BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

ADJUDICATION ORDER NO. Order/ ST/RG/2022-23/15952

UNDER SECTION15-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:
Tara Garg
[PAN: AGFPG3323D]
CL 279 SEC 2 CK MARKET SALT LAKE
BIDHANNAGAR M SECH BHAWAN,
NORTH PARGANAS,
KOLKATA,
WEST BENGAL-700091

In the matter of Illiquid Stock Options at BSE Limited

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') came across large scale reversal of trades in Stock Options segment of the BSE Limited (hereinafter, referred to as '**BSE**'). Accordingly, SEBI conducted an investigation into the trading activity in Illiquid Stock Options at BSE for the period between April 1, 2014 to September 30, 2015 (hereinafter referred to as "**Investigation Period**") for possible violation of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and various rules and regulations made thereunder.

2. During the Investigation Period, it was observed that a total of 2,91,744 trades comprising substantial 81.38% of all the trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract. 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.

3. It was observed that Tara Garg (hereinafter referred to as '**Noticee'**) was one of the entities who 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 and violated Regulation 3(a), 3(b), 3(c), 3(d), 4(1), 4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**"). In view of the same, adjudication proceedings have been initiated against the Noticee under section 15HA of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

4. The undersigned was appointed as the Adjudicating Officer, under section 15-I of the SEBI Act, 1992 and Rule 3 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules, 1995**") vide Order dated April 30, 2021 to inquire into and adjudge under Section 15HA of the SEBI Act, 1992 against the Noticee for the alleged violation of the aforesaid provisions of PFUTP Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

5. A Show Cause Notice bearing ref. no. SEBI/HO/LAD1/LAD1_DOP4/OW/19409/1 dated August 18, 2021 (hereinafter referred to as '**SCN'**) was issued to the Noticee under Rule 4 of the Adjudication Rules,1995 to show cause as to why an inquiry be not held against the Noticee in terms of Rule 4 of the Adjudication Rules,1995 and penalty be not imposed under Section 15HA of the SEBI Act, 1992 for the violations alleged to have been committed by her.

6. It was inter-alia alleged in the SCN that the Noticee had engaged in reversal trades through 2 trade in 1 unique contract, which led to generation of alleged artificial volume of 4,96,000 units. The trades entered by the Noticee were reversed on the same day 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.

7. A summary of dealings of Noticee in 1 Stock Options contract in which the said Noticee allegedly executed reversal trades during the investigation period, is as follows: -

Summary of dealings in contracts wherein the Noticee executed reversal trades

S. No.	Contract Name	Avg. Buy Rate (in `)	Total Buy Volume (no. of units)	Avg. Sell Rate (in `)	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.	IFCI15MAY36.00PEW3	3	2,48,000	5	2,48,000	100	65.95%

Note: *"Unit" refers to lot size in contract multiplied by number of contracts traded.*

8. The abovementioned reversal trades and volumes are illustrated through the dealings of Noticee in the one contract viz, "IFCI15MAY36.00PEW3" during the investigation period, as follows:-
   a) During the investigation period, 2 trades for total 4,96,000 units were executed by the Noticee in the said contract on March 15, 2015.
   b) While dealing in the said contract on March 15, 2015, at 14:26:36 hrs, the Noticee entered into a buy trade with counterparty Fastner Machinery

Dealers Pvt Limited for 2,48,000 units at ₹ 3 per unit. At 14:26:45 hrs, the Noticee entered into a sell trade with the same counterparty for 2,48,000 units at ₹ 5 per unit.

c) The Noticee's two trades while dealing in the abovesaid contract during the investigation period allegedly generated artificial volume of 4,96,000 units, which made up 65.95% of total market volume in the said contract during this period.

9. In view of the foregoing, it was alleged that the Noticee, by indulging in execution of non-genuine reversal of trades in Stock Options with same entity on the same day, created false and misleading appearance of trading in stock options and therefore allegedly violated Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(a) of the Securities and Exchange Board India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations, 2003**").

10. In reply to the SCN, the Noticee vide letter dated September 22, 2021 submitted the reply along with a copy of the PAN Card. Vide the said reply, the Noticee also requested for personal hearing. Vide letter dated September 22, 2021, the Noticee authorised Shri Vinod Kumar Goyal, Chartered Accountant as authorized representative ('**AR**') for attending the hearing. The Noticee, *inter alia,* made the following submissions:

Preliminary Objection

i. *SCN fails to appreciate that when SEBI itself has not discharged its obligations of quick investigation, seeking explanation of parties at that time, declaring trades in stock options as illegal at the relevant time and then subjecting to adjudication proceeding after 6 years is unfair and unreasonable. Even though limitation act does not specify time limit in such case, still as per judicial pronouncements by the Securities Appellate Tribunal (SAT) and the Supreme Court, a reasonable period has to be complied with.*

ii. *Trades were executed on an online platform of the exchange with due compliance of all the rules and regulations.*

iii. *At no point of time any warning/observation was issued for the trades executed.*

iv. *The observation regarding the stock options being illiquid is incorrect.*

v. *Even if the stock options were illiquid, any small quantity or volumes would look significant as there are no active traders in the stock option.*

vi. *For a transaction to be termed as fraudulent, there has to be an 'inducement' which SEBI has not alleged.*

vii. *No nexus, directly or indirectly with the alleged counter party/parties and SEBI has not even alleged the same.*

viii. *The total number of alleged non-genuine trades were only 2, which is a meagre part of the overall trades i.e. 0.000685% of the total trades in the market.*

ix. *Trades in question were in the normal course of investment activity.*

x. *None of the trades are deceptive in nature.*

Submissions on dealing in "illiquid" option segment of BSE

i. *The underlying scrips are highly liquid in nature, i.e. frequently traded in the market. The underlying stock of aforesaid contracts consists of companies which are part of BSE-200/500 indices of BSE.*

ii. *It was alleged that the trades were squared up at substantial price difference without any basis for significant change in the contract price. In this regard, it is submitted that the said trades could have had no effect on other investors or market at large and that such illiquidity would be the reason for volatility and alleged reversal transactions since variations in option price would be dramatic if the chosen strike price is thinly traded.*

iii. *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.*

iv. *No such list of illiquid scrips was issued by exchanges or regulator.*

v. *The mere fact that the Noticee traded in option segment cannot be a ground to rope her in the present proceedings.*

Trades did not influence the price/volume of underlying shares in cash segment

i. *Impugned trades constituted a miniscule percentage of overall trades.*

ii. *There was no major movement in price of underlying scrips which itself proves that the trades of the noticee constituted a miniscule percentage of overall trades.*

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

No relationship with counterparty/parties

i. *The Noticee did not act in concert or in collusion with anyone and nor was part of any group or connected with anyone for the purpose of influencing price or for any manipulative activity as alleged or otherwise*

ii. *The Noticee has no 'connection' or 'relation' with any of counterparties to the trades as mentioned in the SCN.*

iii. *In 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.*

iv. *No prior meeting of minds with the broking entities as well as their clients as mentioned in the SCN; nor any knowledge about the alleged wrongdoing. Moreover, no such connection is established in the SCN.*

v. *Trades were within the prudential norms of exchange and as per procedures and guidelines as prescribed by stock exchange and SEBI.*

vi. *No warning, advisory, communication or alarm was raised by BSE.*

vii. *Merely because online preventive measure and check and balance did not exist at relevant point of time (which has been introduced by BSE w.e.f. 14.03.2016) to avoid inadvertent reversal trades, no adverse inference can be drawn.*

No role attributed to me in the SCN

In the SCN, there is not a single instance or observation on the specific role of the Noticee in the alleged reversal trade.

11. Vide Notice dated December 22, 2021, the Noticee was granted an opportunity of personal hearing on January 20, 2022. The opportunity of hearing was availed online by the Noticee on the scheduled date, through her AR. The hearing was

conducted through video conference mode using Webex platform. The AR while reiterating the submissions made vide letter dated September 22, 2021 requested to provide further time for filing additional submissions. The said request was acceded to and the Noticee was given 10 days time to file the additional submissions from the date of hearing. Vide e-mail dated February 05, 2022, the Noticee has filed the additional submissions, wherein, while reiterating the earlier submissions, the Noticee has inter-alia relied on some orders/case laws which are as under:

a) On the issue pertaining to inordinate delay in the initiation of adjudication proceedings, Noticee has relied on SAT order(s) -**Ashok Shivlal Rupani** vs. **SEBI** Appeal No. 417 of 2018 decided on August 22, 2019, **Shriram Insight Share Brokers Limited** vs. **SEBI** dated January 04, 2022
b) The Noticee has stated that the allegations of non-genuine trades are treated to be not cogent and only based upon pure conjectures and surmises and hence cannot sustain. In this regard, Noticee has relied on **Digambar Vaishnav** vs. **State of Chattisgarh** 2019 AIR SC 1367 and **Parveen** vs. **State of Haryana** Criminal Appeal No.1571 OF 2021 (Arising out of S.L.P.(Crl.) No.5438 of 2020). Further, the Noticee has also relied on SAT order in **Almonds Entertainment Pvt Ltd** and others vs. **SEBI** dated January 21, 2021.

CONSIDERATION OF ISSUES AND FINDINGS

12. After perusal of the material available on record, I have the following issues for consideration viz.,

   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 the PFUTP Regulations, 2003?
   II. If yes, whether the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act, 1992?
   III. If so, what quantum of monetary penalty should be imposed on the Noticee?

FINDINGS

13. 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. Before advancing into the merits of the case, I would like to deal with the issue pertaining to the delay, as contended by the Noticee wherein, the Noticee has relied on the Hon'ble SAT judgment(s) in **Ashok Shivlal Rupani** vs. **SEBI** dated August 22, 2019 and **Shriram Insight Share Brokers Limited** vs. **SEBI** dated January 04, 2022. SAT in the aforesaid judgments has held that there has been inordinate delay in the issuance of show cause notice by SEBI.

14. In this regard, I primarily note that as per Section 11C of the SEBI Act, 1992, SEBI can initiate investigation for any alleged violation of the provisions of the SEBI Act, 1992 and the Rules and Regulations made thereunder and no limitation has been provided in this regard. I note that the investigations relating to the PFUTP Regulations, 2003 are complex (considering the volume of transactions, connections and examination of trading of shares, etc.) and time consuming. As stated above, a total of 2,91,744 trades executed in BSE Stock Options Segment were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract, therefore, it took reasonable time in ascertaining the violation by each entity as well as taking further actions. In this regard, it is pertinent to note that, in the matter of **SEBI vs Bhavesh Pabari** {(2019) SCC Online SC 294}, the Hon'ble Supreme Court of India has, *inter alia*, held as follows: *"There are judgments which hold that when the period of limitation is not prescribed, such power must be exercised within a reasonable time. What would be reasonable time, would depend upon the facts and circumstances of the case, nature of the default/statute, prejudice caused, whether the third party rights had been created etc."*

15. I also note that the Hon'ble SAT in the matter of **Pooja Vinay Jain vs. SEBI** (Appeal No. 152 of 2019, Date of Decision – 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".

16. I also note the following ruling of the Hon'ble SAT in the matter of **Rajendra Aggarwal v. SEBI,** decided on September 17, 2021, in which the appellant's contention regarding 4 years time taken in issuance of SCN was rejected and it was held - *"The investigation was against a large number of entities which apparently took time and ultimately notices were issued to 35 entities. Consequently, we do not find any inordinate delay in the issuance of the show cause notice nor do we find any merit in the contention that there was an inordinate delay."*

17. In the present matter, 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 and appropriate actions were initiated against the said 14,720 entities in a phased manner. The captioned proceedings initiated against the Noticee is part of the aforementioned action initiated by SEBI against large number of entities. During the course of hearing in the case of R. S. Ispat Ltd Vs. SEBI, the Hon'ble Securities Appellate Tribunal, 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".* Thereafter, 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.

18. In view of the aforesaid and considering the facts of the present matter, I do not find any merit in the preliminary submission of the Noticee that subjecting to adjudication proceeding after 6 years is unfair and unreasonable.

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 the PFUTP Regulations, 2003 ?

19. Before moving forward, it is pertinent to refer to the relevant provisions of the PFUTP Regulations, 2003 which reads as under:

Regulation 3: - Prohibition of certain dealings in securities

3. 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 thereunder;

(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 thereunder.

Regulation 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;

20. It has been alleged that the Noticee had indulged in execution of reversal of trades in Stock Options with same entity on the same day. Such trades are non-genuine in nature and have created false or misleading appearance of trading in

terms of artificial volume in stock options and therefore alleged to be manipulative and deceptive in nature.

21. 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 lead to false and 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.

22. I note that the Noticee had executed 2 non-genuine trades in 1 contract on March 15, 2015. The details of non-genuine trades executed by the Noticee are furnished hereunder:

S. No.	**Contract Name**	**Avg. Buy Rate (in `)**	**Total Buy Volume (no. of units)**	**Avg. Sell Rate (in `)**	**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.	IFCI15MAY36.00PEW3	3	2,48,000	5	2,48,000	100	65.95%

Note: *"Unit" refers to lot size in contract multiplied by number of contracts traded.*

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

Scrip Name: IFCI15MAY36.00PEW3, Trade Date: March 15, 2015

CLIENTNAME	CP_CLIENTNAME	ORDER TIME	Counter Party Order Time	TRADE_TIME	TRADE RATE	TRADED QTY
TARA GARG	FASTNER MACHINERY DEALERS PVT LIMITED	14:26:36:520947	14:26:36:520714	14:26:36:520947	3	248000
FASTNER MACHINERY DEALERS PVT LIMITED	TARA GARG	14:26:45.724106	14:26:45.614649	14:26:45.724106	5	248000

a) I note from the above table that during the investigation period, total 2 trades for 2,48,000 units for each leg were executed by the Noticee in the "IFCI15MAY36.00PEW3" contract on March 15, 2015.

b) The Noticee placed a buy order for 2,48,000 units at a price of ₹ 3 per unit and the said order was matched with the sell order (which was also for 2,48,000 units at a price of ₹ 3 per unit) of counterparty client Fastner Machinery Dealers Pvt Limited. I note that the said buy order by the Noticee was placed at 14:26:36.520947 almost at the same time as that of the entry of the sell order by the counterparty i.e. 14:26:36.520714.

c) I also note that there was no modification of price or quantity either by the Noticee or the counterparty and the sell order of the Noticee got executed into trade at 14:26:36.520947 with the counterparty.

d) Subsequently, within a few seconds from the above trade, at 14:26:45:614649, the Noticee placed a sell order for 2,48,000 units at a price of ₹ 5 per unit and the said order was matched at 14:26:45.724106 with the same counterparty (i.e. Fastner Machinery Dealers Pvt Limited), who placed a buy order for the same quantity (i.e. 2,48,000) and price (i.e. ₹ 5 per unit). I note that the said buy order was placed by the counterparty (i.e. Fastner Machinery Dealers Pvt Limited] at 14:26:45.724106 almost at the same time as that of the sell order placed by the Noticee. I also note that there was no modification of price or quantity either by the Noticee or the counterparty and the buy order of the Noticee got executed into trade immediately.

e) Therefore, it is noted that while dealing in the said contract on March 15, 2015, the Noticee at 14:26:36.520947 entered into 1 buy trade with counter party viz, Fastner Machinery Dealers Pvt Limited for 2,48,000 units at a rate of ₹ 3 per unit. Thereafter, on the same day, within a few seconds from the above trade, Noticee, at 14:26:45.724106 hrs entered into 1 sell trade with the same counterparty for 2,48,000 units at a rate of ₹ 5 per unit.

f) From the above, it is noted that while dealing in the said contract during the investigation period, the Noticee executed reversal trades through 1 buy trade and 1 sell trade with the same counterparty viz Fastner Machinery Dealers Pvt Limited, on the same day for the same quantity.

g) Thus, the Noticee, through her dealing in the contract viz, "IFCI15MAY36.00PEW3" during the investigation period, executed 2 non genuine trades and thereby, the Noticee generated artificial volume of 4,96,000 units which is 65.95% of the volume traded in the said contract from the market during the investigation period.

24. From the above pattern of trades, I note that the Noticee had bought and sold option contract with the same counter party and also reversed her trade in a few seconds from her earlier buy trade, at substantial price difference. Such pattern of dealings suggests beyond doubt that they were not driven by market factors. 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 trades, in itself, exhibits abnormal market behaviour and defies economic rationality. Therefore, I am inclined to note that the aforesaid trades of Noticee were non genuine and have created false and misleading appearance of trading in terms of artificial volume in stock options and therefore the same are manipulative and deceptive in nature.

25. As noted above, Noticee had executed non- genuine trades in 1 contract viz., IFCI15MAY36.00PEW3, where all the trades were non genuine trades and the Noticee contributed to 65.95% artificial volumes. Non genuine trades executed by the Noticee in above contracts had significant differential in buy rates and sell rates considering that the trades were reversed within a short span of time on the same day.

26. I note from the above trading pattern of trades that Noticee has deliberately made misuse of the trading platform for creating artificial volume in the illiquid stock options. I note that no justifiable reason has been given for entering into such transactions by the Noticee as the behaviour exhibited by the Noticee defies the logic and basic economic rationality. The fact that the counterparties are same corroborates that the trades were not genuine and executed for manipulative purpose.

27. With regard to the submission of the Noticee that the trades were executed through the stock exchange platform, does not establish the genuineness of trades or preclude execution of artificial and non- genuine trades. The non-genuineness of these transactions executed by the Noticee is evident from the fact that there was no justifiable reason as to why, within a short span of time (viz. within a few seconds), the Noticee reversed the position with the same counterparty client with a significant price difference. Such short span of time in reversing the trades in the contract suggests the non-genuineness of these trades executed by the Noticee. The fact that the orders of the Noticee and the counterparty matched with such precision (considering that there was a perfect match of price and quantity as well as a short time difference between placing of the orders by the Noticee and counterparty) indicates a prior meeting of minds with a view to execute the reversal trades at a predetermined price. Since these trades were done in illiquid option contracts, there was very little 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 and placing orders at same prices and quantity, is a clear indication that there was pre-determination in the prices by the counterparties while executing the trades. Therefore, it is observed that the Noticee had indulged in reversal trade with her counterparty in the stock options segment of BSE and the same were non-genuine trades.

28. In this regard, it may be noted that Regulation 2(1)(c) of PFUTP Regulations 2003 inter-alia states that "*fraud includes any act, expression, omission or concealment whether in deceitful manner or not by a person or by any other person with his*

connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities whether or not there is any wrongful gain or avoidance of any loss….." it further states that "*And "fraudulent" shall be construed accordingly*".

29. The non-genuine and deceptive transactions of these entities are covered under the definition of 'fraud' and the dealings of the Noticee as discussed herein above were "fraudulent", as defined under regulation 2(1)(c) of the PFUTP Regulations, 2003 and prohibited under the provisions of Regulations 3(a), 3(b), 3(c) and 3(d) and 4(1) and 4(2)(a) of the PFUTP Regulations, 2003 thereof.

30. 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 8, 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, 2003. 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 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."*

31. 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) also 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."

32. The Hon'ble SAT has reaffirmed the aforesaid findings in its recent judgment dated November 24, 2021 in the matter of **Radha Malani vs. SEBI** (appeal no. 698 of 2021), and held as under:
"Having heard the learned counsel for the appellant, in our view the controversy involved in the present appeal is squarely covered by a decision of this Tribunal in Global Earth Properties and Developers Pvt. Ltd. vs. SEBI (Appeal No. 212 of 2020 decided on September 14, 2020).
In view of the aforesaid, the appeal is dismissed with no order as to costs."

33. The Noticee has contended that she does not have any 'connection' or 'relation' with any of counterparties to her trade as mentioned in the SCN. Also, the Noticee has submitted that there is no prior meeting of minds with the broking entities as well as clients mentioned in the SCN. Also, that the Noticee does not know the counterparty or any relative of the counterparty and that she does not have any connection with counterparty. In this regard, the Noticee has relied on the following case laws-Jagruti Securities vs. SEBI [2008 SCC Online SAT 184: 2008 SAT 184] and S.P.J Stock Brokers Pvt. Ltd vs SEBI [2003 SCC Online SAT 67: (2013) SAT 17].

34. I have carefully considered the submission of the Noticee and the case laws relied upon by the Noticee. In the light of the material available on record, I note that in the screen based trading, the manipulative and fraudulent intent can be inferred from various factors such as conduct of the party, pattern of transactions, etc. I note that it is not a mere coincidence that Noticee could match her trades (with the corresponding price and quantity entered by both the Noticee and counterparty being equal) with the same counterparty with whom

she had undertaken first leg of the respective trades. It indicates meeting of minds. In this context, I would like to rely on the judgment of the Hon'ble Supreme Court of India in **SEBI vs Kishore R Ajmera** (AIR 2016 SC 1079), 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...*"

35. The Hon'ble Supreme Court of India further held in the said case 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.*"

36. 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 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 the 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."

37. 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.

38. In line with the aforesaid judgements 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 volume of reversal 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. Further, the dealings by Noticee only in such options contracts which was illiquid clearly demonstrates the manipulative intent to use stock exchange platform to carry out non-genuine trades with the aim to execute such trades for manipulative purposes.

39. I am of the considered view that the scheme, plan, device and artifice employed by the Noticee in this case of executing reversal trades in illiquid stock options tantamount to fraud on the securities market in as much as it involves non-genuine and manipulative transactions in securities and misuse of the securities market.

40. In this regard, I would like to rely on the judgement of Hon'ble Supreme Court in the matter of **SEBI vs. Rakhi Trading Private Ltd**. (*Supra*) where Apex Court observed 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."

41. It is established that the Noticee by indulging in reversal trades which are manipulative, unfair, fraudulent and non-genuine in nature, had created artificial volumes in the contracts and therefore, misused the exchange trade platform. In view of above, I conclude that the Noticee had violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1) and 4 (2) (a) of the PFUTP Regulations, 2003 and the submission of the Noticee that trades were genuine and executed as per applicable law on the exchange platform is not tenable.

42. The Noticee has further contended that the underlying scrips are highly liquid in nature; i.e. frequently traded in the market. The underlying stock of aforesaid contracts consists of companies which are part of BSE-200/500 indices of BSE and thus permitted by the BSE to be traded in. In this regard, firstly I note that the liquidity of options is very different from liquidity of the underlying scrip. Former is traded in derivatives segment, in which there are different strike prices, of which some may be illiquid, whereas the latter is traded in cash segment. Thus, even if the underlying scrip is liquid, that would not lead to the conclusion that the options contract cannot be illiquid. Besides, the allegation is not of trading in illiquid stock options, but of executing non-genuine trades.

43. Secondly, I note that since these trades were done in illiquid option contract, there was negligible trading in the said contract and hence, there was no price discovery in the strictest terms. 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.

44. Noticee has also contended that there is no question of transfer of beneficial ownership in option segment since at the end of settlement cycle only net loss/profit is adjusted. The allegation of creation of artificial or reversal trade is of no consequence in option segment of exchange. I note that in the Futures and

Options segment, execution of a trade results in change of rights over the contract, so that the impugned reversal trades, which were executed without intention of actual change in rights over such contracts are non-genuine. I note that Hon'ble Supreme Court in the matter of **Rakhi Trading Pvt Ltd**(supra) inter-alia held that:

"No doubt, as in the case of trade in a scrip in the cash segment, there is no physical delivery of the asset. However, even in the derivative segment there is a change of rights in a contract. In the instant case, through reverse trades, there was no genuine change of rights in the contract…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."

45. The Noticee has contended that BSE never raised any warning/advisory/alarm about the contracts traded by the Noticee. In this regard, I note that the stock exchange merely provides a platform for carrying out the trades, while the obligation to ensure genuineness of trades as regards instant considerations lies primarily on the Noticee. Therefore, I note that the contentions of the Noticee are fallacious and irrelevant to the instant proceeding.

ISSUE - II: If yes, whether the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act, 1992?

46. Pursuant to detailed analysis as brought out above, it is established that reversal trades are not normal transactions and it clearly demonstrates beyond reasonable doubt that the Noticee had intentionally executed these trades and manipulated the volume by artificial trading pattern in the contract IFCI15MAY36.00PEW3 where the total of 2 trades executed during the Investigation Period in the said contract were non genuine trades and the Noticee was part of those trades.

47. I am 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. Moreover, the impact of such trading on the traded volume and the price of stock options contracts is huge. 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. In my view, the abuse of such financial instruments, which are made available to the investors for the purpose of protection of their investment portfolios from the risks of adverse price movement, cannot be tolerated and needs to be dealt with strictly.

48. I find that the Noticee by indulging in execution of reversal trades in Stock Options with same entity on the same day, had created artificial volume, leading to false and misleading appearance of trading in the illiquid stock options at BSE and therefore violated the provisions of Regulations 3 (a), 3(b), 3(c), 3 (d), 4 (1), and 4 (2) (a) of the PFUTP Regulations, 2003. Accordingly, the Noticee is liable for monetary penalty under Section 15HA of the SEBI Act, 1992, which reads as under:

Section 15HA of SEBI Act, 1992 - Penalty for fraudulent and unfair trade practices

"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?

49. While determining the quantum of monetary penalty under Section 15HA of the SEBI Act, 1992, I have considered the factors stipulated in Section 15-J of the SEBI Act, 1992, which reads as under:

Section 15J - 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.

50. I observe that the material and documents made 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 2 non-genuine trades in 1 stock option contract during the Investigation Period.

51. Considering, the facts of the matter as discussed above, I am of the view that imposition of minimum penalty as provided under Section 15 HA of the SEBI Act, 1992, would be commensurate with the violations committed by the Noticee.

ORDER

52. 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 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, I hereby impose a penalty of ₹ 5,00,000/- (Rupees Five Lakhs Only) on the Noticee i.e. Tara Garg, under Section 15HA of the Securities and Exchange Board of India Act, 1992, for violation of the provisions of Regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4 (2)(a) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.

53. The said penalty imposed on the Noticee, as mentioned above, shall commensurate with the violation committed by her.

54. 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 SEBI website www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO →PAY NOW

55. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to the "The Division Chief, Division of Regulatory Action-3, Enforcement Department (EFD1 – DRA III), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051" and shall provide the following details while forwarding DD/ payment information:

   a) Name and PAN of the entity
   b) Name of the case / matter
   c) Purpose of Payment – Payment of penalty under AO proceedings
   d) Bank Name and Account Number
   e) Transaction Number

56. 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 Securities and Exchange Board of India 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.

57. 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 i.e. Tara Garg and also to the Securities and Exchange Board of India, Mumbai.

April 12, 2022	**SUDHA RANI R. THIRUKONDA**
Mumbai	**ADJUDICATING OFFICER**