BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/PB/AE/2021-22/14834]

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

Nirmal Kumar Chakraborty

(PAN: ACKPC0081B)

In the matter of Trading in Illiquid Stock Options on BSE

BACKGROUND OF THE CASE

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

2. Pursuant to investigation, it was observed that total 2,91,744 trades comprising substantial 81.40% of all the trades executed in stock options segment of BSE during the IP were non genuine trades. It was observed that Nirmal Kumar Chakraborty (PAN- **ACKPC0081B**) (hereinafter referred to as the "**Noticee**") was one of the various entities who indulged in execution of reversal trades in stock options segment of BSE during the IP. Such trades were observed to be non-genuine in nature and created false or misleading appearance of trading in terms of artificial volumes in stock options and therefore were alleged to be manipulative and deceptive in nature. In view of the same, SEBI initiated adjudication proceedings against the Noticee for violation of the provisions of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

3. The undersigned was appointed as Adjudicating Officer in the matter, conveyed vide communique dated September 30, 2021, under section 19 read with section 15-I(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to conduct adjudication proceedings in the manner specified under rule 4 of Adjudication Rules read with section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that

penalty is liable, impose such penalty deemed fit in terms of rule 5 of Adjudication Rules and section 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice ref no SEBI/HO/A&E/EAD/PB/AE/35679/2021 dated December 03, 2021 (hereinafter referred to as '**SCN**') was issued to the Noticee under rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against him and why penalty should not be imposed under section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by Noticee.

5. It was *inter alia* alleged in the SCN that the Noticee had executed 4 non genuine trades in 2 Stock Options contracts which resulted in artificial volume of total 7,52,000 units. Summary of dealings of the Noticee in 2 Stock Options contracts, in which the Noticee allegedly executed non genuine trades during the I.P, is as follows:

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	JSWE15MAR120.00CEW2	0.25	216000	2.55	216000	100	8.7	100	8.29
2	LNTF15MAR90.00CEW1	0.05	160000	2.7	160000	100	2.7	100	4.95

6. From the above table, following was noted as regard to dealings of the Noticee:

    (a) The Noticee had executed non genuine trades in 2 contracts, wherein all trades of Noticee in the said 2 contracts were non genuine trades.

    (b) No. of non-genuine trades of the Noticee had significantly contributed to total no. of trades from the market in the above contracts, as 2.70% to 8.70% of the trades that happened in the said contracts were due to non-genuine trades executed by the Noticee.

    (c) The entire 100% of volume generated by Noticee in the above contracts was artificial volume, and further, the percentage of artificial volume generated by the Noticee in the above contracts to the total volume from the market in said contracts was in the range of 4.95% to 8.29%. Therefore, substantial volume generated by the Noticee in the above contracts were artificial volume.

    (d) Non genuine trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

7. The SCN was served on the Noticee. Vide letter dated December 20, 2021, (also received through email dated December 20, 2021) reply was received from Choudhury's Law Offices on behalf of the Noticee. The main contentions made therein are reproduced hereunder -

"Our Client has received the Notice bearing No. SEBl/HO/A&E/EAD/AE/35679/2021 dated December 3, 2021 ["Notice"] and has handed over the letter to us with instructions to say as follows:

1. The Notice pertains to trades conducted in the year 2015. As a substantial time has passed since the trade, our Client is unable to locate filed, documents, information and other particulars and this reply is without prejudice to the principal contention of our Client that their Notice has been issued very belatedly and is incapable of judicial notice by reason of passage of time and intervening laws of limitation.

2. Our Client disputes all allegations relating to the non genuineness of the trades.

3. Our Client is also not concerned with or connected or associated with respect to the multifarious alleged trades in the scripts [stated in your Notice].

4. Our Client had engaged a Stock Broker [Kayan Securities] who had conducted a trade [admittedly two in number in your Notice] in the name or on behalf of our Client.

5. Our Client is not connected with the Companies in which trades, in the name and on behalf of our Client, was conducted nor is our Client related to or associated with their Promoters.

6. Our Client is not in the business of buying and selling of shares or in Stock Broking and is a salaried individual. As a salaried individual, our Client has never been accused or convicted with any offense [economic or otherwise] or been involved or accused of any illegality or questioned in relation to any act or activity [violative of the laws of the land] and is a honest and consentious citizen.

7. Our Client does not understand the stock market mechanisms and any accusations relating to any illegality in trades is not accepted by our Client.

8. The Notice does not substantiate evidence or proof any illegality perpetuated by our Client and also does not seek to prove our Client's involvement in the series of trades referred to in the Notice.

9. The papers and documents on the basis of which the Notice has been issued would in itself demonstrate that our Client could not and did not have any involvement in any trades [barring the two mentioned in your Notice] and therefore all accusations contained in the Notice are demonstrably and palpably untenable.

10. Our Client is not involved or has not perpetuated in any manipulative, fraudulent or unfair trade practice and any allegations of any illegality is denied.

11. It is denied that our Client indulged in execution of reversal of trades in stock options. Our Client was connected to only two trades conducted through 'Kayan Securities' and in no other.

12. Even, these two trades were carried due to family exigencies and our Client has never indulged in any trades of the nature reported in the Notice and no evidences can pinpoint or substantiate our Client's involvement in any such dealings.

13. In view of the above explanations, while our Client denies all allegations, our Client feels it not apt to deal with any allegations [not to our Client's knowledge or contemplation]. Even otherwise, these allegations are irrelevant.

Our Client has acted innocently and bonafidely and cannot be and should not be accused of any illegalities relating to any trade reversals or otherwise these trades were carried on by the Stock Broker.

While denying all allegations, our Client requests you to consider the submissions made on behalf of our Client and excuse and exonerate our Client in any event, our Client would also request for a personal hearing if deemed expedient in the manner before any action is proposed to be initiated in the matter."

8. Vide email dated January 06, 2022, Noticee was granted an opportunity of personal hearing before the undersigned on January 12, 2022. The said hearing was conducted through videoconferencing on the webex platform. Mr. Shwetaank Nigam, advocate, Authorized Representative (AR) appeared on behalf of the Noticee and reiterated the submissions made vide letter dated December 20, 2021. Further, the AR was granted time till January 19, 2022 to make additional submissions, if any. Vide email dated January 24, 2022, the AR stated that they are not filing any additional submissions. It was further stated that the submissions made vide reply dated December 20, 2021 be considered.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have carefully perused the charges levelled against the Noticee, his reply and the documents / material available on record. The issues that arise for consideration in the present case are:
   (a) Whether the Noticee has violated provisions of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?
   (b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act, 1992?
   (c) If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

10. Before proceeding further, I would like to refer to the relevant provisions of the PFUTP Regulations, 2003 as below:

PFUTP Regulations, 2003

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

(2) Dealing in securities shall be deemed to be a 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;

11. I note that one of the contentions of the Noticee was that the SCN pertains to trades in the year 2015 and the SCN has been issued very belatedly. In this regard, I note that pursuant to a preliminary examination conducted 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 also considering that appropriate action was initiated against the said 14, 720 entities in a phased manner.

12. Further, I note that 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*". A Settlement Scheme was framed under the SEBI (Settlement Proceedings) Regulations, 2018, which provided one-time opportunity for settlement of 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 settlement.

13. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO vide communique dated September 30, 2021, SCN was issued on December 03, 2021. In compliance with principles of natural justice, after receipt of reply, an opportunity of personal hearing was given and conducted on January 12, 2021 and upon conclusion of hearing, the present matter is being proceeded upon

14. Moving forward, I note that allegation against the Noticee is that, while dealing in the stock options contract at BSE during the IP, he had executed reversal trades which were allegedly non-genuine trades and the same had resulted in generation of artificial volume in stock option contract at BSE. Reversal trades are considered to be those trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversal trades are alleged to be non-genuine trades as they are not executed in the normal course of trading, lack basic trading rationale, lead to false or misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive and manipulative.

15. Noticee has stated that he disputes all allegations relating to the non genuineness of the trades. In this regard, I note from the SCN and trade

log of the Noticee that he had traded in 2 unique contracts in the stock options segment of BSE during the IP. It is observed that the Noticee had allegedly executed 4 non-genuine trades in said contracts. I further note that the above mentioned trades of the Noticee had resulted in the creation of artificial volume of 7,52,000 units in the said contracts. Summary of non-genuine trades of the Noticee is as follows:

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	JSWE15MAR120.00CEW2	0.25	216000	2.55	216000	100	8.7	100	8.29
2	LNTF15MAR90.00CEW1	0.05	160000	2.7	160000	100	2.7	100	4.95

16. It is noted that the Noticee had executed non-genuine trades in the above mentioned 2 contracts, wherein the percentage of non-genuine trades of the Noticee in the stock options contracts to total trades in the contracts was in the range of 2.70% to 8.70% in the aforesaid contracts. Further, artificial volume generated by Noticee in the contracts amounted to the entire 100% of total volume generated by him in the contracts. It is also noted that artificial volume generated by the Noticee contributed in the range of 4.95% to 8.29% of the total volume from the market in the said contracts. Non-genuine trades executed by the Noticee in the above contracts had significant difference in buy rates and sell rates considering that the trades were reversed on the same day.

17. I note from the trade log that the trades executed by the Noticee in the contracts were squared up within a short span of time with his counterparty. To illustrate, the Noticee on March 31, 2015 at 13:43:34.880855 hrs entered into one buy trade with counter party viz, Jap Infracon Private Limited for 216000 units at rate of ₹ 0.25 per unit in the contract JSWE15MAR120.00CEW2 (typographically erroneously mentioned in the SCN as 216000 units at rate of ₹ 1.10 per unit and 36692 units at rate of ₹ 0.25 per unit, respectively). Thereafter, on the same day, Noticee at 13:43:40.896473 hrs entered into one sell trade with same counterparty for total 216000 units at the rate of ₹ 2.55 per unit in the same contract. It is noted that while dealing in the said contract during the I.P., the Noticee executed reversal trades with same counterparty viz. Jap Infracon Private Limited on the same day and with significant price difference in buy and sell rate. Thus, the Noticee, through his dealing in the contract viz. "JSWE15MAR120.00CEW2" during the I.P., executed non genuine trades which was 8.70% of the total trades from the market in the said contract during the I.P., and thereby, Noticee generated artificial volume of 4,32,000 units which was 8.29% of the volume traded in the said contract from the market during the I.P.

18. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no commercial basis as to why, within a short span of time, the Noticee reversed the position with his counterparty with significant price difference. I note from the trade log of the Noticee that

the time taken by the Noticee for reversing the non-genuine trades was in the range of 6 seconds to 12 minutes 45 seconds, on the same day. Such a short span of time taken for reversing the trades in an illiquid stock option contract suggests the non-genuineness of these trades executed by the Noticee. The fact that the transactions in a particular contract were reversed with the same counterparty indicates a prior meeting of minds with a view to execute the reversal trades at a pre-determined price. Since these trades were done in illiquid option contract, there was no significant trading in the said contract and hence, there was no price discovery in the strictest terms. The wide variation in prices of the said contract, within a short span of time, even without any significant variation in the price of the underlying scrip, 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 his counterparty in the stock options segment of BSE and the same were non-genuine trades.

19. Noticee has inter alia contended that he is not involved or has not perpetuated in any manipulative, fraudulent or unfair trade practice and any allegations of any illegality is denied. I note that it is not mere coincidence that Noticee could match his trades with the same counterparty with whom he had undertaken the first leg of the respective trades. This is the outcome of meeting of minds elsewhere and it was a deliberate attempt to deal in such a manner. Moving forward, I note in matters dealing with violation of PFUTP Regulations, 2003, the reason as regards execution of non-genuine

trades might not be forthcoming. However, the correct test instead, is one of preponderance of probabilities. Here I would like to rely on the judgment of Hon'ble Supreme Court in ***SEBI v Kishore R Ajmera*** (AIR 2016 SC 1079) decided on February 23, 2016, wherein it was held that - "…*in the absence of direct proof of meeting of minds elsewhere in synchronized transactions, the test should be one of preponderance of probabilities as far as adjudication of civil liability arising out of the violation of the Act or provision of the Regulations is concerned. The conclusion has to be gathered from various circumstances like that volume of the trade effected; the period of persistence in trading in the particular scrip; the particulars of the buy and sell orders, namely, the volume thereof; the proximity of time between the two and such other relevant factors. The illustrations are not exhaustive..."*

20. The Hon'ble Supreme Court further held in the same matter that – *"It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion."*

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

22. I place my reliance on the judgment of Hon'ble Supreme Court in the matter in respect of ***SEBI v Rakhi Trading Private Limited*** (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble Supreme Court 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…..”

23. Further, the Hon’ble SAT in its judgement dated September 14, 2020 in the matter of ***Global Earth Properties and Developers Pvt Ltd*** relied upon the aforesaid judgement of Hon’ble Supreme Court and held that,

“*It is not a mere coincidence that the Appellants could match the trades with the counter party with whom he had undertaken the first leg of respective trade. In our opinion, the trades were non-genuine trades and even though direct evidence is not available in the instant case but in the peculiar facts and circumstances of the present case there is an irresistible inference that can be drawn that there was meeting of minds between the Appellants and the counter parties, and collusion with a view to trade at a predetermined price.*”

24. The Noticee has contended that he is not connected with the Companies in which trades were conducted nor is he related to or associated with their Promoters. In this regard, I find that no connection with the companies / their promoters is alleged in the SCN. Thus, the contentions of the Noticee in this regard are liable to be rejected.

25. The Noticee has contended that he does not understand the stock market mechanisms and any accusations relating to any illegality in trades is not accepted by him. In this regard, I note that the same is an attempt to shirk

responsibility of executing non genuine trades as observed from the facts of the case and are hence not tenable.

26. The Noticee has contended that the SCN does not substantiate evidence or prove any illegality perpetuated by him and also does not seek to prove his involvement in the series of trades referred to in the SCN. In this regard, I note that the trade log containing the details of the non-genuine trades executed by him has been duly supplied with the SCN. Further, in the instant matter, it has been alleged in the SCN that the Noticee indulged in execution of reversal of trades in Stock Options with same entities on the same day. Such trades are non-genuine in nature and have created artificial volumes in stock options and therefore are alleged to be manipulative and deceptive in nature. I find that the charge against the Noticee has been clearly delineated in the SCN. Thus, I find the above contentions of the Noticee to be devoid of merits.

27. The Noticee has stated that he had engaged a stock broker, Kayan Securities, who had conducted the trades on his behalf. Further, the Noticee denied that he indulged in execution of reversal of trades in stock options. Further, the Noticee contended that he was connected to only two trades conducted through 'Kayan Securities' and in no other. In this regard, I note on perusal of the trade log that the Noticee has executed 4 non genuine trades in 2 unique stock option contracts viz. JSWE15MAR120.00CEW2 and LNTF15MAR90.00CEW1, wherein he

executed 1 buy + 1 sell trade in each of the contract. All the 4 trades were executed through the stock broker – Kayan Securities Pvt Ltd. Thus, I find no merits in the above contentions of the Noticee.

28. The Noticee has submitted that he has acted innocently and bonafidely and cannot be and should not be accused of any illegalities relating to any trade reversals or otherwise as these trades were carried on by the Stock Broker. In this regard, I note that while all the trades on a stock exchange have to be executed through a stock broker, the obligation to ensure genuineness of trades as regards instant considerations lies on the Noticee. Thus, I find the contentions of the Noticee to be untenable.

29. Therefore, the trading behaviour of the Noticee confirms that such trades were not normal and wide variation in prices of the trades in the same contract in a short time without any basis for such wide variation, all indicate that the trades executed by the Noticee were not genuine trades and being non-genuine, created an appearance of artificial trading volumes in respective contracts. In view of the above, I find that the allegation of violation of regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003 by the Noticee stands established. The Hon'ble Supreme Court of India in the matter of SEBI Vs. Shri Ram Mutual Fund [2006] 68 SCL 216(SC) decided on May 23, 2006 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…".

30. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15HA of the SEBI Act, 1992 which read as under:

[1][***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 [2][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].

31. While determining the quantum of penalty under section 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act which reads as under:-

Factors to be taken into account by the adjudicating officer.

15J. 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.

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[1] Inserted by the SEBI (Amendment) Act, 2002, w.e.f.29-10-2002.

[2] Substituted for the words —twenty-five crore rupees or three times the amount of profits made out of such failure, whichever is higher ‖ by the Securities Laws (Amendment) Act, 2014, w.e.f. 08-09-2014

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.

32. I observe, that the material available on record does not quantify any disproportionate gains or unfair advantage, if any, made by the Noticee and the losses, if any, suffered by the investors due to such violations on part of the said Noticee. However, Noticee has entered into 4 non-genuine trades in 2 stock options contracts which demonstrates the repetitive nature of default on his part.

33. Therefore, I note that Noticee indulged in execution of reversal trades in stock options contract in the IP which were non-genuine and created false and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of regulations 3(a),(b),(c),(d) and 4(1),(2)(a) of the PFUTP Regulations, 2003.

ORDER

34. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in section 15J of the SEBI Act, 1992 and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with rule 5 of the Adjudication Rules, 1995, I hereby impose following penalty under section 15HA of the SEBI Act, 1992 on the Noticee:

Name of the Noticee	Violation provisions	Penalty
Nirmal Kumar Chakraborty PAN: ACKPC0081B	regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	₹ 5,00,000/- (Rupees Five Lakh only)

I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

35. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

36. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to "The Division Chief (Enforcement Department 1 DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.". The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Noticee
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

37. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings 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 the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Nirmal Kumar Chakraborty and also to the Securities and Exchange Board of India.

Date: January 28, 2022 **PARAG BASU**

Place: Mumbai **ADJUDICATING OFFICER**