BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. : Order/VS/AJ/2021-22/14890

UNDER SECTION 15- I (2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of –

Late Dharambir Mahawar (PAN: AFBPM0142H) having address at 82, Burtolla Street, Kolkata, West Bengal – 700007

In the matter of trading in Illiquid Stock Options on BSE Limited

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BACKGROUND

1. The Securities and Exchange Board of India (hereinafter, referred to as "**SEBI**") observed large scale reversal of trades in stock options segment of BSE Limited (hereinafter, referred to as **"BSE"**). SEBI observed that such large scale reversal of trades in stock options lead 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 "**Investigation Period**")

2. Pursuant to investigations, it was observed that a total of 2,91,744 trades comprising substantial 81.38% of all the trades executed in Stock Options Segment by various clients/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. The reversal trades involved squaring off transactions, but with significant difference in the sell value and buy value of the transactions. The aforesaid reversal trades allegedly resulted into generation of artificial volumes in the Stock Options Segment at BSE. 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 and have resulted in the creation of artificial volumes in the stock options segment at BSE

3. It was observed that **Dharambir Mahawar** [PAN: AFBPM0142H] (hereinafter, referred to as "**Noticee**") was one of the various entities who had indulged in execution of reversal trade in stock options segment of BSE during the investigation period. It was observed that the Noticee had entered into reversal trades with his counterparty which involved squaring off transaction with significant difference in sell value and buy value of the transaction. Therefore, it is alleged that the Noticee had executed the reversal trades which were non-genuine in nature and has created false or misleading appearance of trading in terms of creation of artificial volume in the Stock Options segment at BSE. In view of same, it is alleged that the Noticee has violated the provisions of Regulations 3(a),(b),(c),(d),4(1) and 4(2)(a) SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter, referred to as "**PFUTP Regulations, 2003**").

APPOINTMENT OF ADJUDICATING OFFICER

4. SEBI, after being satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations as mentioned above, inter-alia, in respect of the Noticee, initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer (hereinafter, referred to as, "**AO**") under Section 19 read with Section 15-I of the SEBI Act, 1992

(hereinafter, referred to as **"SEBI Act"**) read with Rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter, referred to as the **"Adjudication Rules"**) vide order dated April 30, 2021, to inquire into, and adjudge under section 15 HA of the SEBI Act, the alleged violations of the aforesaid provisions of the PFUTP Regulations, 2003, by the Noticee. The appointment of the AO in the instant matter was communicated vide order dated June 28, 2021.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice (hereinafter referred to as **"SCN"**) bearing reference number IVD/ID16/17817/1/2021 dated August 04, 2021 was issued to the Noticee in terms of Rule 4 (1) of the Adjudication Rules, to show cause as to why an inquiry should not be held and penalty not be imposed against the Noticee under section 15 HA of the SEBI Act, for the alleged violation of PFUTP Regulations, 2003.

6. The SCN issued to the Noticee, *inter-alia*, mentioned / alleged the following:

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   5. The Noticee was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in the Stock Options Segment of BSE during the Investigation Period. The Noticee is alleged to have engaged in 1 such reversal trade in 1 unique contract, which led to generation of alleged artificial volume of 608000 units. These trades of Noticee involved reversal with the same counterparty on the same day, but at different prices.

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   6. The trade entered by the Noticee were reversed on the same day with same counterparties 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.

7. A summary of dealings of Noticee in 1 Stock Option contract in which the said Noticee allegedly executed non genuine reversal trades during the Investigation Period, is as follow:-

S. No.	***Contract Name***	***Avg. Buy Rate (Rs.)***	***Total Buy Volume (no. of units)***	***Avg. Sell Rate (Rs.)***	***Total Sell Volume (no. of units)***	***% 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	*JPPW15AUG8.00CEW1*	*0.15*	*304000*	*0.35*	*304000*	*100%*	*4.11%*

8. The abovementioned reversal trades and volumes are illustrated through the dealings of Noticee in one contract viz, "JPPW15AUG8.00CEW1" during the investigation period and is as follows:-

(a) During the investigation period, 2 trades for 608000 units were executed by the Noticee in the said contract on 06/08/2015.

(b) While dealing in the said contract on 06/08/2015, at 12:48:15.59 hrs the Noticee entered into a sell trade with counterparty Kishaloy Agencies Private Limited for 304000 units at Rs. 0.35 per unit. At 15:26:31.38 hrs the Noticee entered into a buy trade with the same counterparty, for 304000 units at Rs. 0.15 per unit.

(c) The Noticee's two trades while dealing in the abovesaid contract during the investigation period allegedly generated artificial

volume of 608000 units, which made up 4.11 % of total market volume in the said contract during this period.

9. In view of the foregoing, it is alleged that Noticee, by indulging in execution of non-genuine reversal of trades in Stock Options with same entities on the same day, created false and misleading appearance of trading in stock options and therefore allegedly violated Regulation 3(a),(b),(c),(d), 4(1), 4(2)(a) of PFUTP Regulations, 2003.

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7. The aforesaid SCN was issued through Speed Post Acknowledgement Due (hereinafter referred to as **"SPAD"**) to the Noticee and the same was served on August 11, 2021.

CONSIDERATION OF ISSUES AND FINDINGS

8. Mrs. Asha Rani Mahawar, wife of the Noticee, vide letter dated January 19, 2022, intimated that her husband, the Noticee, Mr. Dharambir Mahawar had expired on May 27, 2021. Copy of the Death certificate issued by the Kolkata Municipal Coporation of North Port, P.S. Kolkata, West Bengal having registration no. HG013/2021/003166 dated May 27, 2021 was also annexed along with the reply dated January 19, 2022. It was observed that the address given in the SCN corresponds to the address of the deceased at the time of death as recorded in the death certificate.

9. In view of the above, the proceedings are against the acts of omission and commission of a person who is no more to face the charges. In this regard, it is worth mentioning that in Girijanandini vs Bijendra Narain (AIR 1967 SC 2110), the Hon'ble Supreme Court held that in case of personal actions, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives and in such cases the

maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply. It is also relevant to refer to the decision of Hon'ble Securities Appellate Tribunal, in Chandravadan J.Dalal vs. SEBI (Appeal No.35/2004 decided on June 15, 2005) wherein it was held that: *"The appeal abates since the appellant during the pendency of the appeal died on 29th November 2004.The appeal accordingly abates. The penalty imposed on the original appellant being personal in nature also abates."*

10. In view of the foregoing, I am of the view that the instant adjudication proceedings against the Noticee are liable to be abated without going into the merits of the case qua him and the SCN bearing reference number IVD/ID16//17817/1/2021 dated August 04, 2021 issued against him is disposed of accordingly.

11. In terms of rule 6 of the Adjudication Rules, 1995, copy of this order is sent to the Noticee's last known address and also to SEBI.

DATE: February 01, 2022 — **VIKAS SUKHWAL**

PLACE: MUMBAI — **ADJUDICATING OFFICER**