

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992, read with Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 and Securities and Exchange Board of India (Research Analyst) Regulations, 2014 in respect of

Serial no.	Name	PAN
1.	Mr. Anirudh Sethi	ANBPS5743A

CASE FACTS

1. Securities and Exchange Board of India ("SEBI") had vide interim order dated January 19, 2007, passed an order against Mr. Anirudh Sethi (Noticee) and his extant business name "Stock Market Navigator", restraining them, *inter alia*, from giving investment advice to clients including any recommendations containing company specific news which amounted to violation of provisions of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to the Securities Market) Regulations, 2003. Mr. Anirudh Sethi in his reply to the said interim order submitted an undertaking vide an affidavit dated March 12, 2007, *inter alia*, submitting that he was going to henceforth publish articles containing technical analysis within the framework of the existing rules and regulations as prescribed by SEBI, insofar as they relate to the capital markets. Vide order dated July 29, 2009, the violation of the PFUTP Regulations was confirmed and Mr. Anirudh Sethi was cautioned of his dealings in the securities market and advised to strictly follow his own undertaking dated March 12, 2007 and to ensure that his business or dealing in the securities market is done in accordance with the applicable laws.

2. Subsequently, in January 2016, SEBI noted that the Noticee was providing services as an investment adviser and research analyst and offering payment based subscription plans through his website www.anirudhsethireport.com.
3. On perusal of the website of the Noticee (www.anirudhsethireport.com) and his Twitter account, SEBI conducted preliminary examination of the activities of the Noticee, with a view to ascertain possible violations of the Securities and Exchange Board of India Act, 1992 (“SEBI Act”), the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (“IA Regulations”) and the Securities and Exchange Board of India (Research Analyst) Regulations, 2014 (“RA Regulations”).
4. In the course of the preliminary examination, vide reply dated April 6, 2016, the Noticee submitted *inter alia*, that:

“Anirudhsethireport.com is an association of persons. Groups and entities engaged in the diversified discipline of International Forex Markets, stock markets, commodity markets, studies of economic policies of various countries and continents, stock market of India, commodity market of India...

Our association comprising of professionals in stock market mechanism, forex market mechanism, financial experts... SEBI related issues subscribed to the various and diversified expression of opinions and advices for the benefit of the investors, stakeholders in general...

We are the entity composing of the participants located at scattered locations to contribute to the corpus of the anirudhsethireport.com website in the form of expression of the opinion and of course on the occasional basis the stakeholders, investors, bereaved persons, group of persons strongly inclining to get reasonable return on the investment of hard earned money in the UNCERTAIN STOCK MARKET, COMMODITY MARKET, FOREX MARKET, gratuitously or non-gratuitously approaches the ENTITY of association of persons for the guidance but in the form of opinion.

We do arrange the seminars, conferences inviting the investors to participate in deliberations on various topics and express opinion on sector-wise... and for which we do look forward to the fees/charges/contribution for scheduling the programs, Technical Analysis and Trading Psychology.

We are neither covered under SEBI (Investment Advisers) Regulations..... for the simple reason that we do not impart investment advice to the investors for strategic sale or purchase of security nor we are subscribing to any article or advisory portion in any newspaper... However, if SEBI makes it imperative within framework of law, Rules, regulations, we may get registration as required provided our activities captioned above as an association is established to be attracting the jurisdiction of SEBI Regulations.”

5. Anirudh Sethi vide email dated April 19, 2016 provided his address and PAN. In addition, he submitted.

“a. The website (anirudhsethireport.com) is owned by a person from USA and we are writing our opinion about general global market which covers Stock market, MCX Crude in a global level, other economic articles affecting the business cycles, fiscal measures...

b. We are not making clients of any sort. The members which we make are only in twitter (a social site accessible to all the persons) were people follow us. It is not a money making plan its just investment awareness website.....if it is somehow breaching your code of conduct...we would either stop doing it or will definitely join you (we mean to obtain a certificate from your board) to do it in future.

c. For the furtherance of awareness of the investors, households relating to the inbuilt risk engraved in the stock market comparing to other investment avenues we occasionally holding the lecture talks, conference, video conferencing talk for which we expect the participants to contribute the administrative charges to fructify the advisory opinion building talks...

d. We do not have any earnings from the above activities so no question of sharing the details of bank account statements. When we are not covered it is not befitting to make us to submit the bank statements.”

6. SEBI vide email dated April 21, 2016 sought KYC details and bank account statements of Anirudh Sethi from ICICI Bank, Mumbai. ICICI Bank, vide its email dated April 21, 2016 provided statement of accounts of Anirudh Sethi maintained with ICICI Bank, Vadodara Branch, for previous 3 years. SEBI noted from the same that there were multiple transactions where amount equivalent to Rs. 36,000/- had been credited to his bank account.

7. Vide email dated April 28, 2016, Mr. Anirudh Sethi was advised to provide the following additional information:
 - a. Details of the transactions where an amount of Rs. 36,000 had been credited to his account, details of the counter parties and reason for the transaction along with supporting documents;
 - b. Details about the ownership of the website along with the documentary evidence for the same and details of his arrangement/agreement with the owner of the website;
 - c. Details of the scheme 'Fatal Attraction' displayed in the website, details of the e-mails received from investors and the details of fees collected from such clients.
8. Mr. Anirudh Sethi in his reply email dated May 05, 2016 submitted as under:
 - a. *"Taken Rs. 36,000 from traders/Investors or participants who want Financial Advice on Global Market (of every segment) in general on various facets of internal economic updation on commodity, currency market and security market etc. and we are organizing Seminars on Technical Analysis and Trading Psychology to update the knowledge base of participants including traders, brokers, domestic investors and hence on account of the cost of holding the seminars, lecture meetings, interactive deliberations and mutual consultations, the charges are collected for Seminars and Books and Education Material we give to participants.*
 - b. *AnirudhsethiReport is owned by Mr. Jim John of USA and he is handling the blog and we are just writing the post and updating about Financial Markets and Trading Psychology...."*
9. Further, no details about any arrangement with Mr. Jim John or any details about the scheme 'Fatal Attraction' has been submitted by the entity
10. Vide email dated May 09, 2016, the entity was advised to provide the details of the traders/investors or other participants from whom he has received the said amount, viz., name, contact details, amount collected and date of transaction, etc. latest by May 10, 2016.
11. Vide email dated May 15, 2016, Anirudh Sethi submitted: "...we do not have any specified time bound members but as and when participants find interested they may pay off in tranches as the events are scheduled. We are having other invitee faculties, experts to deliver the lectures, talks, occasionally and we do not have any membership or subscriber pattern."

However, he failed to furnish the details of any traders/investors or participants, as sought by SEBI.

12. *Prima facie findings/allegations in brief:* Pursuant to the examination, SEBI passed an interim order dated May 26, 2016, against the Noticee, wherein the following *prima facie findings/allegations* were recorded.

a) The website of the Noticee, www.anirudhsethireport.com states as below:

“About - The present endeavour is an answer to several million mails and calls that I have been receiving for the last couple of years to find my views of the markets. So I thought I shall forecast the indices of Sensex and Nifty Futures for the Indian Markets and extend my work to Commodities, Currencies, Crude, Gold and so many other things. Wish my work appreciators will show the same compassion and be benefited by my sincere efforts.”

b) The Noticee also maintained an active social media presence through Twitter handle “anirudhsethi71” with a large number of followers. The Noticee in his reply vide e-mail dated April 19, 2016 stated that *“The members which we make are only in twitter (a social site accessible to all the persons) were people follow us”*.

c) The tweets are mostly in the nature of stock specific recommendations and price targets. A few samples of the tweets are as follows:

“YES BANK-Crashed to kiss 682.90 !Just see at 697 Indicated to sellPower of chart !” “Buy 90 put of BHEL.....at 25 paisa or 30 paisa.....Risk 25 paisa and mint millions ??????Let's see” “All T looking HOT ! TVS Motors, TV 18, TORRENT PHARMA ,TATA MOTOR DVR.....Yes will buy in panic.”

d) Noticee is providing subscription based services to general investors under the name “Fatal Attraction”. Under the same, he is providing technical analysis on stocks, futures/options, commodities, currencies etc. To apply for the subscription based service and for more information on the same, investors are required to send an email at anirudhsethireport@yahoo.com. The website says: *“Our technical forecasts will give*

profit...This has been proved umpteen times in the past 2 decades. That's why we get innumerable request mails showing interest to join. As is the precedence, this subscription too is for entire 2015-2016 Financial Year, i.e. for 12 months till March 2016". The details displayed in his website clearly indicate that the Noticee is offering subscription based investment advisory and research analyst services to investors. The details of the scheme "Fatal Attraction" have been sought from the Noticee which was not furnished.

- e) There were multiple entries of deposits equivalent to Rs. 36,000/ into the bank account belonging to the Noticee, from different parts of the country for the period April 01, 2013 to April 20, 2016. For instance, during the month of August 2013 there were around 313 entries of deposits of amount equivalent to Rs. 36,000/- in the said bank account.
- f) The Noticee in his reply dated May 05, 2016 submitted that he has taken Rs. 36,000 from traders/Investors or participants who want Financial Advice on Global Market (of every segment) to update the knowledge base of participants including traders, brokers, domestic investors. He further submitted that on account of the cost of holding the seminars, lecture meetings, interactive deliberations and mutual consultations, the charges are collected for Seminars and Books and Education Material for the participants. However, he failed to submit any supporting documents regarding the same such as the details of the participants, name of the clients/participants, who had deposited the said amounts to his account, etc.
- g) The Noticee is engaged in providing investment advisory services to investors on payment of fees as discussed in the preceding paragraphs, which prima facie fall under the definition of "investment adviser" as defined by Regulation 2(m) of the IA Regulations.
- h) The Noticee is offering stock specific tips and recommendations and technical calls, as observed from his website, which prima facie falls under the definition of "research analyst" as defined by Regulation 2(u) of the RA Regulations.

13. In view of the *prima facie* findings on the violations, the following directions were issued in the said interim order dated May 26, 2016 with immediate effect:
- i. “Directed to cease and desist from acting as an investment advisor;;
 - ii. Directed to cease and desist from acting as a research analyst;
 - iii. Directed to cease to solicit or undertake such activities or any other activities in the securities market, directly or indirectly, in any matter whatsoever;
 - iv. Directed not to divert any funds raised from investors, kept in bank account(s) and/or in his custody;
 - v. Directed to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, etc. in relation to his investment advisory and research analyst activity or any unregistered activity in the securities market,
 - vi. Directed to furnish the complete details, information, documents, etc. sought by SEBI vide its letters/e-mails dated April 1, 2016, April 28, 2016 and May 09, 2016, including:
 - Names, addresses, contact numbers of the clients/participants, who had deposited money (equivalent to Rs. 36,000/-) in his account,
 - Full details regarding the scheme “Fatal Attraction” including the names, addresses and contact numbers of the clients/investors who had subscribed to the said scheme.
 - Details of the amount collected (year-wise) from the clients/participants till date.
14. In the interim order it was stated that the Noticee may show cause as to why the existing activities identified in this Order should not be held as "Investment Advisory Services" and "Research Analyst Services" in terms of respective Regulations and why appropriate directions, under Section 11 and 11B of the SEBI Act, 1992 and relevant SEBI Rules/Regulations including directions prohibiting him from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period and to refund the amount collected from the investors/clients/partners for his existing activities should not be issued against him. The interim order also stated that the Noticee would be afforded 21 days, from the date of receipt of the interim order, to file his replies, if any and to seek an opportunity of personal hearing, if he so desired.
15. *Service of interim order and hearing notice:* The interim order dated May 26, 2016 was served on the Noticee, vide letter dated May 27, 2016. Vide letter dated June 20, 2016, the Noticee

requested for an opportunity of inspection of specified documents. Vide letter dated July 8, 2016, the Noticee reiterated his request for inspection. Vide letter dated July 22, 2016, an opportunity of inspection was granted on July 29, 2016, and the Noticee availed of the said opportunity.

16. Thereafter, vide reply dated July 25, 2017, the Noticee *inter alia*, submitted the following:

a. “...Most of my articles are posted on website www.anirudhsethireport.com. The said website is owned and managed by Mr. Jim John of USA. ... I alongwith Mr. Foo Zhiwei , Ms. Nancy, Mr. Rakesh Shah, Mr. Nayal Khan, Mr. Oliver Mirza have also associated with Mr. Jim John and his website.

b. ...The dominant objective of the whole endeavour of setting up a website has been to share the command of knowledge and expertise of few people on the financial markets, ... to a larger group of people, and in the process also create awareness amongst the people who can access this information by visiting the website.

c. From time to time, I have also been posting various articles pertaining to overview of various subjects including those related to macroeconomic issues pertaining to financial markets (both Indian and Global) , Trading Psychology

d. I also tweet regularly regarding the general trends in the market. The twitter handle on which I tweet is i) @asrglobalnews and ii) @Iamanirudhsethi.

e. At times the visitors to the website express their interest in seeking views on the various facets of financial markets (both Indian and global), stock markets, commodities markets, currency markets etc depending on their area of interests and in participating the seminars/workshops/conferences organized by me. I along with my team, have also been conducting and organizing seminars/workshops/conferences on various aspects of markets including Trading Psychology, Trading Techniques and Trading analysis Again the endeavour has been to spread awareness about the Financial markets Trading Psychology, Trading Techniques and Trading analysis ...

f. For seeking the views and for attending the seminars/workshops/conferences the participants are required to pay fees/charges towards, inter-alia, the administrative expenses

and towards the cost of the books and educational material to be distributed during the seminars/workshops/conferences.

g. ... that there is no soliciting from my side or luring any investor in any manner for attending the seminars/workshops/conferences. The visitors of the website have been voluntarily seeking views and participating in the various subscription based memberships for seminars/workshops/conferences.

h. It is vehemently denied that I maintain an active social media presence through Twitter handle "anirudhsethi71" with a large number of followers as alleged. As stated hereinbefore, I interact on social media through twitter handle i) @asrglobalnews and ii) @Iamanirudhsethi, and not Twitter handle "anirudhsethi71" as alleged. The Twitter handle "anirudhsethi71" is nothing but a parody account.

i. Any advice given through twitter etc (which falls under the telecommunication medium) and which is widely available to the public will not fall under the definition of "investment advice" and therefore same is outside the purview of Investment Advisers Regulations.

j. In so far as providing the alleged subscription based services to general investors is concerned, it may be noted that the visitors of the website seek views on host of markets and asset classes (Indian as well as global). Similarly, the seminars/workshops/conferences organized for the participants also involve discussions on host of issues pertaining to financial markets (Indian as well as global).

k. In so far as details of participants etc. are concerned it may be noted that once the membership tenure is over, no data is maintained. Once the term of the service expires, the details of the members are automatically deleted from the system so that they cannot access the information any longer. In the circumstances, I have not been able to provide the details of the members as specifically sought by SEBI since I do not have that information in my possession any longer.

l. It is denied that I am offering any stock specific tips and recommendations and technical calls as alleged. Said inference is based on the contents of the twitter handle "anirudhsethi71", which as stated hereinbefore does not belong to me.

m. The articles posted on the website or the Technical analysis posted on the website cannot be alleged to be covered by the definition of "research report" as contemplated under Regulation 2(u) of Research Analysts Regulations. The articles posted or the Technical analysis is in the nature of comments on general trends in the securities market or commentary on economic, political and market conditions etc, which are specifically excluded from the definition of the "research report". I submit that I am not engaged in any preparation or publication of the content of the research report, providing research report, making 'buy/sell/hold' recommendation, giving price target, offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange. As stated hereinbefore, I am a Technical analyst and not engaged in issuance of research report or research analysis."

17. Vide public notification dated October 15, 2017 in the newspapers *The Times of India* and *Gujarat Samachar* and vide email dated October 23, 2017, the Noticee was granted an opportunity of personal hearing in the matter on November 8, 2017 at the venue and time mentioned therein. However, the said public notification has been rectified for certain error and a separate notice for personal hearing was sent to the Noticee vide letter and email dated November 17, 2017, and a fresh opportunity for hearing was granted to the Noticee on December 5, 2017. Thereafter, vide email dated December 4, 2017, the Noticee sought for an adjournment. The said request for adjournment was acceded to and vide letter and email dated December 18, 2017, another opportunity of personal hearing was granted on January 9, 2018, at the time and venue mentioned therein.
18. *Hearing and submissions:* Mr. Anirudh Sethi appeared for the personal hearing granted on January 9, 2018 and made the following oral submissions, stating *inter alia*, that:
 - a. He was only providing educational articles and posts on his website www.anirdudhsethireport.com which gives advice on the global market, against payment of fees.
 - b. He is not providing any analysis of the Indian markets.
 - c. He was also providing facilities of seminars/workshops on technical analysis of securities market on the payment of fees.

- d. Occasionally, he provides online/phone consultation to its clients.
 - e. He is continuing to provide his services, and currently has 110 clients to whom services are being provided.
19. The Noticee was shown certain excerpts of his website, as available on record, and written submissions were sought in this regard, along with Bills of the seminars/workshops, the Income Tax Returns for the last three financial years, list of Investors email IDs and passwords, along with other supplementary documentary evidence. The Noticee was given time till January 20, 2018 to submit the above.
20. Vide letter dated January 27, 2018 the Noticee has submitted the following documents:
- a) Copy of Income Tax Return (ITR) for the last three financial years i.e. 2015-16, 2016-17, 2017-18.
 - b) Some copies of bills and photographs for some of the seminars conducted during the period from 2013-2016.
 - c) Details of some password-protected posts from the website www.anirudhsethireport.com.
 - d) List of email IDs of some members who received passwords during 2015-16 to access the post/article from the website www.anirudhsethireport.com.
21. Vide the said reply, the Noticee also submitted that the articles pertaining to Nifty and IndusInd Bank, as shown in the excerpt of the website content available on record, was not written by him. He reiterated the claim that the website was owned by Mr. Jim John and that there were various contributors of articles on the website.
22. I have considered the allegations, and materials brought on record. On perusal of the materials on record, the following issues arise for consideration. Each question is dealt with separately under different headings:
- i. Whether the Noticee was involved in investment advisory activities and research analyst activities.

- ii. If so, whether the Noticee has violated section 12(1) of the SEBI Act and regulation 3(1) of the IA Regulations and regulation 3 of the RA Regulations.

Issue no. 1: Whether the Noticee was involved in unregistered investment advisory activities and unregistered research analyst activities.

IA Regulations

23. I have perused the interim order dated May 26, 2016 for the allegation of unregistered investment advisory activities being given on the website named www.anirudhsethireport.com.
24. The Noticee has submitted vide his email dated May 5, 2016 and letter dated July 25, 2017 that the website was owned and managed by Mr. Jim John of USA and that the Noticee along with Mr. Foo Zhiwei , Ms. Nancy, Mr. Rakesh Shah, Mr. Nayal Khan, Mr. Oliver Mirza have associated with Mr. Jim John and his website. I note from the registration information of the website as available from the website domain information repository www.whois.com, which has been brought on record, that even as on January 27, 2016, the website was registered and administered by Mr. Anirudh Sethi. Further, despite being given an opportunity to furnish proof of ownership of website by Mr. Jim John, the Noticee failed to do so. Therefore, I conclude that the Noticee himself was in control of the website and not Mr. Jim John as claimed by him.
25. Further, I note from the “About” page on the website, that it declares that Mr. Anirudh Sethi is the first member and the key person behind the website, as is evident from the following text:
- “Our key mind is Mr. Anirudh Sethi and all of us have achieved this goal of success together as a team. One day we will rule Wall Street too. We did not wished for a fancy name for our website but we did not wanted to miss out on our mentor’s hard work to accomplish what we have, so, we went with the name anirudhsethireport.com. (emphasis supplied)”*
26. I also note from the bank account details of the Noticee and the oral submissions made by the Noticee during the personal hearing that the Noticee was receiving fees from the participants for various subscription-based services that were offered on the website. This implies that the

Noticee was in control of the entire website along with the subscription services being offered thereon.

27. On perusal of the records of the website, I note that at one part it states the following:

“About - The present endeavour is an answer to several million mails and calls that I have been receiving for the last couple of years to find my views of the markets. So I thought I shall forecast the indices of Sensex and Nifty Futures for the Indian Markets and extend my work to Commodities, Currencies, Crude, Gold and so many other things. Wish my work appreciators will show the same compassion and be benefited by my sincere efforts.”

I find that in this part of the website, it is not expressly stated that the Noticee represents himself an investment adviser. The above part seems to indicate that the website acts as a platform to publicly forecast the indices of Sensex and Nifty Futures for the Indian Markets, and to express opinions on other sectors as well.

28. However, I have perused other contents of the website as brought on record and the submissions made by the Noticee, and note that as on April 1, 2016, the website has posted the following articles

“Power of Triangle: Above 936, Target of IndusInd Bank was 972See What Happened? Day Before Yesterday Recommended to Buy at 936 Target 972, Yesterday kissed 968 ... Yes Our subscribers know many things...(emphasis supplied)”

In another post dated April 1, 2016, it was stated

“Bank Nifty-Break Below 16068 ..Watch Bloodbath. Hurdle at 16211, Laxman Rekha – 16445 ... 101% More Details to our Subscribers during Trading hrs. (emphasis supplied)”

In another post dated April 1, 2016, it was stated that

“Trading Strategy For 1st April '16 – Nifty Future: Below 7768, Watch PANIC upto 7723-7678 ... 101% More Details, Intraday Trading levels to our Subscribers.(emphasis supplied)”

In another post, dated January 12, 2016 on the said website, the following was stated:

“BANK NIFTY -Will it cross 16185 ?Below 15993..Intraday PANIC !Indusind Bank-Big move of Rs 94 on card... Let’s see if crosses 16185 and stays above then ?? Not Crossing High of 16186 level & Trades below 16079 will take to 15993 level. Below 15993 level if sustains for 15-20 minutes ,WATCH PANIC upto 15928—15907 ... If crosses 980 level after result and sustain with volumes then watch BLAST BLAST BLAST ...Below 926.....PANIC will start ,Once breaks 911 with volumes then ??? ...101% More Details during trading hrs to our Subscribers. (emphasis supplied)”

From the posts, I note that the website publicly acknowledges Indian stock and index-specific trading calls sent to subscribers since the reference to subscribers is coming repeatedly proving the fact that he had subscribers for advice for equity market as well, **which amounts to investment advice**. With respect to the aforesaid excerpts dated April 1, 2016, the Noticee has submitted vide his letter dated January 27, 2018, that he was not the author of the said posts and has reiterated that the website is owned and managed by Mr. Jim John and that a number of other authors also contributed to the said website. However, no supporting document to that effect has been submitted by the Noticee. No details of authors contributing to the website has been submitted. I have already observed that the website had been registered and was being administered by the Noticee and that subscription amounts were being paid into his account. Therefore, I am of the opinion that the Noticee was responsible for and had control over the posts being made on the website that he was administering.

29. I note that the Noticee vide his written submissions dated July 25, 2017 and oral submissions during the personal hearing, has stated that he held seminars/workshops on trading analysis, and providing Trading toolkit for the seminar participants. The Noticee was given opportunities to provide bills/vouchers of participants, study materials, etc. in this regard. Vide his reply dated January 27, 2018, certain photographs and cash receipts of conference hall booking in that respect has been submitted by the Noticee.

In this regard I note that the Noticee has submitted that the content of both the subscription based scheme and Trading Seminar/workshops, focused only on the global markets. I note from the submissions made by the Noticee on January 27, 2018, that certain copies of the

webpages from the website, www.anirudhsethireport.com have been submitted for perusal. In a post dated December 20, 2013, the Noticee has stated *“Those who subscribed for Indian market-Equity Already PAID Back Money after Deduction of Term used.”* In a post dated December 10, 2014, the Noticee has stated *“Those who Paid for Commodity-MCX/NCDEX We will refund all the money if had joined us after Diwali 2014.”* I note that as on January 2, 2016, the Noticee is stating on its website that *“Fees of Members interested in Indian Market will be returned back as we don’t forecast Indian market. We cannot forecast the Indian market as we are not registered under SEBI.”* However, I find no merit in the above submissions as it is seen from the posts on the website dated April 1, 2016, as described on paragraph 28 of this Order, that the Noticee clearly offered advice to his subscribers with respect to Indian markets as well.

The Noticee was given opportunity to provide the segregation with respect to services for the global markets and Indian markets. However, the Noticee failed to provide any clear segregation for the same. Vide reply dated January 27, 2018, Noticee submitted certain documents along with the Income Tax Returns for 2014-2015, 2015-2016 and 2016-2017, wherein it is noted that the Noticee has declared himself to be providing services as an “Investment Adviser”. In view of the fact that the Noticee was offering Indian stocks/index-specific advice to his subscribers, and in view of the fact that the Noticee was not able to provide the segregation in his income relating to the global markets and Indian markets, I find that the Noticee was offering a package deal to his subscribers as part of his services as an investment adviser.

30. I have perused the definition of investment adviser as given in regulation 2(m) of the IA Regulations, which states that investment adviser means *“means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called”*. Further, I have perused regulation 2(l) of the IA Regulations which defines investment advice as *“advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.”*

I note that the Noticee has submitted vide his reply dated July 25, 2017, that as per the proviso to regulation 2(l) of the IA Regulations, any investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations. In this regard, I note that the contents of the website given in paragraph 28 indicate that the Noticee was providing advice, tips and recommendations to his subscribers on a private basis, and that fact was being advertised/broadcasted through his posts on the website.

31. In view of the given context, I am inclined to rely on the evidence as highlighted on paragraph 28 of this Order, wherein I note that the Noticee has expressly declared in his posts that price targets, buy recommendations, advice relating to dealing in securities, etc. were being offered to his subscribers. I also find from the content of the website that the clients of the Noticee were receiving price targets and stock specific recommendations even during trading hours, as stated in a post dated April 1, 2016. Therefore, I find that the Noticee was acting as an investment adviser within the meaning of the terms as given in the IA Regulations.

Research Analyst

32. I note from the website, www.anirudhsethireport.com, that through the Twitter handle “@anirudhsethi71”, stock specific recommendations and price targets have been disseminated.

32.1. In a post on the said website dated January 11, 2016, I find that the following was stated:

“Bank Nifty -Intraday Target Achieved ,Mint Money in TONS...No Bla Bla Business ! ...

BANK NIFTY–Now at 16046...Our Targets were :16053-16079....Yes above 16079 if sustains for 15-20 minutes rally upto 16159++

— Anirudh Sethi (@anirudhsethi71) January 11, 2016”

A few more samples of the tweets as observed on the said Twitter handle are as follows:

“ALERT-SELL TITAN at 420-423-----4333-----436!! Above 410, Buy Buy Buy & Mint millionssssssssss” (Date: March 18, 2015)

“Marwari Bull of Kolkata eating BATAYes, Remember ASR if kisses and cross 1200+ today.....!!!” (Date: March 24, 2015)

“Don’t sell 100 shares of Digjam @ FREEEEEEEEEEEEZE 9.50, SELL only on Next Tuesday/WED !!! Target 16+ !!” (Date: March 26, 2015)

32.2. I note that the Noticee vide his reply dated July 25, 2017 and during his personal hearing, has submitted that the twitter handle “@anirudhsethi71” does not belong to him. He has further submitted that he tweets through the handles @asrglobalnews and @Iamanirudhsethi. He has submitted that “@anirudhsethi71” is a parody account.

32.3. In this regard, I note that as on July 1, 2009 and April 1, 2016, as per the contents of the website as brought on record in this matter, “@anirudhsethi71” is represented on the website as a Twitter handle associated with the website. Even on perusal of the archives of the website, I note that in a post dated August 15, 2013, the Noticee has mentioned “@anirudhsethi71” as the Twitter handle on which it had written posts. Further, on perusal of the material on record, I note that in the interim order the following text has been incorrectly stated to be a tweet: *“YES BANK-Crashed to kiss 682.90 !Just see at 697 Indicated to sellPower of chart !”* In fact it appears to be the heading of a post dated February 23, 2016 on the website, with an accompanying link to the twitter handle “@anirudhsethi71” with following text *“YES BANK.....Our Target intact of 691—683....Yes below 717 level sold ...now at 697”* (Date: February 23, 2016).

32.4. From the above, it is clear that the twitter handle “@anirudhsethi71” was very much used by the Noticee to disseminate stock recommendations, the same being further relayed on the website, and the said activity was carried out even as on February 23, 2016. The Noticee has not claimed that the website itself was a sham. Therefore, in the given context, the Twitter handle “@anirudhsethi71” does not appear to be a parody account. Even assuming that the said Twitter account was a parody account, I find no reasons why Noticee has not notified Twitter about the said parody account which was clearly not meeting the criteria for being a parody account as per Twitter terms and conditions. On the contrary, I find evidence on record to show that the Noticee allowed his website to promote “@anirudhsethi71”, thus leading to the conclusion that the Twitter handle really belonged to the Noticee. The claim of the account

being a parody, appears to be made as an afterthought to the entire scheme of events, and I find that there is a suppression of truth and suggestion of falsity by the Noticee in this regard.

33. With respect to the content of the Tweets, I note that vide reply dated July 25, 2017, Noticee has submitted that the articles posted on the website or the Technical Analysis posted on the website were in the nature of comments on general trends in the securities market or commentary on economic, political and market conditions, which are specifically excluded from the definition of “research report” as per the RA Regulations. However, I find no merit in the said submission as the content of the website and the Twitter account “@anirudhsethi71”, as discussed in paragraphs 28 and 32 of this Order, indicate that the Noticee was offering buy/sell/hold recommendations and giving price targets, with respect to securities which were listed in a stock exchange.
34. I have perused the definition of Research Analyst as given in regulation 2(u) of the RA Regulations, which states that Research Analyst means “*a person who is primarily responsible for ... making ‘buy/sell/hold’ recommendations, or giving price target, or...*” In the given context, I find that the Noticee was offering research analyst services as defined under the RA Regulations. I am of the view that the said ‘buy/sell/hold recommendations’ and ‘price targets’ can be regarded as research analysis, and by the definition given in regulation 2(w) of the RA Regulations, would be included within the meaning of “research report”.
35. The Noticee also submitted vide his reply dated July 25, 2017 that any information or views expressed on telecommunication, electronic or broadcasting media shall not be considered as investment advice as per the IA Regulations, and therefore any post in the social media which is publicly accessible is exempt from the provisions of the IA Regulations. Having perused the proviso to regulation 2(l) of the IA Regulations, I accept the limited argument that posts made on Twitter handle would not be considered as investment advice within the meaning of the IA Regulations. However, in the RA Regulations, if unregistered investment adviser makes a research report to public, by virtue of second proviso to reg 3(1) of the RA Regulations, the same still comes under the prohibitive reach of RA Regulations since the exception to make research report to the public is available only to the registered investment advisers. As the notice is not a registered investment adviser his research report to the public cannot be made unless he has obtained a certification of registration either as Research Analyst or Investment

Adviser. Admittedly, the Noticee has not obtained both. Therefore, I find that the notice has made research report to public in violation of the RA Regulations.

Collection of Fees

36. Regulation 2(g) of the IA Regulations defines “consideration” to mean “any form of economic benefit ... received or receivable for providing investment advice.” On perusal of the bank account statements of the Noticee, I find that there were multiple transactions where amount equivalent to Rs. 36,000/- had been credited to his bank account. I also note that as per the fees schedule posted on the website, as on January 2, 2016, the Noticee was charging Rs. 25,000/- and Rs. 36,000 for its various schemes. Vide emails dated April 28, 2016 and May 9, 2016, the Noticee was advised to provide the details of participants, the reasons for the transactions to the amount of Rs. 36,000, along with supporting documents. Vide reply dated May 5, 2016, the Noticee replied that he had taken *“Rs. 36000 from traders/Investors or participants who want Financial Advice on Global Market (of every segment) in general on various facets of internal economic updation on commodity, currency market and security market etc. and we are organizing Seminars on Technical Analysis and Trading Psychology ... and hence on account of the cost of holding the seminars, lecture meetings, interactive deliberations and mutual consultations, the charges are collected for Seminars and Books and Education Material we give to participant.”* Noticee vide his reply dated July 25, 2017, submitted that the *“the fees which visitors were required to pay were inter alia for the views based on technical analysis, for the participation in seminars/workshops/conferences, for material/books etc. pertaining to financial markets involving both Indian as well as global markets...”*. At the time of the personal hearing, the Noticee was advised to provide the segregation for the earnings and expenses with respect to global markets and Indian markets, and conduct of seminars/workshops and I find that the Noticee has not provided the same. In the absence of the segregation for the aforesaid earnings I am of the opinion that the Noticee received consideration for a comprehensive package deal of investment advisory services.

37. Further, I note from the Income Tax Returns as submitted by the Noticee vide his reply dated January 27, 2018, wherein, as per the “Computation of Total Income” the Noticee is stated to be rendering Investment Adviser services. It also appears from the Income Tax Returns that the Noticee had earned Rs. 2,15,63,800 as net income from Investment Adviser Services during

financial year 2014-2015, Rs. 27,91,180 during financial year 2015-2016 and Rs. 13,43,349 during financial year 2016-2017. From the bank account statements of Mr. Anirudh Sethi, bearing no. 624501031844 for the period of April 1, 2013 to April 20, 2016, I find that a total credit of Rs. 10,80,69,154/-.

In view of the aforesaid, I find that the Noticee was offering investment advisory services in exchange for consideration which were reflected in his income tax returns for 2014-2015, 2015-2016 and 2016-2017, as well as from the bank account statements of the Noticee for the period of April 1, 2013 to April 20, 2016.

Issue no. 2: If so, whether the Noticee has violated section 12(1) of the SEBI Act and regulation 3(1) of the IA Regulations.

38. I note that as a measure of investor protection, it is imperative on any person carrying out investment advisory activities, to obtain registration and conduct its activities in accordance with the provisions of the SEBI Act and the IA Regulations. I have perused of Section 12(1) of the SEBI Act which states that

“No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act.”

Further, I note that as per regulation 3(1) of the IA Regulations, *“on and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations.”*

As per regulation 3(1) of the RA Regulations, *“On and from the commencement of these regulations, no person shall act as a research analyst or research entity or hold itself out as a research analyst unless he has obtained a certificate of registration from the Board under these regulations.”*

39. I find that the Noticee has himself admitted in his reply dated July 25, 2017 that he does not possess a certificate of registration with SEBI. In light of the content of the website given in paragraph 28, the contents of his Twitter Account, given in paragraph 32, and details of the bank account statements, I find that the Noticee was offering unregistered investment adviser services and unregistered research analyst services in exchange for fees, in the form of various schemes, such as subscription based services, seminars, etc.
40. The Noticee admittedly does not possess a certificate of registration to carry on the activities as an investment adviser or as a research analyst. The proviso to regulation 3 of the IA Regulations states that *“a person acting as an investment adviser immediately before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate ... within the said period of six months, till the disposal of such application.”* Similarly, the proviso to regulation 3 of the RA Regulations states that *“any person acting as research analyst or research entity before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate of registration under sub-regulation (2) within the said period of six months, till the disposal of such application.”* The IA Regulations were notified on January 21, 2013. The IA Regulations came into effect on April 21, 2013. Therefore, any person who had been providing investment advisory service before the IA Regulations came into effect can, by virtue of the proviso under regulation 3, continue to do so without a certificate of registration till October 20, 2013, beyond which the said person would have to obtain a certificate of registration or may continue to do so till the time his application for registration is disposed of. I note that vide a post dated April 2, 2013, on the website www.anirudhsethireport.com the following was stated:

“Sell KAPAS MCX....Target 921—901—895 in hrs only ...Sell if u canNow at 941, Yes ,We see PANIC PANIC upto 927—921 level...Retest of 860—850 level very soon, On Rise ,Sell it...Big Selling to start ?? More Details to our Subscribers.”

From the said post, it is clear that the Noticee was providing investment advice since before the IA Regulations came into effect and therefore the Noticee had time till October 21, 2013 to obtain registration under IA Regulations. Similarly, the RA Regulations were notified on

September 1, 2014 and came into effect on December 1, 2014. As per the provisions of law, any person who had been providing research analyst services before the RA Regulations came into effect, could do so without a certificate of registration till June 1, 2015 beyond which the said person would have to obtain a certificate of registration or may continue to do so till the time his application for registration is disposed of. The material on record shows that the Noticee was providing research analyst services through the Twitter account by giving buy/sell/hold recommendations and price targets from 2013, as seen from paragraph 32 of this Order. Therefore, the Noticee is considered to have engaged in research analyst services prior to the commencement of the RA Regulations, and is therefore, covered in the proviso to regulation 3 of RA Regulations. Therefore, the Noticee had time till May 31, 2015 to obtain registration under RA Regulations. I note that the Noticee has not made any application for registration either as an investment adviser or as a research analyst. I note that the Noticee was providing investment adviser services and research analyst services even as late as January 12, 2016, January 11, 2016, February 23, 2016 and April 1, 2016, as evident from paragraphs 28 and 32 of this Order. This is well beyond the period prescribed under the aforesaid regulations, and the Noticee was mandated to obtain certificates of registrations before he could carry on or continue such activities. In view of the above, I find that the Noticee was providing unregistered investment advisory services and research analyst services, in violation of section 12(1) of the SEBI Act and the respective regulations 3(1) read with the provisos of the IA Regulations and RA Regulations.

41. I also find that there is nothing on record, to show that the Noticee falls in any of the categories of exemption as provided under regulation 4 of the IA Regulations. The Noticee has not submitted any representation contending the same, as well.
42. In view of the blatant flouting of securities laws, I find that the Noticee is liable for the violation of section 12(1) of the SEBI Act along with regulation 3(1) of the IA Regulations and regulation 3(1) of the RA Regulations. I note that he has violated his own undertaking dated March 12, 2007, which he gave to SEBI stating that he “*will publish ... within the framework of the existing rules and regulations as prescribed and/or promulgated by the market Regulator, SEBI*”.

43. In order to safeguard the interest of the investors and their investments, and to further ensure orderly development of securities market, it becomes necessary for SEBI to issue appropriate directions against the Noticee.
44. As seen from paragraphs 36 and 37, the Noticee has collected funds as fees from his clients under its subscription based package schemes acting as an unregistered investment adviser. Therefore, it would be reasonable that such funds collected in any name are liable to be returned to the investors. Given that the Noticee was eligible for extension of time to apply for registration under the IA Regulations till October 21, 2013, the credits to his account till the said date is not liable for refund. However, in the absence of the details of segregation of fees received for global and Indian markets, and conduct of seminars/workshops despite the same having been sought for from the Noticee, I find it appropriate that the amounts as shown to have been credited in his bank accounts, from October 22, 2013 till April 20, 2016, be directed to be refunded. As per the bank account statements for the account no. 624501031844 from October 22, 2013 to April 20, 2016, an amount of Rs. 7,35,06,557 has been credited and appropriate directions for the refund of the said amount is being given in this Order. However, the amount to be refunded can be more in the case of availability of further details in this regard, such as complaints of investors, payment vouchers, bank account transactions, etc.
45. In view of the discussion above, appropriate action in accordance with law needs to be initiated against the Noticee. The interim order has contemplated issuance of directions against the Noticees including prohibiting them from buying, selling or otherwise dealing in securities market, and requiring the investment adviser to refund any money collected as fees, charges or commissions or otherwise to the concerned clients.
46. Section 11 of SEBI Act casts a duty on the Board to protect the interests of investors in securities and to promote the development of and to regulate the securities market. For achieving such object, it has been authorised to take such measures as it thinks fit. Thus, power to take all measures necessary to discharge its duty under the statute which is a reflection of the objective disclosed in the preamble has been conferred in widest amplitude.
47. Section 11B and Section 11(4) of SEBI Act are functional tools in the hands of the Board. In effect, Section 11B and Section 11(4) SEBI Act are some of the executive measures available to SEBI to enforce its prime duty of investor protection. SEBI is empowered to issue directions

in the interests of investors of any person or class of persons referred to in Section 12 of the SEBI Act or associated with the securities market.

ORDER

48. Therefore, I, in exercise of the powers conferred under section 19 of the SEBI Act read with sections 11(1), 11(4), and 11B of the SEBI Act, hereby issue the following directions:

- a. Mr. Anirudh Sethi shall forthwith refund the money received from its clients as fees/profit sharing/compensation in any other form, in respect of its unregistered investment advisory activities and unregistered research analyst services.
- b. Mr. Anirudh Sethi shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact persons such as names, addresses and contact details, within 15 days of this Order coming into effect.
- c. The repayments to the clients shall be effected only through Bank Demand Draft or Pay Order both of which should be crossed as “Non-Transferable” or through any other appropriate banking channels with clearly identified beneficiaries.
- d. Mr. Anirudh Sethi is directed not to divert any funds raised from investors, kept in bank account(s) and/or in his custody, except for the purpose of refunds to the clients. The Banks and Depositories are directed that no debit shall be made, without permission of SEBI, in respect of the bank accounts and demat accounts, held jointly or severally, by Mr. Anirudh Sethi.
- e. After completing the aforesaid repayments, Mr. Anirudh Sethi shall submit a certificate from a peer reviewed Chartered Accountant who is in the panel of any public authority or public institution, within a period of 3 months from the date of service of this order. For the purpose of this Order, a peer reviewed Chartered Accountant shall mean a Chartered Accountant, who has been categorized so by the Institute of Chartered Accountants of India ("ICAI") holding such certificate.
- f. In case of failure of Mr. Anirudh Sethi to comply with the aforesaid directions, SEBI, on the expiry of three months period from the date of this Order may recover such amounts, from

Mr. Anirudh Sethi as specified in paragraph 48(a) of this Order, in accordance with section 28A of the SEBI Act including such other provisions contained in securities laws.

g. Mr. Anirudh Sethi is directed not to, directly or indirectly, access the securities market, and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, till the expiry of 4 years from the date of refund. Mr. Anirudh Sethi is also restrained from associating with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI till the expiry of 4 years from the date of refund.

h. Mr. Anirudh Sethi shall not undertake, either directly or indirectly, investment advisory services, research analyst services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws after the expiry of period of debarment as mentioned in paragraph 48(g).

i. The above directions shall come into force with immediate effect.

38. Copy of this Order shall be forwarded to the recognised stock exchanges, banks, depositories, and registrar and transfer agents, for information and necessary action.

DATE: March 16, 2018

PLACE: Mumbai

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**