

**BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO.: Order/RD/AP/2021-22/14751]**

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:
Mahesh Kumar Agarwala
PAN: AADHM3430K

In the matter of dealings in Illiquid Stock Options at the Bombay Stock Exchange

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 Bombay Stock Exchange (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 2,91,643 trades comprising 81.38% of all the trades executed in the Stock Options Segment at BSE during the investigation period were trades which involved reversal of buy and sell positions by the clients and counterparties in a contract on the same day. It was observed that Mr. Mahesh Kumar Agarwala (hereinafter referred to as "Noticee") was one such client whose reversal trade(s) involved squaring off open positions with a significant difference without any basis for such change in the contract price. The aforesaid reversal trade(s) allegedly resulted into generation of artificial volumes, leading to allegations that the Noticee had 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 Trade Practices relating to Securities Market) 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 06, 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 / WRO / WRO/WRO/P/OW/2021/ 0000040167/1 dated December 30, 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 for the violations alleged to have been committed by the Noticee.
5. The undersigned was informed vide email dated January 08, 2022 that the Noticee had passed away on April 28, 2021. A copy of the death certificate dated May 23, 2021 issued by Registrar, Kolkata Municipal Corporation, Kolkata was produced along with the said email. It is observed that the Noticee expired before initiation of the present Adjudication Proceedings against him.
6. In this regard, it is relevant to note that section 15-I (1) of the Securities and Exchange Board of India Act, 1992 states as under:

“For the purpose of adjudging under sections 15A, 15B, 15C, 15D, 15E, 15EA, 15EB, 15F, 15G, 15H, 15HA and 15HB, the Board may appoint any officer not below the rank of a Division Chief to be an adjudicating officer for holding an inquiry in the prescribed manner after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty”

7. In the matter under consideration, the Noticee expired before the issuance of SCN and therefore, an opportunity of personal hearing cannot be provided to the person concerned. Since the Noticee is non-est and opportunity of being heard could not be provided for the purpose of imposing penalty, I am of the view that the adjudication proceedings initiated against the Noticee do not survive and are liable to be abated without going into the merits of the case. Consequently, no penalty is imposed on the Noticee who is deceased and the Adjudication Proceedings against the Noticee stands abated.

ORDER

8. After taking into consideration all the facts and circumstances of the case, the Adjudication Proceedings initiated against the Noticee, viz. Late Mr. Mahesh Kumar Agarwala (PAN- AADHM3430K), vide SCN bearing reference no. SEBI / WRO/ WRO/ WRO/ P/ OW/ 2021/ 0000040167/1 dated December 30, 2021 are disposed of.
9. In terms of Rule 6 of the Adjudication Rules, a copy of this order is sent to the Noticee/ his legal representative and also to SEBI.

Date: January 21, 2022

ROHIT DUBEY

Place: Raipur

ADJUDICATING OFFICER