

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO.: Order/AP/SS/2021-22/14720**

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:

Radha Devi Banka

PAN: AKNPB5833B

In the matter of dealings in Illiquid Stock Options at BSE

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) observed large scale reversal of trades in the Stock Options segment of the BSE Limited (hereinafter referred to as “**BSE**”) leading to the alleged creation of artificial volume in the stock options segment. In this regard, SEBI conducted an investigation into the trading activity in the illiquid Stock Options segment at the BSE for the period April 01, 2014 to September 30, 2015 (hereinafter referred to as “**Investigation Period**”).
2. It was observed during the course of investigation that a total of 2,91,744 trades comprising 81.40% of all the trades executed in the Stock Options Segment at the BSE during the investigation period were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was observed that Ms. Radha Devi Banka (hereinafter referred to as “**Noticee**”) was one such client whose reversal trades involved squaring off open positions with a significant difference without any basis for such change in the contract price. The aforesaid reversal trades allegedly resulted into

generation of artificial volumes, leading to allegations that the Noticee has violated the provisions of regulations 3(a),(b),(c),(d) and regulations 4(1),4(2)(a) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations, 2003**”).

APPOINTMENT OF ADJUDICATING OFFICER

3. SEBI initiated adjudication proceedings and appointed the undersigned as Adjudicating Officer under section 15-I of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) read with rule 3 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as “**Adjudication Rules**”) vide order dated July 02, 2021 to inquire into and adjudge under section 15HA of the SEBI Act against the Noticee for the alleged violation of the aforesaid provisions of PFUTP Regulations, 2003.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. A Show Cause Notice bearing reference no. SEBI/HO/MRD1/MRD1_DTCS/P/OW/2021/14885 dated July 09, 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 on the Noticee under Section 15HA of the SEBI Act for the violations alleged to have been committed by the Noticee.
5. The SCN issued to the Noticee, *inter alia*, mentioned / alleged the following:

“....

5. *The Noticee was one of the entities which indulged in reversal trades which allegedly created false and misleading appearance of trading, generating artificial volumes in the Stock Options Segment of BSE during the investigation*

period. The Noticee is alleged to have engaged in reversal trades through 2 trades in 1 unique contract, which led to generation of alleged artificial volume of 35,000 units. These trades of the Noticee involved reversal with the same counterparty on the same day, but at different prices.

...

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:-

S. No.	Contract Name	Avg. Buy Rate (in Rs.)	Total Buy Volume (no. of units)	Avg. Sell Rate (in Rs.)	Total Sell Volume (no. of units)	% of Artificial Volume generated by Noticee in the contract to Noticee's Total Volume in the Contract	% of Artificial Volume generated by Noticee in the contract to Total Volume in the Contract
1.	BIOC15JUL480.00PE	5.00	17,500	16.50	17,500	100.00%	13.36%

8. The abovementioned reversal trades and volumes are illustrated through the dealings of Noticee in the one contract viz, "BIOC15JUL480.00PE" during the investigation period, as follows:-

- (a) During the investigation period, 2 trades for 17,500 units were executed by the Noticee in the said contract on July 06, 2015.
- (b) While dealing in the said contract on July 06, 2015, at 14:38:15 hrs, the Noticee entered into a buy trade with counterparty Blow Agency Pvt Ltd for 17,500 units at ₹5 per unit. At 14:38:20 hrs, the Noticee entered into a sell trade with the same counterparty, for 17,500 units at ₹16.50 per unit.

(c) The Noticee's two trades while dealing in the above said contract during the investigation period allegedly generated artificial volume of 35,000 units, which made up 13.36% of total market volume in the said contract during this period.

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

...

6. The SCN was served on the Noticee via Registered Post Acknowledgement Due (hereinafter referred to as “**RPAD**”) and via email dated July 09, 2021. Thereafter, the Noticee, vide email dated August 24, 2021, submitted the following:

6.1 *That the Noticee acted as bonafide trader/investor and have transacted in stock option segment in normal course of dealing and her trading in the same was very much within her own financial and risk.*

6.2 *That in any business activity in stock market, one can either make profit or loss, that at the relevant time, she had no idea of any profit or loss in said transaction and that she traded in option segment taking into account her 'risk and reward 'parameters.*

6.3 *That she was not connected to the counterparty of her transaction in the option segment and neither did she have any relation with promoters/directors/ key management person of underlying scrips in cash segment. In this regard, the Noticee relied on the judgments of the Hon'ble Securities Appellate Tribunal (hereinafter referred to as “**SAT**”) in the matters of Jagruti Securities Ltd (2008 SCC online SAT 184), S P J Stock Brokers Pvt Ltd (2013 SCC Online SAT 67) and Saroj & Co. proprietor Sanjay Agrawal (Appeal No. 213/2011, Date of decision – May 18, 2012).*

- 6.4 *That there has been no grievance by any investor, broker, stock exchange or any other agency concerned with respect to her dealing in the option segment of BSE Ltd.*
- 6.5 *That no action has been taken against the Noticee in the past in respect of her dealings in the securities markets.*
- 6.6 *That the observations regarding the stocks being illiquid was incorrect and to allege that the Noticee deliberately traded in only those options which were illiquid is unfair.*
- 6.7 *That the SCN failed to appreciate that when SEBI itself has not discharged its obligations of quick investigation, seeking explanation of the parties at that time, declaring trades in stock options as illiquid at the relevant time, subjecting the Noticee to adjudication proceedings belatedly is unfair, unreasonable and absurd.*
- 6.8 *That it is erroneous to allege that her trades created artificial volume on BSE and that there was no major movement in price of underlying scrip. The Noticee traded in just one day in her entire life.*
- 6.9 *That the allegation of creation of artificial or reversal trade is of no consequence in option segment of the exchange.*
- 6.10 *That all her trades were carried out on the floor of the exchange and, in case of screen based trading, since counterparty identity is not displayed, one can never have any choice with whom one wants to deal or not to deal.*
- 6.11 *That not a single instance or observation on her specific role in alleged reversal was delineated in the SCN and such an approach is bad in law. In this regard, the Noticee relied on the judgment of the Hon'ble Supreme Court in the matter of Commissioner of Central Excise, Bangalore vs. M/s Brindavan Beverages (p) Ltd. And ors (Civil Appeal 347 of 2002) decided on June 15, 2007.*

7. In the interest of natural justice and in terms of the Adjudication Rules, the Noticee was provided with an opportunity of personal hearing in the matter on September 07, 2021 through the online Webex platform. Mr. Ankit Daga, Chartered Accountant, appeared as the Authorised Representative (hereinafter referred to as “AR”) on behalf of the Noticee on the stipulated date of hearing. During the course of the hearing, the AR reiterated the submissions made by the Noticee in her reply dated August 24, 2021. The AR mentioned about a delay of approximately 6 years in issuing the SCN and quoted the judgment of the SAT in the matter of Ashlesh Gunvantbhai Shah in this regard. Further, the AR mentioned that, considering the case of Bhavesh Pabari [Civil Appeal No(s).1311 of 2013], the penalty provided under section 15HA can be waived or further reduced from the minimum penalty prescribed under the Act by keeping in view the circumstance prescribed under section 15J. Therefore, the AR requested that no penalty should be levied and if any penalty is levied then the same should be bare minimum and less than the penalty prescribed under the section. The AR also requested time to submit additional written submissions and the said request was acceded to by the undersigned.
8. Vide email dated September 20, 2021, the AR submitted a scanned copy of letter dated September 15, 2021. The Noticee reiterated the decisions of the Hon’ble SAT in the case of Ashlesh Gunvantbhai Shah with respect to the delay in issuance of SCN and of the Hon’ble Supreme Court of India in the case of Bhavesh Pabari regarding waiving penalty or reducing penalty below the minimum prescribed under section 15HA of SEBI Act. Further, the Noticee laid emphasis to Section 15J of SEBI Act which needs to be taken into account while adjudging penalty. It was also mentioned that, from the alleged transactions, neither any loss was caused to an investor or group of investors nor the transaction was of repetitive nature as there was only one transaction. It was submitted that the Noticee is a senior citizen. The profit from the alleged transactions was very minimal, only ₹2,01,250/-.

Therefore, no penalty should be levied and in case penalty is levied, it should be commensurate with alleged offence.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have taken into consideration the facts and circumstances of the case, the material/documents made available on record and the submissions of the Noticee. The issues that arise for consideration in the instant case are :

- (a) Whether the Noticee has violated the provisions of Regulations 3 (a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003?
- (b) Does the violation, if any, attract monetary penalty under section 15HA of the SEBI Act?
- (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?

10. Before advancing into the merits of the case, I would like to deal with the issue pertaining to the delay, as alleged by the Noticee, in SEBI not discharging its obligations of quick investigation.

11. I note that there is no provision under SEBI Act which prescribes a time limit for taking cognizance of a breach of the provision of SEBI Act and Rules and Regulations made thereunder. Further, as per Section 11C of SEBI Act, SEBI can initiate investigation at any point of time, for any period of alleged violation or any period of alleged transactions.

12. In this regard, I feel 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, observed 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.”

13. Further, I note that the Hon'ble SAT in the matter of Pooja Vinay Jain vs. SEBI (Appeal No. 152 of 2019, Date of Decision – 17.03.2020) 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”*.
14. I also note that the Hon'ble SAT in the matter of Bipin R Vora vs. SEBI held that, *“As regards the plea of delay and laches 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”*.
15. 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. In the instant matter, I note that a total of 14,720 entities were involved in the generation of artificial volume by executing non-genuine / reversal trades in the illiquid Stock Options segment at BSE during the investigation period. Initiation of proceedings against the said 14,720 entities is a humungous task and therefore, considering the available resources, the proceedings were initiated against the entities in a staggered manner. I also note that SEBI had framed a settlement scheme in accordance with the provisions of the SEBI (Settlement Proceedings) Regulations, 2018 which provided a onetime opportunity to the concerned entities to settle the proceedings in the matter of

dealings in illiquid Stock Options at BSE. I observe that the said scheme was kept open for a period of, initially, 3 months (commencing from August 01, 2020) and then extended till December 31, 2020 to enable the entities to avail the benefit of the scheme in view of the disruptions caused due to the Covid-19 pandemic. A total of 1,018 entities had availed the benefit of the Scheme and remitted the specified settlement amounts and a Settlement Order was passed by SEBI on January 15, 2021. Subsequently, proceedings against remaining entities (including the Noticee) were proceeded with and, accordingly, the SCN was issued against the Noticee.

16. In view of the aforesaid and considering the facts of the present matter, I do not find any merit in the aforesaid contentions of the Noticee.
17. With respect to the alleged violations in the instant matter, I note that it is pertinent to refer to the relevant provisions of the PFUTP Regulations, 2003, which are reproduced as follows:

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 6[manipulative] 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;

18. 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 had resulted in generation of artificial volume in stock options contracts at BSE. Reversal trades are considered as those trades in which an entity reverses its buy or sell positions in a contract with subsequent sell or buy positions with the same counterparty during the same day. The said reversal trades are alleged to be non-genuine as they are not executed in the normal course of trading, lack basic trading rationale, lead to false or misleading appearance of trading in terms of generation of artificial volumes and hence are deceptive and manipulative.

19. I note from the trade log of the Noticee that the Noticee had traded in 1 unique contract in stock options segment of BSE during the Investigation Period. It is observed that the Noticee had executed 2 non-genuine trades in 1 contract. I further note that the above mentioned trades of the Noticee had resulted in the

creation of artificial volume of a total of 35,000 units in the said 1 contract. The summary of the non-genuine trades of the Noticee are as follows:

Contract Name	Avg Buy Rate (in ₹)	Buy Qty (No. of units)	Avg Sell Rate (in ₹)	Sell Qty (No. of units)	% of non-genuine trades of noticee in the contract to noticee's total trades in the contract	% of non-genuine trades of noticee in the contract to total trades in the contract	% of artificial volume generated by noticee in the contract to noticee's total volume in the contract	% of artificial volume generated by noticee in the contract to total volume in the contract
BIOC15JUL480.00PE	5.00	17,500	16.50	17,500	100.00%	25.00%	100.00%	13.36%

20. It is noted that the Noticee had executed non-genuine trades in 1 contract, wherein the percentage of non-genuine trades of the Noticee to the total trades in the contract was 25%. Further, the artificial volume generated by the Noticee in the contract amounted to a substantial 100% of total volume generated by her in the contract. It is also noted that artificial volume generated by the Noticee contributed 13.36% to the total volume from the market in the said contract. The non-genuine trades executed by the Noticee in the above contract had significant difference between buy and sell rates considering that the trades were reversed on the same day.

21. Upon perusing the trade log, I note that the trades executed by the Noticee in the contract were squared up within a short span of time with the same counterparty. To illustrate, on July 06, 2015, at 14:38:15.691986, the Noticee placed a buy limit order for 17,500 units at a price of ₹5.00 per unit and the said order was matched with the sell limit order (which was also for 17,500 units at a price of ₹5.00 per unit) of counterparty client Blow Agency Private Limited. I note that the said sell limit order was placed at 14:38:15.676178, i.e. before the entry of the buy limit order by the Noticee. I also note that there was no modification of either price or quantity by either the Noticee or the counterparty and the buy limit order of the Noticee got executed into trade immediately upon its entry. Subsequently, at 14:38:20.285526,

the Noticee placed a sell limit order for 17,500 units at a price of ₹16.50 per unit and the said order was matched with the same counterparty (i.e. Blow Agency Private Limited), who placed a buy limit order for the same quantity (i.e. 17,500) and price (i.e. ₹16.50). I note that the said buy limit order was placed by the counterparty at 14:38:20.379180, i.e. after the entry of the sell order by the Noticee. I also note that there was no modification of either price or quantity by either the Noticee or the counterparty and the sell limit order of the Noticee got executed into trade immediately upon the entry of the buy limit order by the counterparty.

22. The non-genuineness of these transactions executed by the Noticee is evident from the fact that the time difference between the placement of the orders by the Noticee and the counterparty was very small, i.e. approximately same time for both the trades. The fact that the orders of the Noticee and her counterparty matched with such precision (considering there was a perfect match of price and quantity for both the trades) 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 contracts, within a short span of time (i.e. approx. 5 seconds), 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 trades with her counterparty in the stock options segment of BSE and the same were non-genuine trades.

23. With regard to the contention of the Noticee that there was no major movement in price of underlying scrip on account of her trading in the options of the scrip, I note that the SCN issued to the Noticee did not allege that on account of the trading of the Noticee in the options, there was a major movement in the price of the underlying scrip. Instead the SCN alleged the execution of non-genuine / reversal trades in the illiquid stock options at BSE, which has been detailed above. Therefore, I do not find any merit in the contentions of the Noticee in this regard.

24. With regard to the contention of the Noticee that the allegation of creation of artificial or reversal trade is of no consequence in the option segment of the exchange, I wish to rely on the following observations of the Hon'ble Supreme Court in the matter in respect of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 08, 2018), in which the Hon'ble Supreme Court has held the following:

“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.”

Therefore, I do not find any merit in the contentions of the Noticee in this regard.

25. The Noticee has contended that the alleged 2 trades were carried out on the anonymous screen based trading platform provided by BSE where the identity of the counterparty remains inaccessible to all and hence, the question of any non-genuine trade did not arise at all unless it was proved that such trades were executed by the Noticee in connivance with any counterparty. In this regard, I place reliance on the judgment of Hon'ble Supreme Court in the matter in respect of SEBI v Rakhi Trading Private Limited (Civil Appeal Nos. 1969, 3174-3177 and 3180 of 2011 decided on February 8, 2018), in which the Hon'ble Supreme Court has held the following:

“Considering the reversal transactions, quantity, price and time and sale, parties being persistent in number of such trade transactions with huge price variations, it will be too naive to hold that the transactions are through screen-based trading and hence anonymous. Such conclusion would be over-looking the prior meeting of minds involving synchronization of buy and sell order and not negotiated deals as per the board's circular. The impugned transactions are manipulative/

deceptive device to create a desired loss and/or profit. Such synchronized trading is violative of transparent norms of trading in securities.....”

26. Therefore, I find that it cannot be a mere coincidence that Noticee could match its trades (with the corresponding price and quantity in both the trades 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 also 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...*”
27. The Hon'ble Supreme Court of India further held in the same matter that “*...It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and levelled. While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless. It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion therefrom. The test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion.*”

28. 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 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 find it pertinent to refer to the Hon'ble SAT Order dated July 14, 2006 in the matter of Ketan Parekh Vs SEBI (Appeal No. 2 of 2004), wherein the Hon'ble SAT has held that *"...The nature of transactions executed, the frequency with which such transactions are undertaken, the value of the transactions, the conditions then prevailing in the market are some of the factors which go to show the intention of the parties. This list of factors, in the very nature of things, cannot be exhaustive. Any one factor may or may not be decisive and it is from the cumulative effect of these that an inference will have to be drawn."*
29. 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."*
30. Further, with regard to the submission of the Noticee regarding no penalty to be imposed or imposition of penalty lower than the minimum prescribed under Section 15HA of SEBI Act against the Noticee in the instant matter since the Noticee executed 2 trades in 1 unique contract, I wish to rely on the judgment dated November 24, 2021 of the Hon'ble SAT, in the matter of Radha Malani vs. SEBI (appeal no. 698 of 2021), wherein the Hon'ble SAT has observed the following:

“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.”

Therefore, I do not find any merit in the aforesaid contentions of the Noticee.

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

32. In view of the aforesaid judgment of the Hon'ble Supreme Court, I am convinced that, in the instant matter, the Noticee is liable for monetary penalty under the provisions of section 15HA of the SEBI Act, which reads as follows:

Penalty for fraudulent and unfair trade practices

15HA. *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty 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.*

33. While determining the quantum of penalty under section 15 HA of the SEBI Act, it is pertinent to consider the relevant factors stipulated in section 15J of the SEBI Act, which reads as under :

Factors to be taken into account while adjudging quantum of penalty

15J. *While adjudging quantum of penalty under 15-I, the adjudicating officer shall have due regard to the following factors, namely: -*

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*
- (c) the repetitive nature of the default.*

Explanation.—For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.

34. I observe that the instant matter is concerned with the creation of artificial volume through the execution of reversal / non-genuine trades and hence, I am of the view that it is not necessary to deal with the unfair gains made or losses avoided by the Noticee.
35. Therefore, I note that the Noticee indulged in execution of reversal trades in stock options on BSE in the Investigation Period which were non-genuine and created false and misleading appearance of trading in terms of artificial volumes in stock options, leading to violation of regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003.

ORDER

36. After taking into consideration all the facts and circumstances of the case, the material / documents made available on record including the submissions of the

Noticee, the factors mentioned in section 15J of the SEBI Act and in exercise of the power conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Adjudication Rules, I hereby impose a penalty of ₹5,00,000/- (Rupees Five Lakh only) on the Noticee, viz. Ms. Radha Devi Banka, under section 15HA of the SEBI Act for the violation of regulation 3(a), (b), (c), (d), 4(1) and 4(2)(a) of PFUTP Regulations, 2003. I am of the view that the said penalty is commensurate with the lapse / omission committed by the Noticee.

37. The Noticee shall remit / pay the said amount of penalty within 45 (forty five) days of the receipt of this order either by way of Demand Draft (hereinafter referred to as “DD”) in favour of “SEBI -Penalties Remittable to Government of India”, payable at Mumbai or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in, i.e.

ENFORCEMENT → Orders → Orders of AO → PAY NOW.

38. The Noticee shall forward the aforesaid DD / payment confirmation details to the Division Chief, Enforcement Department - I (EFD-I), Division of Regulatory Action -IV [EFD1-DRA-IV] SEBI Bhavan-II, Plot No.C7 - A, ‘ G’ Block, Bandra Kurla Complex (BKC), Bandra (East), Mumbai – 400 051 and also send an email to tad@sebi.gov.in with the following detail:

1.	Case Name	
2.	Name of the ‘Payer / Noticee’ along with PAN of Noticee	
3.	Date of Payment	
4.	Amount Paid	
5.	Transaction No.	
6.	Bank Name and Account No.	
7.	Purpose of payment	

39. In the event of failure to pay the aforesaid amount of penalty within 45 days of receipt of this Order, recovery proceedings may be initiated under section 28A of the SEBI Act for realization of the said penalty amount along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.
40. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee and SEBI.

Date: January 17, 2022

ANSUMAN DEV PRADHAN

Place: MUMBAI

ADJUDICATING OFFICER