EFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER Ref No.: Order/AP/AS/2019-20/7258]

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:

Amluckie Investment Company Limited
(PAN: AACCA6749H)
10, Princep Street,
Kolkata – 700072

In the matter of dealing in Illiquid Stock Options at BSE

1. Securities and Exchange Board of India ('SEBI') observed large scale reversal of trades in the Stock Options Segment of the BSE Limited (hereinafter be referred to as 'BSE') and, pursuant to this, it conducted investigation into the trading activities of certain entities in illiquid Stock Options at the BSE for the period April 01, 2014 to September 30, 2015 (hereinafter be referred to as 'Investigation Period'). Investigation revealed that during the Investigation Period, a total of 2,91,643 trades (comprising 81.38% of all the trades executed in the Stock Options Segment of BSE) involved reversal of buy and sell positions by the clients and counterparties in a contract.

2. The reversal trades are considered as non-genuine trades if it involves an entity reversing its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. In this regard, artificial volume is considered as the volume (no. of units) reversed in non-genuine trades, comprising both original volume and reversed volume while keeping out the volume which is not reversed. These alleged non genuine trades resulted into creation of artificial volume to the tune of 826.21 crore units or 54.68% of the total market volume in Stock Options segment of BSE during the Investigation Period. It was further noted that said alleged non genuine trades were not restricted to any specific contract or between any specific set of entities. Amluckie Investment Company Limited (hereinafter referred to as 'the Noticee') was one of the several entities which were indulged in execution of such alleged non-genuine trades.

3. It was observed from the trade log of the Noticee that it had executed total 135 trades in 35 unique Stock Option contracts during the Investigation Period, out of which 130 reversal trades in 33 unique contracts had been found to be non-genuine trades which allegedly lead to creation of artificial volume

of total 1,37,98,000 units. It is further observed that the Noticee, by executing non genuine trades during the relevant period, registered a negative close out difference of ₹3,02,70,000/- approx. The trades entered by the Noticee were reversed on the same day within a very short span of time with same counterparty at a substantial price difference without any basis for significant change in the contract price which indicates that these trades are artificial and are non-genuine in nature. The summary of dealings of Noticee in such 33 Stock Options contracts is as follows:

Table 1 – Summary of dealings of the Noticee in contracts wherein he executed non-genuine trades

S. No.	Contract Name	Avg. Buy Rate (₹)	Total Buy Volume (no. of units)	Avg. Sell Rate (₹)	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 Noticee 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	ARVI15MAR300.00PE	16.00	165000	7.00	165000	100%	23%	100%	10%
2	ARVI15MAR310.00PEW1	11.00	280000	0.70	280000	100%	100%	100%	100%
3	BOBL15MAR180.00CE	5.80	170000	0.50	170000	100%	10%	100%	11%
4	BOSH15FEB25600.00CEW3	347.35	2125	5.00	2125	100%	14%	100%	20%
5	BOSH15MAR26200.00CEW3	757.00	2250	135.00	2250	100%	100%	100%	100%
6	BOSH15MAR26200.00PEW1	405.50	4000	5.00	4000	100%	57%	100%	55%
7	BOSH15MAR26400.00CEW1	667.00	3000	100.00	3000	100%	14%	100%	22%
8	BOSH15MAR26400.00CEW2	980.00	1500	140.00	1500	100%	33%	100%	35%
9	BOSH15MAR26400.00CEW3	780.00	1250	60.00	1250	100%	50%	100%	43%
10	BOSH15MAR26400.00PEW1	354.00	3000	20.00	3000	100%	50%	100%	86%
11	BOSH15MAR26600.00CEW1	292.00	375	25.00	375	100%	50%	100%	75%
12	CENT15FEB520.00PE	11.00	127000	1.00	127000	100%	100%	100%	100%
13	DISH15MAR60.00PEW3	2.35	436000	0.05	436000	100%	100%	100%	100%
14	DISH15MAR65.00PEW1	1.85	684000	0.10	684000	100%	75%	100%	83%
15	HAIL15MAR320.00CEW2	4.94	68000	0.05	68000	100%	100%	100%	100%
16	IDBI15MAR75.00CE	2.10	412000	0.11	412000	100%	24%	100%	9%
17	INCM15MAR100.00CE	2.55	298000	0.30	298000	100%	11%	100%	22%
18	JISL15MAR50.00PEW3	1.15	1204000	0.05	1204000	100%	71%	100%	93%
19	JSPL15MAR190.00PEW3	4.50	6000	0.50	6000	100%	13%	100%	1%
20	JSWE15MAR140.00CEW3	1.70	12000	0.05	12000	100%	13%	100%	2%
21	KARB15MAR110.00PEW3	1.80	116000	0.05	116000	100%	22%	100%	26%
22	MFSL15FEB260.00CE	8.58	151000	2.00	151000	100%	100%	100%	100%
23	NMDC15MAR140.00PEW1	2.05	308000	0.10	308000	100%	100%	100%	100%
24	PLNG15MAR205.00CEW3	1.84	446000	0.05	446000	100%	100%	100%	100%
25	RECL15MAR300.00PEW3	3.00	1000	0.15	1000	100%	25%	100%	0%

26	RECL15MAR310.00PEW1	5.20	140000	0.20	140000	100%	100%	100%	100%
27	SAIL15FEB65.00PE	2.05	1004000	0.10	1004000	100%	43%	100%	58%
28	SAIL15MAR85.00CEW3	2.14	468000	0.05	468000	100%	20%	100%	58%
29	SAIL15MAR95.00CEW3	2.25	4000	0.05	4000	100%	13%	100%	0%
30	SUNT15FEB430.00PE	11.00	47000	1.00	47000	67%	5%	98%	12%
31	TATP15MAR70.00PEW1	2.40	180000	0.05	180000	100%	33%	100%	61%
32	TCOM15MAR410.00PEW1	9.49	127000	0.50	127000	100%	100%	100%	100%
33	WOCK15MAR1530.00PEW1	50.40	28500	2.00	28500	100%	100%	100%	100%

4. From the above table it was observed that: -
   a. The alleged non-genuine trades have contributed significantly when compared with the total number of trades from the market in the above contracts. The non-genuine trades of the Noticee ranged: -
      i. from 5% to 100% of the total trades that had happened in the aforementioned contract; and
      ii. from 67% to 100% of the total trades of the Noticee that had happened in the aforementioned contract.
   b. The whole volume of 1,37,98,000 generated by the Noticee in all of the above contracts due to its non-genuine trades were artificial volume, and further this artificial volume, generated by the Noticee, also contributed significantly to the extent of 0.31% to 100% of the total volume in said contracts in the market.
   c. 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.
   d. The Noticee has allegedly engaged in the non-genuine transactions in the option segment of BSE for the purpose creating false appearance of trading.
5. Based on above findings of the investigation, the competent authority in SEBI *prima facie* felt satisfied that there are sufficient grounds to inquire and adjudicate the alleged violations of the provision of Regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter be referred to as, the "PFUTP Regulations") by the Noticee and appointed Shri Suresh B. Menon, Chief General Manager as Adjudicating Officer ('erstwhile AO') vide *communication order* dated May 29, 2018 to inquire and adjudge under Rule 5 of SEBI (Procedure for Holding Inquiry and imposing penalties by Adjudicating Officer) Rules, 1995 (hereinafter be referred to as, the "Adjudication Rules") and under section 15HA of the SEBI Act, the alleged violations by the Noticee. Thereafter, vide *communication order* dated March 25, 2019, Shri Santosh Shukla, Chief General Manager was appointed as Adjudicating Officer pursuant to

transfer of erstwhile AO. Subsequently, vide *communication order* dated January 07, 2020, this case has been transferred to me with advise that except for the change of the Adjudicating Officer the other terms and conditions of the original orders *'shall remain unchanged and shall be in full force and effect'* and that the "*Adjudicating Officer shall proceed in accordance with the terms of reference made in the original orders"*. The text of these provisions of PFUTP Regulations are as under

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.

6. After receipt of records of these proceedings, it was noted that the erstwhile AO had issued the notice to show cause no. SEBI/HO/EAD/25286/2018 dated August 27, 2018 ('the SCN') to the Noticee in terms of Rule 4(1) of the Adjudication Rules read with section 15I of the SEBI Act to the Noticee calling upon it to show cause as to why an inquiry should not be held against it in terms of rule 4 of the Adjudication Rules and penalty be not imposed under Section 15HA of the SEBI Act for the aforesaid alleged violations. Vide letter dated December 03, 2018, the Noticee had made preliminary submissions to the SCN and requested for inspection of the documents in the matter. The Noticee further requested for all the relevant documents in the possession of SEBI such as – *prima facie* opinion / view recorded by Whole Time Member, investigation report along with all annexures, alerts generated, copy of BSE Report,

if any, complete trade and order log for the investigation period, statements recorded by SEBI, copies of all correspondences exchanged by SEBI from third parties with respect to matter and all other documents relied upon while issuing the SCN.

7. Thereafter, matter has been forwarded to Adjudicating Officer Shri Santosh Shukla, wherein, vide letter dated June 12, 2019, it was informed to the Noticee that all relied upon documents were provided to it along with SCN and no additional documents are considered and relied upon in the matter. He further allowed the inspection of documents to the Noticee and forwarded its request for inspection of documents to Enforcement Department. On October 10, 2019, the Enforcement Department informed about completion of inspection of documents by the Noticee's authorized representative Mr. Robin M. Shah, Advocate on June 26, 2019.

8. Subsequently, the matter has been transferred to undersigned as detailed above and it is noted from the record that post inspection of documents also, no reply to the SCN had been filed by the Noticee. Therefore, in the interest of principles of natural justice an opportunity of hearing was granted to the Noticee on January 27, 2020 in terms of Rule 4(3) of the Adjudicating Rules. Meanwhile, vide letter dated January 20, 2020, the Noticee filed its reply to the SCN in the matter. On the scheduled date, Mr. Meit V Shah, Advocate appeared before me and made submissions on the lines of the aforesaid reply of the Noticee in this matter.

9. The replies/submissions of the Noticee *inter alia* are as follows:

   a. The Noticee has not been provided with any evidence or proof to show that its trades were fraudulent. None of the ingredients of the PFUTP Regulations are attracted in the present case essentially because:

      i. The trades were executed on the floor of the exchange with due compliance with all the rules and regulations of the exchanges. At no point of time was there any warning or any observation about the scrips I stocks which were executed by it.

      ii. The observations regarding the stocks being illiquid is incorrect. Even assuming the stocks were illiquid, then any small quantity or volumes would look significant as there are no active traders in the stock.

      iii. For the transaction to be termed fraudulent, as per the definition of "fraud", there has to be an "inducement" and SEBI has not even alleged inducement.

iv. There is no nexus, directly or indirectly with the counter party brokers or the clients in the present matter and SEBI has not even alleged this. None of the trades are deceptive in nature or have any impact on the investors or their investment decision which is a sine qua non of *"fraud"*.

b. The Noticee has not been provided with investigation report along with referred and relied upon documents in the matter. During inspection of documents only the annexures to SCN was provided for inspection.

c. The underlying scrips in which the Noticee traded are highly liquid in nature i.e. frequently traded in market. It traded in contracts of underlying scrips such as Bank of Baroda, Bosh, Century Mills, DISH TV, HAIL, lOBI, NMDC, SAIL, TATA Power, Wockhardt, Sun Tv, etc. In fact, the underlying stock of most of aforesaid contracts consists of companies which make up index of the Bombay Stock Exchange. Thus, to allege that it deliberately traded in only those options which were illiquid in nature is unfair.

d. SEBI has held that the Noticee transacted in *'illiquid options'* on the basis that its trades were in far-off prices and therefore very few entities were trading at 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 reason for volatility and alleged *'reversal'* transactions since variations in option price would be dramatic if the chosen strike price is thinly traded.

e. 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 is 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 us in this regard. It is pertinent to mention that stock exchanges regularly come out with list of illiquid scrips in cash segment. However, no such list is issued by exchanges or regulator for dealing in stock options contracts. Thus, to fasten the responsibility or allege a single entity that it traded in illiquid option is unwarranted and unfair.

f. Derivative market is *'zero sum game'* and thus in each and every case one party will inevitably make profit and counterparty will make loss. In capital market neither BSE nor SEBI can guarantee profit or loss to any individual/entity. In derivative trading, traders often make profit or loss over a period of time since the market does not always behave as per their prediction/expectation. Thus, profit and loss is concomitant to trading in derivative segment. The mere fact that the Noticee traded in the stock options cannot be a ground to rope it into present proceedings.

g. The Noticee traded in the stock market in ordinary course consequent to its *bona fide* trading in option segment. Thus, it erroneous to allege that its trades created artificial volume on BSE. Going by the logic, if these were illiquid stock options, then any trade and transaction would look significant. In fact, the impugned 130 trades constituted around 0.045% of the total alleged artificial trades during investigation period thereby constituting only a miniscule percentage of overall trades.

h. There was no major movement in price of underlying scrip which itself proves that its trades had no impact on market. Thus, its transactions neither distorted the equilibrium in market nor caused any loss or prejudice to investors at large.

i. There is no question of transfer of beneficial ownership in option segment since at end of settlement cycle only net loss/profit is adjusted. Therefore, the allegation of creation of '*artificial*' or '*reversal*' trade is of no consequence in option segment of exchange.

j. The Noticee did not act in concert or in collusion with anyone and nor were it part of any group or connected with anyone for the purpose of influencing price or for any manipulative activity as alleged or otherwise. It is an admitted position that there is no connection whatsoever between the Noticee and counter parties to the impugned trades. Its trading in stock option segment was independent of any other entities dealing in the same and based on its limited understanding of capital market.

k. The Noticee state, declare and assert that it had no prior meeting of minds with broking entities as well as their clients, nor any contemporaneous knowledge about any alleged wrongdoing. It is not guilty of conduct which is contumacious or dishonest or acted in conscious disregard of law.

l. The Noticee's transactions were carried out on the floor of stock exchange. Undisputedly, in case of screen- based trading, the automated system itself matches orders on a price-time priority basis and hence it is not possible for anybody to have access over identity of counter party. Since counter party identity is not displayed; one can never have any choice with whom it wants to deal or not to deal.

m. The Noticee has placed reliance upon the judgement of Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Jagruti Securities (2008 SCC online SAT 184)* and *S.P.J Stockbroker Pvt Ltd (2013 SCC Online SAT 67),* wherein it was held that such alleged trades cannot be treated as illegal *per se* unless there is some cogent connection between the counterparties or there is "*mischievous meeting of minds amongst certain parties*". It submits that such element is completely absent in the present case.

n. The Noticee has also placed reliance upon Hon'ble SAT judgement in the matter of *Sanjay Agrawal vs. SEBI* wherein it was held that in order to establish an allegation of reversal trade between parties a cogent evidence or connection between the parties needs to be established. In the present case, no such connection is established in the SCN.

o. BSE, vide Notice No.20160308-33 dated March 08, 2016, announced that it has introduced measure for prevention of reversal trades in Equity Derivative Segment w.e.f. March 14, 2016. Thus, in case of potential reversal trade, second leg (latest leg) of a reversal trade shall automatically be cancelled by exchange in an on-line real time basis on trading system. The Noticee submit that merely because on-line preventive measure and check & balance did not exist at relevant point of time to avoid inadvertent reversal trades no adverse inference be drawn against it in this regard.

p. There is no reason for any allegation that the Notice have violated the provisions of the PFUTP Regulations or the SEBI Act. It submits that besides recording common generic allegations against it, not a single instance or observation on its specific role in alleged reversal is delineated in the SCN. Such an approach is bad in law and in this regard, its draw attention to case of *Commissioner of Central Excise, Bangalore vs M/s Brindavan Beverages (P) Ltd and Ors* [Civil Appeal 3417 of 2002] decided on June 15, 2007, wherein Hon'ble Supreme Court observed as under:

"...9. We find that in the show cause notice there was nothing specific as to the role of the respondents, if any. The arrangements as alleged have not been shown to be within the knowledge or at the behest or with the connivance of the respondents. Independent arrangements were entered into by the respondents with the franchise holder. On a perusal of the show cause notice the stand of the respondents clearly gets established.

10.There is no allegation of the respondents being parties to any arrangement. In any event, no material in that regard was placed on record. The show cause notice is the foundation on which the department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the notice was not given proper opportunity to meet the allegations indicated in the show cause notice. In the instant case, what the appellant has tried to highlight is the alleged connection between the various concerns. That is not sufficient to proceed against the respondents unless it is shown that they were parties to the arrangements, If any..."

q. There has been no grievance by any investor, broker or stock exchange with respect to the Noticee dealing in the option segment of BSE.

r. Based on its submissions, it is apparent that the Noticee was not involved in any 'modus operandi' or manipulations while dealing in option segment of BSE. There is enough material on record to suggest that no further enquiry is required in the matter. It is therefore, requested that the SCN dated August 27, 2019 be dropped without imposing any monetary penalty on it.

10. I have considered the allegation levelled in the SCN, reply / submission of the Noticee and the relevant material brought on record. The Noticee has contended that SEBI has not provided it with investigation report along with referred and relied upon documents in the matter; and during inspection only annexures to SCN was provided. In this regard, I note that all the relied upon copies of the documents in the matter were provided to the Noticee along with the SCN. Therefore, the contention of the Noticee is not acceptable and hence rejected. Moreover, in this context, it is a settled position of law that only the relied upon documents has to be provided for inspection to the Noticee and the same position has been upheld by the Hon'ble Supreme Court in the matter of *Kanwar Natwar Singh v. Directorate of Enforcement [(2010) 2 SCC 497], Chandrama Tewari Vs. Union of India, Through General Manager, Eastern Railways, (1988) 1 SCR 1102* and *M/s Haryana Financial Corporation vs. Kailashchand Ahuja* [2008(9) SCC31], Hon'ble Delhi High Court Delhi High Court in its order dated 30.08.18 in the matter of *PRAR Holding Private Limited Vs. SEBI* and also by the Hon'ble SAT in number of its rulings. In the recent ruling of Hon'ble SAT in the case of *Shruti Vora Vs. Securities and Exchange Board of India, in* Appeal Number 28 of 2020 decided on February 12, 2020 held that *"…The contention that the appellant is entitled for copies of all the documents in possession of the AO which has not been relied upon at the preliminary stage when the AO has not formed any opinion as to whether any inquiry at all is required to he held cannot be accepted. A bare reading of the provisions of the Act and the Rules as referred to above do not provide supply of documents upon which no reliance has been placed by the AO, nor even the principles of natural justice require supply of such documents which has not been relied upon by the AO. We are of the opinion that we cannot compel the AO to deviate from the prescribed procedure and supply of such documents which is not warranted in law. In our view, on a reading of the Act and the Rules we find that there is no duty cast upon the AO to disclose or provide all the documents in his possession especially when such documents are not being relied upon…"*

11. Further, with regard to the Noticee's contention of not providing Investigation Report and its inspection to the Noticee during the instant proceedings, I note that the basis of the allegations as made in the investigation report has been mentioned in the SCN and it is the findings of the investigation that are basis of charge against the Noticee and are relied upon in these proceedings. Also, Hon'ble SAT in its aforesaid order dated February 12, 2020 held that "….*In the instant case, the show cause notice relies upon certain documents which have been made available. Thus the investigation report is not required to be supplied."* I am, therefore,

of the view that since the copies of the relevant and relied upon material which is the trade log containing the trades of the Noticee were given to the it along with the SCN, no prejudice is caused to the Noticee on this account. I, therefore, do not find any merit in the contentions of the Noticee.

12. From the reply of the Noticee, I note that the Noticee has not disputed the execution and subsequent reversal of trades as alleged in the SCN. According to the Noticee, it had traded in contracts of well-known companies, which make up index of the Bombay Stock Exchange. Thus, to allege that it deliberately traded in only those options which were illiquid in nature is unfair. In this regard, I note that the Noticee's non genuine trades percentage to its own trades in the contracts is 100% for 32 contracts out of the 33 non genuine contracts in which it had traded. Further, it is matter of common knowledge that the fraudulent trading in illiquid Stock Options cannot be justified merely because the impugned trading by the Noticee in illiquid Stock Option was in respect of well-known companies.

13. With regard to the merit of allegation it is worth mentioning that reversal trades are considered non-genuine if they involve an entity reversing its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. In this regard, artificial volume is considered as the volume (no. of units) reversed in non-genuine trades, comprising both original volume and reversed volume while keeping out the volume which is not reversed. Admittedly, the Noticee had indulged in 130 such reversal trades in 33 unique contracts during the Investigation Period involving reversal of trades with same entity with whom it had done buy/ sell transaction, in short span of time, respectively, in a synchronized manner. It is noted from the trade log relied upon in the matter that the Noticee and counterparty (ies) both had placed their respective sell-buy and buy–sell orders in same time i.e. within 0 to 12-minute time gap. Further, each trade involved matching of time, price and quantity of units. For example, in respect of the 2 trades in contract "BOBL15MAR180.00CE" dated March 16, 2015. The trades of the Noticee are detailed in the following table:

Table 2: Trades of the Noticee in the contract of "BOBL15MAR180.00CE"

Sl.	Date	Buyer	Seller	Buy Order Time	Sell Order Time	Trade Time	Trade Rate (₹)	Trade Quantity
1	16/03/2015	Javerben Ratilal Dedhia	Amluckie Investment Company Limited	12:20:51	12:20:51	12:20:51	0.5	170000
2	16/03/2015	Amluckie Investment Company Limited	Javerben Ratilal Dedhia	12:21:03	12:21:03	12:21:03	5.8	170000
Total								**3,40,000**

14. It is observed from the above that –

    a. The Noticee, at 12:20:51 hrs placed a sell order for 1,70,000 units of call option of the said contract at a price of ₹0.50. This sell order of the Noticee got matched with the buy order of another entity named Javerben Ratilal Dedhia, which itself had placed a buy order for 1,70,000 units in the same contract at 12:20:51 hrs. i.e. at the same time when the sell order placed by the Noticee.

    b. Thereafter, the Noticee, at 12:21:03 hrs placed a buy order for 1,70,000 units of call option of the said contract at a price of ₹5.80. This buy order of the Noticee got matched with the sell order of same entity Javerben Ratilal Dedhia, which itself had placed a sell order for 1,70,000 units in the same contract at 12:21:03 hrs i.e. at the same time when the buy order placed by the Noticee.

    Observation: Thus the sell order placed by the Noticee at ₹0.50 was reversed with the same counterparty at ₹5.80, within 15 seconds on same day and artificial volume generated through such 2 non genuine trades was for 3,4,000 units of the said contract.

15. Similar pattern on trading was observed in respect of other 128 trades executed by the Noticee in other 32 illiquid Stock Options contracts, wherein trades were reversed in short span of time and buy-sell or sell-buy orders were placed within a time gap of 0 to 12 minutes. The buy orders placed by the Noticee were matched with sell orders of counterparties and sell orders placed by the Noticee were matched with buy orders of counterparties in terms of number of units and price and time. Thus, the total volume generated through such non genuine trades was 1,37,98,000 units of the 33 Stock Options contracts. Such reversal of trades in quick succession with substantial price difference indicate towards employing of a manipulative device in connection with its dealing in said illiquid Stock Options contracts.

16. The Noticee has contended that it had traded in stock options on anonymous and electronic trading platform of stock exchange, which is provided by stock exchange, and its orders were matched in normal course. It did not act in concert or in collusion with anyone and nor were part of any group or connected with anyone for the purpose of influencing price or for any manipulative activity as alleged or otherwise. It is an admitted position that there is no connection whatsoever between the Noticee and counter parties to the impugned trades. I am of the view that the transactions in a particular contract were reversed with the same counterparties indicates a prior meeting of mind with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contracts, there was no 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. Thus, it is observed that Noticee had indulged in reversal trades with it counter parties in the stock options segment of BSE

and the same were non-genuine trades. Therefore, the Noticee's contentions are not acceptable and hence rejected.

17. The Noticee has contended that the observations regarding the stocks being illiquid is incorrect. Assuming the stocks were illiquid, then any trade and transaction would look significant. Also, the impugned 130 trades constituted around 0.045% of the total alleged artificial trades during investigation period thereby constituting only a miniscule percentage of overall trades and it traded in the stock market in ordinary course consequent to its *bona fide* trading in option segment. In this regard, I note that the impugned reversal trades were carried out by the Noticee in an illiquid Stock Options Contracts where there was no participation of public. Reversal trades were undertaken by the Noticee with its counterparty with a predetermined arrangement to book profit or losses respectively, and, therefore, the parties to the trades were not trading in the normal sense and ordinary course of business. Such transactions in illiquid Stock Options cannot be taken as genuine one. Such trading was apparently without any economic rationale. Thus, the Noticee claim of a *bona fide* or genuine trader without having any specific role in creating artificial volume through alleged trades is not acceptable.

18. Further, with regard to the reversal trades carried out by the Noticee, I note that the Hon'ble Supreme Court in the matter of *SEBI vs. Rakhi Trading Private Ltd.*, in Civil appeals no., 1969 of 2011 with Civil Appeal Nos., 31743177 of 2011 and Civil Appeal No., 3180 of 2011 decided on February 8, 2018 had observed that *"the price discovery system itself was affected by synchronization and rapid reverse trade, which also had the impact of excluding other investors from participating in the market. The Supreme Court, therefore found that the traders having engaged in a fraudulent and unfair trade practice while dealing in securities, are hence liable to be proceeded against for violation of Regulations 3(a), 4(1) and 4(2)(a) of PFUTP Regulations"*.

19. With regard to reversal transactions, Hon'ble Supreme Court in the matter of *SEBI v Rakhi Trading Private Limited (Supra)*, further 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…..*" In the same matter, Hon'ble Supreme Court 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*". In view of said Hon'ble Supreme Court judgment, I see no reason to take a different view in the present case. In view of the foregoing, I hold that the Noticee had indulged in execution of reversal trades in

illiquid Stock Options with same counterparty (ies) on the same day, which are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volumes.

20. The Noticee has contended that there is no nexus, directly or indirectly with the counter party, brokers or the clients in the present matter as it was trading in anonymous platform of BSE at price ranges that were permitted by BSE and SEBI. I note that, it is not mere coincidence that the Noticee could match its trades with the same counterparty with whom it had undertaken first leg of the respective trades. I note that though direct evidence is not available in the present matter as regards to meeting of minds or collusion of the Noticee with other entities. The genuineness of trading has to be determined based upon circumstantial evidence involving multiple factors such as trading pattern, liquidity and volatility in the scrip /contract, etc. In this context, the Hon'ble SAT vide its order dated July 14, 2006, in the case of *Ketan Parekh vs. SEBI* (Appeal no. 2/2004) observed 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."*

21. Further, in *SEBI v Kishore R Ajmera (AIR 2016 SC 1079)*, Hon'ble Supreme Court 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...".* The Hon'ble Supreme Court further observed 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.*"

22. The trading pattern as found in this case in illiquid Stock Options cannot occur just by accident or coincidence. The trading behavior of the Noticee in this case makes it clear that aforesaid trades of the Noticee could not have been possible without prior meeting of minds. The synchronized trading by the

Noticee with same counterparty at same time for same quantity at same price and reversal of transaction with wide variation in price of the reversed trades in the same contract in a short time without any basis, 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 the contracts in question. Considering the aforesaid facts and circumstances, I am of a view that the Noticee's reliance upon judgements of Hon'ble SAT in the matter of *Jagruti Securities (2008 SCC online SAT 184)* and *S.P.J Stockbroker Pvt Ltd (2013 SCC Online SAT 67)* regarding prior meeting of minds and *Sanjay Agrawal vs. SEBI* regarding having a cogent evidence or connection between the parties, is of no help to it. In view of the fact that these options contracts were illiquid in nature, having very small volume in trading, the Noticee created artificial volumes in Stock Options which was manipulative and deceptive in nature. Once the Noticee has been found to have indulged in such reversal transactions in illiquid Stock Options it is liable for its acts and omissions and it is immaterial whether the counterparties to its trades have been charged or not. Thus, I reject such contentions of the Noticee.

23. The Noticee has contended that besides recording common generic allegations against it, not a single instance or observation on its specific role in alleged reversal is delineated in the SCN and placed reliance upon the Hon'ble Supreme Court judgement in the matter of *Commissioner of Central Excise, Bangalore vs M/s Brindavan Beverages (P) Ltd and Ors* [Civil Appeal 3417 of 2002] dated June 15, 2007. In this regard, I note that SCN clearly brought out the charges framed against the Noticee on the basis of reversal non genuine trades executed by the Noticee in 33 contracts in illiquid stock options at BSE, details of which were provided to the Noticee along with the SCN. Further, its 2 trades in contract "BOBL15MAR180.00CE" dated March 16, 2015 has been explained in the SCN to provide an insight on *modus operandi* devised by it to create artificial volume in the market through its non-genuine trades. I am, therefore, of the view that the benefit of aforesaid principles laid down by Hon'ble Supreme Court in above mentioned *M/s Brindavan Beverages (P) Ltd and Ors* case cannot be available to the Noticee in the facts and circumstances of this case.

24. I note that the Hon'ble Supreme Court in *Rakhi Trading (supra)* case held that such undesirable transactions would certainly include unfair practices in trade and thus, orchestrated trades are a misuse of the market mechanism. It is also noted that the trades by the Noticee generated volumes without any change of beneficial ownership. With regard to such reversal transactions, Hon'ble Supreme Court also held in the *Rakhi Trading case* 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*". The Hon'ble Supreme Court further observed that - "*The non-genuineness of these transactions is evident from the fact that there was no commercial basis to*

suddenly, within a matter of minutes, reverse a transaction when the value of the underlying had not undergone any significant change". Thus, the Noticee's contention regarding non-receiving of any warning/ caution from BSE and not considering entire options available for a particular scrip at all strike price, is devoid of any merit and rejected hereby.

25. I note from the foregoing findings that the trading pattern of the Noticee in terms of volume of reversal trades, proximity of buy/sell and subsequent reversal evidences the indulgence, clearly demonstrates the manipulative practice by the Noticee by using the stock exchange platform to carry out non-genuine trades with the aim to execute such trades for various manipulative purposes.

26. I note that the Hon'ble Supreme Court in the matter of *SEBI vs. Rakhi Trading Private Ltd.* (*supra*), also held that - *"The platform of the stock exchange has been used for a non-genuine trade. Trading is always with the aim to make profits. But if one party consistently makes loss and that too in pre-planned and rapid reverse trades, it is not genuine; it is an unfair trade practice". "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."*

27. The Noticee in has contended that as per the definition of "*fraud*", there has to be an "*inducement*" for the transaction to be termed fraudulent. I note that the Hon'ble Supreme Court in the matter of *SEBI vs. Rakhi Trading Private Ltd.* (*supra*), had recognized that, if the factum of manipulation is established, it will necessarily follow that the investors in the market have been induced to buy or sell and that no further proof in this regard is required. Further, the market is so widespread that it may not be humanly possible for the Board to track the persons who were actually induced to buy or sell securities as a result of manipulation and the Board cannot be imposed with a burden which is impossible to be discharged. Considering the same, I reject such contention of the Noticee.

28. 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.

29. In view of the aforesaid facts and circumstances, it cannot be ignored that synchronization of trades in pre-determined manner as found in this case had an adverse impact on the fairness, integrity and transparency in the securities market. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations by the Noticee stands established. Thus, I hold that the Noticee liable for penalty under Section 15HA of the SEBI Act which reads as under: -

"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."

30. While determining the quantum of penalty, it is important to consider the factors stipulated in Section 15J of the SEBI Act which reads as follows: -

While adjudging quantum of penalty under section 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;*

31. Having regard to the factors listed in section 15J, it is noted that it is not possible to determine the consequent loss caused to investors as a result of the default as found in this case. It is worth considering that generally, there is NIL or negligible participation of the public in the trading in such illiquid Stock Option contracts. 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. However, considering the fact that the trades of the Noticee

in 33 Stock Option contracts which resulted into artificial volume in range of 0.31% to 100%, generated out of the 130 non-genuine trades of the Noticee, I am of the view that such trades had created a misleading appearance of trading in the scrip. In these circumstance, I am of the view that for the market abuse and fraudulent practices by the Noticee monetary penalty needs to be imposed under section 15HA of the SEBI Act.

32. Taking into consideration all the facts and circumstances of the case including the aforesaid 15J factors and exercising the powers conferred upon me under section 15I of the SEBI Act read with Rule 5 of the Adjudication Rules, I hereby impose, a monetary penalty of ₹6,60,000/-(Six Lakh Sixty Thousand only) upon Amluckie Investment Company Limited under section 15HA of the SEBI Act. In my view, the said penalty is commensurate with the violation committed by the Noticee in this case.

33. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order in either of the way of demand draft in favour of "*SEBI - Penalties Remittable to Government of India*", payable at Mumbai, or by following the path at SEBI website www.sebi.gov.in, ENFORCEMENT > Orders > Orders of AO > PAY NOW; OR by using the web link https://siportal.sebi.gov.in/intermediary/AOPaymentGateway.html. In case of any difficulties in payment of penalties, the Noticees may contact the support at portalhelp@sebi.gov.in

34. The Demand Draft or details and confirmation of e-payment made in the format as given in table below shall be sent to *"The Division Chief, EFD-DRA-I, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C- 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051."* and also to e-mail id:- tad@sebi.gov.in:

1	Case Name	
2	Name of the 'Payer/Noticee'	
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)	

35. 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.

36. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticee and also to SEBI.

Date: March 17, 2020 **Amit Pradhan**
Place: Mumbai **Adjudicating Officer**