BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. EAD-9/SM/ 209 /2018-19]

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

In respect of:

Bankim Shah
(PAN: AAFPS0445L)

In the matter of Front running of HDFC AMC Trades II

Facts of the Case:

1. Securities and Exchange Board of India ("SEBI") pursuant to investigation into the front running of HDFC AMC Trades II had observed that Bankim Shah (hereinafter referred to as "Noticee") along with other entities acted as a group to front run HDFC AMC trades and defrauded HDFC AMC investors. These trades had created false and misleading appearance of the trading in the securities market and manipulated the price of the scrip which is in violation of section 12A(a), (b) and (c) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "SEBI Act"), regulations 3(a), (b), (c) and (d), 4(1) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities market) Regulations, 2003 (hereinafter referred to as "PFUTP Regulations").

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had appointed Shri D.S. Reddy as Adjudicating Officer vide order dated December 24, 2013 under Section 19 of the SEBI Act read Section 15-I of SEBI Act" read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred to as "Rules") to inquire and adjudge under section 15HA of SEBI Act on the Noticee for the alleged provision of the law. Pursuant to the transfer of the case to different Adjudicating Officers, the undersigned has been appointed as the Adjudicating Officer in the matter vide order dated May 18, 2017.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Based on the findings by SEBI, Show Cause Notice dated March 20, 2014 (hereinafter referred to as 'SCN") was issued to the Noticee under rule 4 of the Rules to show cause as to why an inquiry should not be initiated against the Noticee and penalty not be imposed upon it under Section 15HA of SEBI Act for the alleged Violations.

4. The Noticee, vide letter dated September 18, 2014 replied to the SCN. In order to comply with the principles of natural justice an opportunity of personal hearing was given to the Noticee on January 11, 2018 vide notice dated November 22, 2017. The undersigned received a letter on December 8, 2017 from one Maitri Shah informing that the Noticee had passed away on September 18, 2016. An attested copy of the death certificate in this respect was attached with the letter.

ISSUES FOR CONSIDERATION AND FINDINGS:

5. I have perused the death certificate submitted in the matter and find that Noticee had passed away on September 18, 2016. Before proceeding further in the mater on merit, it would be in the fitness of things to first decide as to whether on the death of the Noticee, the present adjudication proceedings against him would continue or abate.

6. In this respect, I note that in Girijandini vs. Bijendra Narain (AIR 1967 SC 2110), the Hon'ble Supreme Court, inter-alia, observed that in case of personal action, i.e., the actions where the relief sought is personal to the deceased, the right to sue will not survive to or against the representatives, and in such cases, the maxim *actio personalis moritur cum persona* (personal action dies with the death of the person) would apply.

7. The Hon'ble Securities Appellate Tribunal has also held in Chandravadan J Dalal Vs. SEBI that "*The appeal abates since the appellant during the pendency of the appeal died on 29th November, 2004. The appeal accordingly abates*".

ORDER

8. I am of the view that the proceedings initiated against the Noticee shall abate. Therefore, the SCN dated March 20, 2014 with respect to the Noticee is disposed of accordingly without going into the merits of the case.

9. In terms of Rule 6 of the AO Rules, a copy of this order is being sent to Maitri Shah and also to the Securities and Exchange Board of India.

Date: November 28, 2018 **SAHIL MALIK**

Place: Mumbai **ADJUDICATING OFFICER**