BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO.: Order/DS/MA/2022-23/15939]

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

In respect of:

LILADHAR PREMNARAYAN NAVALKISHORE RATHI,

[PAN: AAAHL1410R]

72 GODOWN STREET

CHENNAI, TAMIL NADU 600001

In the matter of dealings in Illiquid Stock Options at 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**") leading to the alleged creation of artificial volume in the stocks options segment. In view of the same, SEBI conducted an investigation into the trading activities of certain entities in the illiquid stock options segment at BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period**").

2. Pursuant to investigation, it was observed that total of 2,91,744 trades comprising substantial 81.40% of all the trades executed in stock options segment of BSE, during the Investigation Period were non-genuine trades. The aforesaid 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.

3. It was observed that **LILADHAR PREMNARAYAN NAVALKISHORE RATHI [PAN – AAAHL1410R]** (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 Investigation Period. 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, 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) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

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, had appointed the undersigned as Adjudicating Officer vide order dated July 02, 2021 [communiqué dated July 06, 2021], under Section 19 read with Section 15-I(1) of the SEBI 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

5. A Show Cause Notice bearing reference no. SEBI/HO/16871/1 dated August 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 the Noticee and why penalty should not be imposed upon the Noticee under Section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by the Noticee. The SCN issued to the Noticee, *inter alia*, mentioned the following-:
   5.1. It was alleged in the SCN that 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 reversal trades (one on the buy side and one on the sell side) in the contract 'VOLT15APR260.00CEW3' which led to creation of artificial volume 48,000 units (buy side and sell side). These trades of the Noticee involved reversal with the same counterparty on the same day with significant difference in the buy and sell price.
   5.2. Summary of the reversal trades of the Noticee in Stock Options segment of BSE during the Investigation Period are as follows:

Trade Date	Contract Name	Trade type	Order Time	CP Order Time	Trade Time	Trade Rate (INR)	Traded Qty	% 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
13/04/2015	VOLT15APR260.00CEW3	Buy	13:21:44.115691	13:21:44.708522	13:21:44.708522	30.5	24000	100	3.36
		Sell	14:14:39.719898	14:14:39.416918	14:14:39.719898	45.35	24000		

5.3. While dealing in the said contract on April 13, 2015, at 13:21:44 hrs. the Noticee placed a buy order for 24,000 units @ INR 30.5 per unit. The buy order of the Noticee got executed at 13:21:44 hrs. against the sell order placed by N M IMPEX PRIVATE LIMITED for 4,34,000 units at 13:21:44 hrs. @ INR 30.5 per unit i.e. at the same rate. At 14:14:39 on the same day, the Noticee placed a sell order for 24,000 units @ INR 45.35 per unit, which got executed against the buy order placed by the same counterparty, N M IMPEX PRIVATE LIMITED at 14:14:39 hrs. at the same rate for the same quantity. This indicates that these trades are artificial and non-genuine in nature.

5.4. These alleged non-genuine trades, executed by the Noticee in above contract, had significant difference in buy rates and sell rates considering that the trades were reversed on same day.

5.5. The Noticee's trades generated artificial volume of 48,000 units (buy side and sell side) which contributes to 100.00% of the Noticee's total market volume in the said contract.

5.6. The Noticee's trades contributed to 3.36% of total volume in the said contract.

6. The SCN vide reference no SEBI/HO/16871/1 dated August 03, 2021 was served on the Noticee via Speed Post Acknowledgement Due and via email. Thereafter, the Noticee, vide letter dated August 26, 2021, requested for copy of Investigation Report, Original Order and Trade Log and Price Volume Data. SEBI vide letter No. SEBI/DDHS_Div3/AO/DS/2021/23315/1 dated September 09, 2021 informed the Noticee that the Integrated Trade log of BSE was the relied document for framing the charges in the said matter and the same has been provided as a part of SCN. The Noticee vide letter dated September 20, 2021 *inter alia* submitted the following reply:

   a) It denies and refutes any allegation contained in SCN and nothing should be deemed as admitted by the Noticee unless it is specifically admitted by the Noticee.

   b) The trades in the option segment of BSE during the Investigation Period comprising of 18 months was restricted to 1 day only.

   c) Material/data of total market volume in the option segment of BSE during the Investigation Period has not been provided to him. He has not been provided with Trade and Order log for total 2,91,744 trades compromising 81.40% of all trades executed in the Stock Market Segment of BSE during the Investigation Period, wherein the 2 trades have been found to be non-genuine trades. It refutes that he has executed any non-genuine trades.

   d) The trades in the option segment of BSE was executed in well-known company. The trades were executed on the anonymous screen based trading platform provided by BSE, wherein the identity of counterparties remains undisclosed. The trades cannot be called non-genuine unless it is proved that such trades were executed in connivance with any counter party. The counter party, whose name is disclosed in SCN is unknown to him.

   e) BSE has a sophisticated surveillance system and if there has been any reversal of trade, the system could have alarmed BSE to take corrective measures to restrain any non-genuine trades happening in its platform. He has not received any warning or caution letter from BSE for any trades executed by him in its option segment during the investigation period. Thus, the allegation of execution of non-genuine trades in the option segment of BSE which purportedly resulted in creation of artificial volume is farfetched and is based on presumptions, assumptions and conjectures.

f) He had a meticulous track record of trading in the securities market and prior to this, he has never received any warning letter.

g) It is a matter of common knowledge that the option trading segment of BSE is not vibrant as NSE. In such a situation it is just coincidence that the orders placed by the Noticee might have been matched. There is no allegation in the SCN regarding the connection/association/relationship with the counterparty. In the absence of such connection/association/relationship with the counterparty, it is illogical and irrational to allege that the trades of the Noticee with the said counterparty are non-genuine trades which resulted in the creation of any artificial volume.

h) The complete material documents in support of the allegation contained in the SCN have not been made available to Noticee. Hence, he is not in a position to file a proper reply answering the charges levied against him in the SCN. It is also violation of Principles of Natural Justice.

i) Para 3 of the SCN alleges that SEBI has observed large scale reversal of trades in the Stock option segment of BSE leading to creation of artificial volume. However, it is not clear as to what constitutes a reversal trade or what the definition of reversal trade is.

j) No material has been provided to show the creation of artificial volume of 81.40% of the total trades executed in the BSE Stock Option Trading Segment during the Investigation Period.

k) The trades were executed in the normal course of business devoid of any fraudulent intentions. In the derivative segment only those stock are permitted which are liquid in nature and there is a robust risk mitigation mechanism in place. Since the trades are being carried in the options of a well-known company which has tradeable position in the market, there was no reason to doubt credibility of the platform provided by the Exchange as approved by the SEBI. So, the allegation of trades being non-genuine has no basis as no evidence was provided to prove that there has been a misleading appearance by the trades of executed by the Noticee.

l) It is beyond comprehension that how an allegation of fraud can be alleged against the Noticee for execution of 1 buy and 1 sell trades only. The said trades were matched with one entity only. In this regard, the Order in case of Richa Industries Limited was cited. Also, there is no allegation of price manipulation, synchronized trade or self-trade. There was no connection with the counterparty to the alleged trades. The total artificial volume generated was 48,000 units only.

m) The SCN alleges 3.36% of the volume in 1 unique contract. These allegations are an eyewash as it doesn't take into consideration the number of trades and volumes generated in the Option segment of BSE in a particular scrip on a particular day. What has been considered in SCN is only an option with a particular strike price and not the total trading in option segment for that particular scrip. The stock exchange platform gave a choice to write options at various strike price and not on the total trading on the option segment in a particular scrip at the relevant point in time. The percentages shown in the SCN are misleading and cannot be relied upon.

n) The alleged trades have all traits of being genuine and therefore cannot be categorized as non-genuine. The trades executed were on anonymous platform of the Exchange, without any knowledge of counterparty, at price ranges permitted by Exchange/SEBI and the obligations arising out of it have been settled through clearing mechanism of the Exchange.

o) The act or the alleged trades do not fall under the definition of fraud as under Regulation 2(1)(c) of PFUTP Regulations. So the genuineness cannot be questioned and therefore it cannot be alleged that the Noticee has violated the PFUTP Regulations.

p) The Noticee has cited reference to KSL & Industries vs. SEBI, Vintel Securities Pvt. Ltd. vs. SEBI and Dhvani Darshan Kothari & Anr. On the basis of these Noticee requests to drop the proceedings without passing any adverse order.

q) Reversal trades like synchronized trades or self-trades are not per se illegal. In this regard, Noticee has cited reference to Mr. Narendra Vallabhji Bahuva vs. SEBI. The trades of Noticee compromised on only 1 buy and 1 sell trade. Therefore the proceedings are liable to be dropped.

r) The SCN has been issued 7 years later from the date of execution of trades. BSE and SEBI both have surveillance system in place, still the Noticee has not received a single caution letter either from BSE or SEBI. Delayed issue of SCN has caused extreme mental agony and highly prejudices the case of Noticee as justice delayed is justice denied.

s) No violation of the Regulation 3(a), (b), (c), (d) and 4(1), 4(2) of PFUTP Regulations has been done by Noticee. It was further submitted that:

- He has neither directly nor indirectly bought or sold or otherwise dealt in securities in any fraudulent manner. The trades were completely genuine and without any malafide intention of creating any false or misleading appearance of trading in the market.
- He has not used or employed any manipulative or deceptive devise or contrivance in contravention of the provisions of the SEBI Act, Rules or

Regulations made there under. The same has also not been brought out in the captioned SCN.

- He has not employed any device or artifice to defraud anyone in the market and the same is not alleged in the SCN.
- He has not engaged in any act, practice, course of business which operated or would have operated as a fraud upon any person with any dealing in the market in contravention of the provisions of the SEBI Act, Rules or Regulations made thereunder. The same has not been alleged in SCN that the Noticee has operated or would have operated as a fraud or deceit upon any person.
- He has not dealt in a fraudulent manner or indulged in unfair trade practices in the securities market. The said trades were in normal course of business and were completely genuine.
- The said trades were completely genuine and has not created any false or misleading appearance of trading in the securities market.

t) It is humbly prayed that the present proceedings be quashed since no primary violation of any PFUTP Regulations is made against the HUF and the genuineness of trades has been explained. The question of holding an inquiry against the Noticee in terms of Rule 4 of the SEBI (Procedure for holding Inquiry and Imposing Penalties) Rules, 1995 and imposing penalty for the alleged violation does not arise.

u) There is no restriction or bar in the SEBI Act which prohibits an Adjudicating Officer to impose lesser penalty than INR 5,00,000 under section 15HA of the SEBI Act. In this regard Noticee has cited reference to Judgment in case of SEBI vs. Bhavesh Pabari. Therefore Noticee requests to either drop the proceedings or impose much lesser penalty than INR 5,00,000.

v) It has been requested that necessary discretion shall be exercised to consider the factors enumerated in Section 15J of the SEBI Act 1992. In this regard, it has cited reference to Adjudication Order against Mr. Jai Prakash Agarwal (Para 5(b) of the said order), wherein the artificial volume generated was 3,94,91,500 units/shares involving 56 reversal trades in 25 Unique contracts. The penalty imposed was INR 5,00,000 in case of Mr. Jai Prakash Agarwal. In contrast to this Noticee is facing allegation of 2 non-genuine trades in 1 unique contract. Also, reference has been made to order in Appeal No. 390 of 2015 (Dhvani Darshan Kothari vs. SEBI) in regard to imposing uniform penalty.

7. Thereafter, vide hearing notice bearing ref. no. SEBI/DDHS-3/AO/DVS/2021/28695/1 dated October 14, 2021, an opportunity of hearing was granted to the Noticee on November 12, 2021. The hearing notice was sent to the Noticee through Speed Post with Acknowledgement Due as well as via e-mail. The hearing in the matter was adjourned and conducted on November 15, 2021. The hearing was attended by Shri Vikas Bengani, Advocate (Authorized Representative ('AR') of the Noticee). During the course of hearing, the AR reiterated the written submissions dated September 20, 2021 and the AR undertook to make post hearing submissions in the matter within 2 weeks. The AR of the Noticee, vide email dated November 15, 2021, reiterated the submissions mentioned in the letter dated September 20, 2021:

CONSIDERATION OF ISSUES AND FINDINGS

8. I have carefully perused the charges levelled against the Noticee, his replies and the documents / material available on record. The issues that arise for consideration in the present case are :

(a) Whether the Noticee has violated Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations?

(b) Does the violation, if any, attract monetary penalty under Section 15HA of the SEBI Act?

(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?

9. Before advancing into the merits of the case, I would like to deal with the issue pertaining to the delay and violation of principles of natural justice, as contended by the Noticee.

9.1. Pursuant to a preliminary examination conducted in the Illiquid Stock Options matter, Interim order was passed by SEBI on August 20, 2015 against 59 entities 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.

9.2. Vide final order dated April 05, 2018, the proceedings initiated against 59 entities vide the aforementioned Interim Order were disposed of without any further directions, noting that the Adjudication Proceedings initiated by SEBI would adequately meet the ends of justice and regulatory objectives and that SEBI had decided to take appropriate action against all 14,720 entities in phases.

9.3. 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"*.

9.4. Accordingly, 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.

9.5. As can be seen from the narration of facts in the foregoing paragraphs, pursuant to appointment of AO on July 02, 2021, SCN was issued on August 03, 2021. In compliance with principles of natural justice, after receipt of reply vide letter dated September 20, 2021, an opportunity of personal hearing was granted on November 15, 2021 and upon conclusion of hearing, additional written submissions were received from the Noticee on November 15, 2021.

9.6. In view of the aforesaid and considering the facts of the present matter, I do not find any merit in the contentions of the Notice that there has been unreasonable delay and that the proceedings deserves to be dropped.

10. Further, the Noticee argued that SEBI has not provided copy of the Investigation report, Original Trade and Order Log and price volume data. I note that all the documents relied upon to draw the allegations of reversal trades/non-genuine trades by the Noticee in stock options segment of BSE had been provided to Noticee as Annexures to the SCN, viz., i) Details of the trades of the Noticee in stock options segment of the BSE during the investigation period, ii) Details of reversal trades of the Noticee in stock options segment of the BSE during the investigation period and iii) Analysis of the non-genuine dealings of Noticee in the stock options contract during the investigation period. Thus, the Noticee was provided with all data and documents, including the details of his trades, which were relied upon while issuing the SCN.

11. 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;"

12. On perusal of the material available on record and giving regard to the facts and circumstances of the case and submissions of the Noticee, I record my findings hereunder:

    ISSUE I: Whether the Noticee has violated the provisions of Regulations 3 (a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of PFUTP Regulations?

    12.1. I note that the allegation against the Noticee is that, while dealing in the stock option contracts at BSE during the Investigation Period, the Noticee had executed reversal trades which were allegedly non-genuine trades and the same have resulted in the generation of artificial volume in stock option contracts at BSE.

12.2. I note that reversal trades have been considered as those trades in which an entity reverses it's 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 non-genuine trades as they are not executed in normal course of trading, lacks basic trading rationale, and leads to false or misleading appearance of trading in terms of generation of artificial volume, hence are deceptive and manipulative. Artificial volume is considered to be the volume (no. of units) reversed in both legs of said reversal trades while keeping out the volume, if any, which is not reversed.

12.3. I shall now proceed to deal with the transactions executed by Noticee in the alleged non-genuine trades:

(i) I note from the table at para 5.2 above that while dealing in the contract of 'VOLT15APR260.00CEW3 on April 13, 2015 the Noticee engaged in reversal trades (one on the buy side and another on the sell side), which led to generation of alleged artificial volume of 48,000 units (buy side and sell side). These trades of the Noticee involved reversal with the same counterparty within minutes, with significant difference in buy and sell price.

(ii) At 13:21:44 hrs. on April 13, 2015 the Noticee placed a buy order for 24,000 units @ INR 30.5 per unit. The buy order of the Noticee got executed at 13:21:44 hrs. against the sell order placed by N M IMPEX PRIVATE LIMITED for 4,34,000 units at 13:21:44 hrs. @ INR 30.5 per unit i.e. at the same rate. Thereafter at 14:14:39 on the same day, the Noticee placed a sell order for 24,000 units @ INR 45.35 per unit, which got executed against the buy order placed by the same counterparty, N M IMPEX PRIVATE LIMITED at 14:14:39 hrs. at the same rate for the same quantity.

(iii) Trades executed by the Noticee in above contracts had significant difference in buy rates and sell rates considering that the trade/ position was reversed within few minutes.

(iv) The Noticee's trades generated artificial volume of 48,000 units, (buy side and sell side) which made up 100.00% of total market volume of the Noticee in the said contract.

(v) Overall, the Noticee's trades contributed to 3.36% of total volume in the said contract.

12.4. The buying of illiquid stock options by the Noticee and subsequent reversal trade with the same counterparty for the same quantity, within a short span of time with a significant difference in buy and sell value of stock options, where order time, order price and order quantity were matched by both the parties for both legs of the reversal trade, in itself, exhibits abnormal market behavior and defies economic rationality. I note from the above trading pattern that the Noticee has deliberately made blatant misuse of trading platform for creating artificial volume in the illiquid stock options. It is clear that the Noticee along with counterparty had ultimately reversed the position without meaningful change of ownership in said contract.

12.5. The fact that the orders of the Noticee and the counterparty matched with such precision (considering that there was a perfect match of price, quantity and close proximity of time) indicates prior meeting of minds with a view to execute the reversal trades at a predetermined price. Since these trades were done in illiquid option contract, there was very little trading in the said contract (the Noticee contributed to 3.36% of the total trading volume in the 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. I note that no justifiable rationale has been given for entering into such transactions by the Noticee as the behavior exhibited by the Noticee defies the logic and basic economic sense.

12.6. The contention that complete material documents in support of the allegation have not been made available. Also, no material has been provided to show the creation of artificial volume. In this regard it is observed that the relevant documents which are relied upon in this proceedings were provided along with the SCNs particularly Annexure B (i.e. details of trade logs) which reveals the trading done by the Noticee.

12.7. I note that the time of around 7 years has been lapsed from Investigation period till the matter referred for adjudication. However, the Noticee was provided with relevant/relied upon documents along with SCN and the Noticee was also provided enough time to file reply/submissions. Therefore, no prejudice was caused. Moreover, I also note that SEBI Act / Adjudication Rules does not prescribes the limitation period with respect to initiation of such proceedings.

12.8. Further, I note that in case *of* ***Ravi Mohan & Ors. v. SEBI*** decided on August 08, 2013 by the Hon'ble SAT, while referring to its own decision in HB Stockholdings Ltd. v. SEBI (Appeal no. 114 of 2012) decided on August 27, 2013 and judgment of Hon'ble Supreme Court in case of Collector of Central Excise, New Delhi v. Bhagsons Paint Industry (India)reported in2003 (158) ELT 129 (S.C.) held as under:

> *"14. ....Based on decision of this Tribunal in case of HB Stockholdings Ltd. vs. SEBI (Appeal no. 114 of 2012 decided on 27.08.2013) it is contended on behalf of the appellants that in view of the delay of more than 8 years in issuing the show cause notice, the impugned order is liable to be quashed and set aside. There is no merit in this contention, because, this Tribunal while setting aside the decision of SEBI on merits has clearly held in para 20 of the order, that delay itself may not be fatal in each and every case. Moreover, the Apex Court in case of Collector of Central Excise, New Delhi vs. Bhagsons Paint Industry (India) reported in 2003 (158) ELT 129 (S.C) has held that if there no statutory*

bar for adjudicating the matter beyond a particular date, the Tribunal cannot set aside the adjudication order merely on the ground that the adjudication order is passed after a lapse of several years from the date of issuing notice...."

12.9. I also note that the Hon'ble SAT in case of **Pooja Vinay Jain vs SEBI** (Appeal No. 152 of 2019) decided on March 17, 2020 held that-

"The record would show that all the documents concerning the defense of the appellant were filed by her before the AO. Therefore, for want of any prejudice the proceedings cannot be quashed simply on the ground of delay in launching the same".

12.10. Further, I note that the Hon'ble SAT in the matter of **Bipin R Vora vs SEBI** decided on March 22, 2006 held that-

"As regards the plea of delay and latches and submission that the show cause notice is barred by limitation, I do not find any merit in these contentions as the time and efforts involved in an investigation though may vary from case to case, generally investigations per-se is a time consuming process which invariably involve collection, scrutiny and careful examination of voluminous records/ order-trade details of all the concerned including the exchanges/recording of statements etc. and therefore no time limit can be fixed in this regard to enable a regulator to take appropriate disciplinary action for the safeguard and improvement of the system/market".

12.11. The Noticee has contended that the alleged trades were carried out on the anonymous trading platform of BSE under supervision of the BSE. The Noticee submitted that the said transactions do not fall under the definitions of fraud as under PFTUP Regulations. In this regard, I note that while the trading happened within the anonymous trading platform of BSE under supervision of the BSE, however, considering the precision at which the reversal transactions had taken place, the exact matching of price with huge price variations, I am of the view that it will be too naïve to hold that just because these transactions were executed through exchange trading platform, within the applicable limits, such trades were genuine. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order with respect to the transactions entered into by the Noticee with its counterparty and such reversal trading is clearly in violation of the transparent norms of trading in the securities market. In view of the above observations, I hold that the said transactions executed by the Noticee in the said Stock Option contract were non-genuine trades, in which positions were reversed within a small time gap with prior meeting of mind between the parties to the trade.

12.12. Further, with respect to the reversal of 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 decided on February 08, 2018 held 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 the PFUTP Regulations. The Apex Court also held that:

"…considering the reversal transactions, quantity, price and time and sale, parties being persistent in the number of such trade transactions with huge price variations, it will be too naïve to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be overlooking 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."

12.13. Additionally, the Hon'ble SAT in its judgment dated September 14, 2020 in the matter of ***Global Earth Properties and Developers Pvt. Ltd.*** vs SEBI (Appeal No. 212 of 2020) relied upon the aforesaid judgment of the 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."

12.14. Keeping in mind the dicta of the Hon'ble Supreme Court as reproduced above; 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 Stock Options with same entity on the same day, which are non-genuine in nature and have created false or misleading appearance of trading in terms of artificial volumes.

12.15. In the instant matter, I note that though direct evidence regarding meeting of minds or collusion of the Noticee with the counterparty is not forthcoming, the trading behavior of the Noticee, as detailed earlier, makes it clear that the 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 order dated July 14, 2006 passed by Hon'ble SAT, in the case of ***Ketan Parekh vs SEBI*** **(Appeal no. 2/2004)**, wherein, 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."

12.16. Further, I would like to rely on the judgement of Hon'ble Supreme Court passed in the case of ***SEBI vs. Rakhi Trading Private Ltd.*** (supra), wherein the Apex Court held that *“the entities were engaged in a fraudulent and unfair trade practice while dealing in Options and hence were liable for violation of SEBI (PFUTP) Regulations”.*

The Hon’ble Apex Court has also held that in the absence of direct proof of meeting of minds, the test should be one of preponderance of probability and also stated that the conclusion has to be gathered from various circumstances like volume of trade, period of persistence of trading, particulars of buy and sell orders, proximity of time between the two and such other relevant factors.

12.17. In line with the above judgments of Hon’ble SAT and Hon’ble Supreme Court, I note from the foregoing findings that the trading pattern of the Noticee in terms of reversal of trades, proximity of buy/sell and subsequent reversal evidences the indulgence of the Noticee beyond a reasonable doubt of the manipulative intent in creation of artificial volume through non-genuine trades.

12.18. In this regard, I would also like to rely on the judgment of Hon’ble Supreme Court in the matter of ***SEBI vs. Rakhi Trading Private Ltd.*** (supra), wherein the Apex Court held that:

“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.”

12.19. The Noticee has contended that fraud cannot be alleged for execution of 1 buy and 1 sell trades only. In this regard it is relevant to mention that the Hon’ble Securities Appellate Tribunal (Hon’ble SAT) vide order dated January 13, 2022 in case of ***Shruti Saragoi vs SEBI Appeal No 814 of 2021*** *upheld the adjudication order dated November 12, 2021 wherein in similar case, the entity entered into 2 trades in 1* *contract just for total 3,000 units (i.e. 1500 buy units and 1500 sell units) as against 48,000 units in this case of Noticee.*

12.20. The Noticee has also contended that her trades were done at Stock Exchange platform where the identity of counterparty remains undisclosed and hence no illegality / fraud / loss to investors was done in these trades and no caution or warning was issued from BSE for trades executed and therefore the allegations are based on presumptions, assumptions and conjectures. I don't agree with the contention of the Noticee as it is not mere coincidence that Noticee could match her trades with the same counter party on the same day within short time gap unless there is some meeting of minds to match the orders / trades. On this issue, I rely on the judgment of the 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..."

12.21. The observations made in the aforesaid judgments apply to the facts and circumstances of the present case. Therefore, applying the ratio of the above judgments, I am convinced that the execution of trades by the Noticee in the illiquid options segment with such precision in terms of order placement time, quantity and price and also the fact that the transactions were reversed with the same counterparty clearly indicates a prior meeting of mind with a view to execute the reversal trade at a pre-determined price. Such trading also involves an act amounting to manipulation of the price of the security in the sense that the price has been artificially and apparently prefixed. The price does not at all reflect the value of the underlying asset. It is also a transaction without any intention of performing it and without any intention of effecting a change of ownership of such securities, ownership being understood in the limited sense of the rights in the contract. By synchronization and reversal trades, as has been carried out by the Noticee in the instant case, the price discovery system has been affected. Except the parties who have pre-fixed the price, nobody is in the position to participate in the trade. Therefore, it has an adverse impact on the fairness, integrity and transparency of the stock market.

12.22. Therefore, I am inclined to note that the aforesaid trades of Noticee were non-genuine and have created false or misleading appearance of trading in terms of artificial volume in stock options and therefore the same are manipulative, deceptive in nature.

12.23. In view of above, I conclude that the Noticee had violated the provisions of Regulations 3 (a), (b), (c), (d), 4 (1) and 4 (2) (a) of PFUTP Regulations, 2003.

ISSUE II: If yes, whether the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act?

12.24. In the foregoing paragraphs, based on an analysis of the data and perusal of the documents, I concluded that the Noticee had violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of PFUTP Regulations.

12.25. I am also of the view that the misuse of stock options as shown above not only displays an unreal picture of market activity to other investors but also defeats the basic premise of screen based electronic trading system and price discovery mechanism by repeated execution of pre decided reversal trades at irrational/ arbitrary prices. Such activity deliberately or otherwise damages market integrity apart from presenting wrong picture of liquidity to gullible investors which could affect their trading/ investment decisions. The trading of the Noticee in the instant matter was abnormal and was clearly designed to create artificial volumes in the illiquid stock options, fail to justify any of the normal strategies of hedging/ speculation/ arbitrage. In my view, the abuse of such financial instruments cannot be tolerated and needs to be dealt with strictly.

12.26. The Hon’ble Supreme Court of India in the matter of ***SEBI vs. Shri Ram Mutual Fund*** [2006] 68 SCL 216(SC) 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…”

12.27. Accordingly, 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.

“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”

ISSUE – III: If so, what quantum of monetary penalty should be imposed on the Noticee?

12.28. While determining the quantum of monetary penalty under Section 15HA of the SEBI Act, I have considered the factors stipulated in Section 15-J of the SEBI Act, which reads as under:

“Factors to be taken into account by the Adjudicating Officer

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."

12.29. I observe that the SCN 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, I note that the Noticee had entered into non-genuine trades, which created an appearance of artificial trading volumes in respective contract at pre-meditated prices.

12.30. Considering, the facts of the matter as discussed earlier, I am of the view that imposition of minimum penalty as prescribed under Section 15HA of the SEBI Act would be commensurate for the present matter.

ORDER

13. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under Section 15-I of the SEBI Act, 1992 read with Rule 5 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) 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
LILADHAR PREMNARAYAN NAVALKISHORE RATHI [PAN :AAAHL1410R]	Regulations 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003	INR. 5,00,000/- (Rupees Five Lakh only)

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

15. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of:

(i) Demand Draft in favor of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, and the said Demand Draft should be forwarded to the Division Chief, Enforcement Department – 1 (EFD 1), Division of Regulatory Action – 4 (DRA 4), SEBI Bhavan, Plot No. C4-A, ‘G’ Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400051. The Noticee shall provide the following details while forwarding Demand Draft/ payment information:

Sl. No.	Particulars	Details
1.	Name of the Case / Matter	
2.	Name and PAN of the Payee	
3.	Date of Payment	
4.	Amount Paid	
5.	Transaction Number	
6.	Bank Name and Account Number	
7.	Purpose of Payment	Payment of penalty under AO proceedings

OR

(ii) Payment can also be made online by following the below path at SEBI website, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT -> Orders -> Orders of AO -> PAY NOW

16. The Noticee shall, after making online payment of the penalty, provide the following details to SEBI by an e-mail addressed to tad@sebi.gov.in**:**

Sl. No.	Particulars	Details
1.	Name of the Case / Matter	
2.	Name and PAN of the Payee	
3.	Date of Payment	
4.	Amount Paid	
5.	Transaction Number	
6.	Bank Name and Account Number	
7.	Purpose of Payment	Payment of penalty under AO proceedings

17. 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.

18. In terms of the provisions of Rule 6 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, a copy of this order is being sent to the Noticee namely, **LILADHAR PREMNARAYAN NAVALKISHORE RATHI [PAN :AAAHL1410R]** and also to the Securities and Exchange Board of India, Mumbai.

Date: April 11, 2022	**DEENA VENU SARANGADHARAN**
Place: Mumbai	**ADJUDICATING OFFICER**