 2019) wherein Hon'ble SAT held that: *"This Tribunal has consistently held that in the absence of any specific provision in the SEBI Act or in the Takeover Regulations, the fact that there was a delay on the part of SEBI in initiating proceedings for violation of any provision of the Act cannot be a ground to quash the penalty imposed for such violation"*. In this regard, I find that, PFUTUP Regulations and/or SEBI Act also does not have any specific provisions w.r.t., timeline /limitation etc., and therefore, a parallel can be drawn and the fact of delay in completion of investigation and initiation or completion of enforcement proceedings, in itself, cannot be a ground for dropping the proceedings.

12. In the context of delay in initiating the proceeding, Hon'ble SAT in Mr. Rakesh Kathotia & Ors. vs SEBI vide order dated May 27, 2019 has held the following:
- “23. It is no doubt true that no period of limitation is prescribed in the Act or the Regulations for issuance of a show cause notice or for completion of the adjudication proceedings. The Supreme Court in Government of India vs, Citedal Fine Pharmaceuticals, Madras and Others, [AIR (1989) SC 1771] held that in the absence of any period of limitation, the authority is required to exercise its powers within a reasonable period. What would be the reasonable period would depend on the facts of each case and that no hard and fast rule can be laid down in this regard as the determination of this question would depend on the facts of each case.*
13. Further, in the context of delay in initiating the proceeding, pursuant to a preliminary examination conducted by SEBI 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, and appropriate action was initiated against the said 14, 720 entities in a phased manner. The Noticee was among those entities who were involved in the execution of Non-genuine/reversal trades in the stock options segment of BSE during the Investigation period.
14. 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”.
15. In view of the above, a Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided a one-time opportunity to the entities, for settlement of the 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 the said settlement scheme.
16. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on July 27, 2021 in the instant matter, SCN was issued on December 31, 2021 to the Noticee. In compliance with the principles of natural justice, after receipt of replies, an opportunity of personal hearing was provided on March 23, 2022 and Noticee also made

additional submissions on March 28, 2022. Thus, the contentions raised by the Noticee w.r.t., the delay in initiating the proceeding, is baseless and without any merit.

17. 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;

18. Reversal trades are 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 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 the reversal trades executed by the Noticee, which were observed in the present case, were undertaken by the Noticee with its counterparties 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 its

counterparties 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.

19. In this regard, it is observed from the trade log of the Noticee that it had traded in 2 unique contracts 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 Noticee had executed 4 non-genuine trades in respect of the 2 contracts on 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 6,48,000 units in the given 2 contracts. Further, it is observed that the trades executed by the Noticee were squared up within a short span of time with the same counterparty i.e. trades were reversed within seconds/minutes on the same day. Thus, it is observed that Noticee had indulged in reversal trades with its counterparties in the stock option segment of BSE and these trades were non-genuine trades.
20. Further, it is observed that all of these trades were squared up by the Noticee with its counterparties 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 its counterparties with significant price difference when the value of the underlying had not undergone any significant change. The frequent 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 its counterparties in different trades. The time gap between both the trades ranged within few seconds/minutes, but always 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 its counterparties and in the process also generated artificial volume in the otherwise illiquid stock option contracts at BSE.
21. To illustrate, it is observed that the Noticee had executed a total of 2 trades during the Investigation period in the contract "JISL15JUL60.00PEW2". All the aforesaid trades were done by the Noticee on July 02, 2015 wherein Noticee sold 1,92,000 units to J B Overseas (hereinafter referred to as "JB") at 14:49:04 at the rate of Rs.1.6/- per unit and bought 1,92,000 units from JB at 15:11:43 at the rate of Rs.0.05/- per unit. Thus, in the above manner, the Noticee executed a total of 2 trades in the contract "JISL15JUL60.00PEW2" and generated artificial volume of

3,84,000 units in the above said contract through such non-genuine and reversal trades. It is also observed that out of 2 trades done through 1 contract, the Noticee was instrumental in contributing significantly towards the total volume recorded on BSE in the said 1 contract.

22. The Notice has also contended that, it has traded in the ordinary course in the anonymous screen based system of the exchange and there was no manipulative intent behind the transactions. In this regard, I note that in the screen based trading, 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, parties being persistent in a large number of such trade transactions with huge price variations, I am of the view that it will be too naïve to hold that these 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 w.r.t the transactions entered into by the Noticee with its 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 4 transactions executed by the Noticee in these 2 Stock Option Contracts were synchronized trades, which were reversed within a small time gap and 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 parties to the transactions and in the process, artificial volumes were also generated through such contracts.
23. 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 vs. Rakehi 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, *"...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..."*
24. In the same matter, Hon'ble Supreme Court had further held 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 plat form 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 preplanned manner and rapid trades, it is not genuine...”

25. 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 vs. 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 2ndparty/ 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...”*
26. 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...”*
27. 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 consistently with the same counterparties clearly indicates a prior meeting of mind with a view to execute the reversal trades at a pre-determined price. It is observed that in respect of these trades executed in the illiquid stock options contracts, the strike price was far away from the price of the underlying. The only reason for the wide variation in prices of the same contract, within seconds/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 its counterparties to carry out the trades at pre-determined prices. It is not possible to comprehend the reason for which the Noticee would enter

into an option contract with a strike price very far away from the current market price of the underlying except for the fact that it wanted to execute non-genuine trades.

28. Rather than allowing the market forces to operate in their natural course, the Noticee repeatedly carried out the impugned transactions with its counterparties 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 market forces in the instant case.
29. 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 repeated 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. It also has an adverse impact on the fairness, integrity and transparency of the stock market.
30. Therefore, from the foregoing paragraphs and the observations/findings contained therein, I conclude that the Noticee has violated the provisions of regulations 3(a), 4(1) and 4(2)(a) of the PFUTP Regulations.
31. In view of the above, 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.

32. 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.

33. 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. The Noticee has entered into 4 non-genuine transactions in 2 stock option contracts with its counterparties, which demonstrates the repetitive nature of the default on its part. 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 its counterparties. 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

34. 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. Anil Kumar Gadodia HUF under the provisions of section 15HA of the SEBI Act for the violation of regulation 3(a), 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.
35. 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-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 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)	

36. 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>.
37. 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.
38. In terms of rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee viz. Anil Kumar Gadodia HUF and also to Securities and Exchange Board of India.

Date: May 31, 2022
Place: Mumbai

SURESH B MENON
ADJUDICATING OFFICER