

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER
INTERIM EX PARTE ORDER**

**Under Sections 11(1), 11(4), 11B(1) and 11D of the Securities and Exchange Board
of India Act, 1992**

**In Re: Violation of provisions of Securities and Exchange Board of India
(Investment Advisers) Regulations, 2013, and
Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair
Trade Practices relating to Securities Market) Regulations, 2003**

In respect of:

S. No.	Name of the Entity	PAN
1	M/s Profit Money Advisor and its Proprietor Shri. Prateek Singh	ENOPS8525K

In the matter of M/s Profit Money Advisor

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1. M/s Profit Money Advisor (hereinafter referred to as “**PMA**”) is a proprietorship firm, having office at “*Shop No. 3, Danish Nagar, Bawadia Kalan, Hoshangabad Road, Misrod, Jabalpur, Bhopal.* The website URL of PMA is <https://.profitmoneyadvisor.net> and contact details as available on the website is 8109956301/9109368967 and email id is [info@profitmoneyadvisor.net/](mailto:info@profitmoneyadvisor.net) [support@profitmoneyadvisor.net/](mailto:support@profitmoneyadvisor.net) info@maximumbackmoney.in
 2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) was in receipt of a complaint vide email dated November 04, 2020, wherein, the complainant

inter alia alleged that PMA is an unregistered investment advisory firm; giving investment tips to people and is not registered with SEBI. The website of the entity contains various packages of different time period against fixed return. Thereafter, the matter was taken up for preliminary examination by SEBI.

SEBI's Examination:

3. SEBI conducted an examination in relation to the affairs of PMA and its proprietor Shri. Prateek Singh (hereinafter referred to as “**Noticees**”) to ascertain possible violation, if any, of the provisions of SEBI Act, 1992 (hereinafter referred to as “**SEBI Act**”) and rules and regulations made thereunder.
4. As per the registered intermediary database on SEBI website, it is observed that neither PMA nor its proprietor Shri. Prateek Singh is registered with SEBI in any capacity.
5. As per the domain registration details checked on www.whois.com database, it was observed that the website with URL <https://profitmoneyadvisor.net> was created on December 02, 2019, with last update on December 08, 2020. Further as per the registration details available the website registration expires on December 02, 2021. The website of PMA <https://profitmoneyadvisor.net> is not active as on date though the same was active till December 2020 and the snapshot of the same have been placed on record.
6. From the website snapshot of PMA it is observed that PMA is using bank account number 3790292068 held in the name of PMA with Central Bank of India (CBI) with signatory Shri. Prateek Singh. Accordingly, Account Opening Form (AOF), Know Your Client (KYC), details and bank statements / statement of transactions for this bank account was sought from CBI.

7. A google search of the bank account number 3790292068 was made to check if the same account is being used for any other purpose or business. However, no direct result was obtained.
8. The entity has put up a Whatapp and Paytm number on its website for clients who wish to subscribe to their 'advisory services' which is +9109368967. On cross checking this mode of payments, it is observed that said number is still available for making payments to profit money advisor via paytm.
9. SEBI's preliminary examination found that PMA and its proprietor Shri. Prateek Singh held themselves out and acted as an Investment Advisor for providing tips and trading calls in securities market without obtaining a registration under SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**").

CONSIDERATION & PRIMA FACIE FINDINGS

10. I have perused the material available on record such as information on the website of PMA and the information obtained from CBI Bank. In this context, *prima facie*, the following issues arise for determination:
 - 10.1. ***Issue No. 1: Whether PMA is holding itself out and/or acting as investment adviser?***
 - 10.2. ***Issue No. 2: If answer to the aforesaid issue is in affirmative, whether PMA has, prima facie, violated any provisions of Securities and Exchange Board of India Act, 1992 ("SEBI Act") read with SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations") and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("PFUTP Regulations")?***
 - 10.3. ***Issue No. 3: If answers to Issue Nos. 1 & 2 are affirmative, who are responsible for the violations?***
 - 10.4. ***Issue No. 4: If answer to Issue No. 2 is in affirmative, whether urgent directions, if any, should be issued against those responsible for the violations?***

Issue No. 1: Whether PMA is holding itself out and/or acting as investment adviser?

11. As regards the first issue, I note the following from the material available on record:

11.1. The website of PMA has been perused and observed that website <https://.profitmoneyadvisor.net> is not active as on date though the same was active till December 2020. Upon perusal of the information obtained from the snapshots of the webpages of website of PMA, it is seen that the following claims are made by PMA:

11.2. *Profit money advisor is india's leading advisory firm fully committed to make fair realistic and top quality financial recommendations and tips accessible to all traders and investors in India. The financial advice we offer connects all factors of financial planning and assist traders in taking holistic and merit based financial decisions to acquire their financial objectives. Profit Money Advisor have fully committed team of business analysts that take full case of customers individually online and through telephonic support round the clock. We have comprehensive assortment of services so that traders can employ our services according to their trading style.*

11.3. *Profit Money Advisor is leading financial services provider with presence in India and other global capital markets. With its full-fledged research operations profit Money Advisor investment adviser has proven itself as a company that procures and delivers high accuracy tips and recommendations for"*

Equities for stock listed on BSE and NSE

Derivatives NSE and Nifty Futures and Options

Commodity MCX and NCDEX

Forex Domestic and International currencies

Crypto currencies

11.4. Various services offered by PMA as per the webpages of the website are as follows:

Cash Service		Option Service	
Cash Intraday	Ideal For : Intraday , Risk Type : Medium 2-4 Call's Intraday Investment 1lakh +10 Limit Monthly Return 30-35% Monthly: Rs.15,000/- + Gst Quarterly: Rs.35,000/- +Gst (50%) Half-Yearly: Rs.60,000/-	Option Intraday	Ideal For : Intraday Risk Type : Medium 2-3 Call's Intraday Investment Minimum 50k Monthly Return 50% Monthly: Rs.15,000/- + Gst Quarterly: Rs.35,000/- + Gst (50%) Half-Yearly: Rs.60,000/-
Cash Premium	Ideal For : Intraday Risk Type : Medium 1-2 Call's Intraday Investment □ 3lakh +10 Limit Monthly Return □ 40-50% Monthly: Rs.35,000/+Gst Quarterly: Rs.80,000/- + Gst (50%) Half- Yearly: Rs.1,35,000/-	Option Premium	Ideal For : Intraday Risk Type : Medium 1-2 Call's Intraday Investment Minimum 1lakh Monthly Return 50-75% Monthly: Rs.42,500/- + Gst Quarterly: Rs.1,05,000/- +Gst (50%) Half-Yearly: Rs.1,75,000/-
Cash HNI	Ideal For : Intraday Risk Type : Medium 15-17 Call's Monthly 1-2 Day's Holding Investment □ 5lakh +5 Limit Monthly Return □ 55-70% Monthly: Rs.65,000/- + Gst Quarterly: Rs.1,45,000/- +Gst (50%) Half-Yearly: Rs.2,55,000/-	Option HNI	Ideal For : Intraday Risk Type : Medium 1 Call's Hold 1-2 Day's Investment Minimum 2lakh Monthly Return 100% Monthly: Rs.85,500/- + Gst Quarterly: Rs.2,25,000/- +Gst (50%) Half-Yearly: Rs.3,51,000/-
Cash MBM Pack	Ideal For : Intraday Risk Type : Medium Investment 10-15 Lakh +5 Limit Monthly Return 100% + Return Monthly: Not Available Quarterly: Not Available Half-Yearly: Rs. 2,51,000/-	Option MBM Pack	Ideal For : Intraday Risk Type : Medium Investment 6 Lakh Monthly Return 150-200% +Return Monthly: Not Available Quarterly: Not Available 45 Day's: Rs.3,51,000/-
Nifty Index Service		Nifty Index Option Service	
Nifty Index	Ideal For : Intraday Risk Type : Medium 15-18 Call's Monthly Monthly Return 50%	Nifty Index Option	Ideal For : Intraday Risk Type : Medium 15-20 Call's Monthly Monthly Return 75%

	Monthly: Rs.45,000/- + Gst Quarterly: Rs.1,10,000/- + Gst (50%) Half-Yearly: Rs.2,51,000/-		Monthly: Rs.75,000/- + Gst Quarterly: Rs.1,90,000/- +Gst (50%) Half-Yearly: Rs.3,51,000/-
Nifty Index Premium	Ideal For : Intraday Risk Type : Medium 12-15 Call's Monthly Monthly Return 75% Monthly: Rs.85,000/- + Gst Quarterly: Rs.1,95,000/- +Gst (50%) Half-Yearly: Rs.3,51,000/-	Nifty Index Option Premium	Ideal For : Intraday Risk Type : Medium 12-15 Call's Monthly Monthly Return 100% Monthly: Rs.1,15,000/- + Gst Quarterly : Rs.3,05,000/- +Gst (50%) Half-Yearly: Rs.5,51,000/-
Nifty Index HNI	Ideal For : Intraday Risk Type : Medium 7-10 Call's Monthly Monthly Return 100% Monthly: Rs.85,500/- + Gst Quarterly: Rs.2,25,000/- + Gst (50%) Half-Yearly: Rs.4,51,000/-	Nifty Index Option HNI	Ideal For : Intraday Risk Type : Medium 7-10 Call's Monthly Monthly Return 125% Monthly: Rs.1,51,000/- + Gst Quarterly: Rs.4,25,000/- + Gst (50%) Half-Yearly: Rs.7,51,000/-
Nifty Index MBM Pack	Ideal For : Intraday Risk Type : Medium Monthly Return 150% Monthly: Not Available Quarterly: Not Available 45 Day's: Rs.5,51,000/-	d) Nifty Index Option MBM Pack	Ideal For : Intraday Risk Type : Medium Monthly Return 150% + Return Monthly: Not Available Quarterly: Not Available 45 Days: Rs.6,51,000/-
MCX Service		Forex Service	
MCX Intraday	Ideal For : Intraday Risk Type : Medium 3-4 Call's Intra Day Investment 1lot Monthly Return 40-50% Monthly: Rs.12,500/- + Gst Quarterly: Rs.30,500/- + Gst (50%) Half-Yearly: Rs.45,000/-	Forex Intraday	Ideal For : Intraday Risk Type : Medium Monthly: Rs.42,500/- + Gst Quarterly: Rs.1,05,000/- + Gst (50%) Half-Yearly: Rs.1,75,000/-
MCX Premium	Ideal For : Intraday Risk Type : Medium 2-3 Call's Intra Day	Forex Premium	Ideal For : Intraday Risk Type : Medium Monthly: Rs.85,000/- + Gst Quarterly:Rs.1,95,000/- + Gst (50%) Half-Yearly: Rs.3,51,000/-
			Ideal For : Intraday

	Investment 1 lot Monthly Return 50-70% Monthly: Rs.18,500/- + Gst Quarterly: Rs.45,500/- + Gst (50%) Half-Yearly: Rs.75,000/-	Forex HNI	Risk Type : Medium Monthly: Rs.1,51,000/- + Gst Quarterly: Rs.4,25,000/- + Gst (50%) Half-Yearly: Rs.7,51,000/-
MCX HNI	Ideal For : Intraday Risk Type : Medium 1 Call Investment 2-3 Lot Monthly Return 70-90% Monthly: Rs.42,500/- + Gst Quarterly: Rs.1,05,000/- + Gst (50%) Half-Yearly: Rs.1,75,000/-	d) Nifty Index Option MBM Pack	Ideal For : Intraday Risk Type : Medium Monthly: Not Available Quarterly: Not Available 45 Day: Rs.5,51,000/-
		NCDEX Service	
MCX MBM Pack	Ideal For : Intraday Risk Type : Medium Monthly Return 100-125%+ Return Monthly: Not Available Quarterly: Not Available 45 Day's: Rs.2,51,000/-	Bullion, Base Metal, Energy	Ideal For : Intraday Risk Type : Medium 1-2 Call's Intra Day Investment 1lot Monthly Return 40-50% Monthly: Rs.10,000/- + Gst Quarterly: Rs.25,500/- + Gst (50%) Half-Yearly: Rs.45,000/-
		NCDEX Combo	Ideal For : Intraday Risk Type : Medium 2-3 Call's Intra Day Investment 1lot Monthly Return 50-70% Monthly: Rs.18,500/- + Gst Quarterly: Rs.45,500/- +Gst (50%) Half-Yearly: Rs.75,000/-

12. From the above table, it is noted that fees charged by PMA for various Services ranges from Rs.15,000/- on Monthly basis to Rs.7,51,000/- Half Yearly basis, based on the segment. It is observed that the monthly return assured ranges between 30% to 200%.

13. Further, from www.whois.com database, it is noted that the domain name profitmoneyadvisor.net was created on December 02, 2019, for which the expiry mentioned is December 02, 2021, and the last update date is December 08, 2020.

14. Bank Account / payment details:

14.1. The bank account details which was mentioned on the webpages of the website of PMA is as follows:

S.No.	Details	Particulars
1	Account Name	Profit Money Advisor
2	Bank Name/Payment Gateway	Central Bank of India
3	Account Number	3790292068
4	IFSC Code	CBIN0281013
5	Branch Code	TT Nagar, Madhya Pradesh
6	Date of Account Opening	December 11, 2019
7	Bank Statement Period	December 11, 2019 to March 04, 2021
8	No. of Credit Transaction	701
9	Date of last Credit	04/03/2021
10	Total Credit	Rs.68,48,431/-

14.2. From the analysis of bank statement, the following is observed:

14.2.1. The aforesaid bank account is still active.

14.2.2. The total credit received in the aforesaid bank account is approximately Rs. 68,48,431/- during the period December 11, 2019 to March 04, 2021.

14.2.3. There are continuous credits in the bank account, of instance, 16 credit entries on November 25, 2020 and 18 credit entries on November 26, 2020.

14.2.4. Credits in the bank statement are as recent as 04/03/2021. There are four credit transactions during March 01-04, 2021, amounting to Rs.55001/-.

15. Further PMA had put up a whatapp and Paytm number +9109368967 on its website for clients who wish to subscribe to their 'advisory services'. It is observed that from these two mode of payment, Paytm is still available for making payment to PMA.

16. In light of the aforesaid, I *prima facie* observe that PMA has put information in public domain / advertising by using website namely www.profitmoneyadvisor.net about the various services offered by it in securities market. It is also *prima facie* observed that

various plans / packages were being offered by PMA to avail their Services. Thus, I observe that PMA is *prima facie*, holding itself out as an investment Adviser. In view of the above facts and circumstances, especially the content of the website created on December 02, 2019, coupled with the credit transactions in the bank account opened on December 11, 2019, *prima facie*, it is inferred that the fees / funds credited to the bank accounts, were for the purpose of availing the services indicated on the website of PMA and it is carrying out services related to investments in securities market as mentioned on its website and it is acting as an advisor in securities market from December 02, 2019, till date.

17. In this regard, I have perused the definition of investment Adviser as given in regulation 2(m) of IA Regulations, which states that investment Adviser 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 also perused the 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.*”
18. In light of the aforesaid definitions, it is, noted from the contents of the website of PMA, that PMA is *prima facie*, holding itself out as investment Adviser by offering to provide services related to investing in, purchasing and selling securities and is also offering various investment packages for subscription and these services fall within the definition of “Investment Advice” under Regulation 2(l) of the IA Regulations. Further, multiple and continuous credit entries have been received in the bank accounts, which when seen together with the contents of the website, leads to, on preponderance of probability basis, a *prima facie*, conclusion that the credit entries in the bank account are consideration for the investment advice given by PMA to its

clients. Thus, *prima facie*, PMA is an investment Adviser as defined under Regulation 2(m) of the IA Regulations.

19. The fact that PMA is offering various subscription packages in various segments of the market viz, equity, derivatives, forex and commodity, when seen in light of the receipt of money in its bank accounts, *prima facie* shows, on preponderance of probability basis, that the credit of money, is in fact, the fee for the investment advisory services rendered by PMA. Therefore, PMA has not only held itself out as investment Adviser but has also acted as an Investment Adviser for consideration.

Issue No 2: If answer to the aforesaid issue is in affirmative, whether PMA has, prima facie, violated any provisions of Securities and Exchange Board of India Act, 1992 ("SEBI Act") read with SEBI (Investment Advisers) Regulations, 2013 ("IA Regulations") and the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 ("PFUTP Regulations")?

20. In order to ensure that investors who receive investment advice are protected, it is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Regulations. Section 12(1) of SEBI Act, 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"*
21. Further, Regulation 3(1) of the IA regulations, states that *"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"*.

22. Thus, as per Section 12(1) of SEBI Act and Regulation 3(1) of IA Regulations, any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI regulations, i.e. the registration of the investment Advisers is mandatory.
23. The activities of PMA, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions shows that, PMA is holding itself out as investment adviser and is acting as investment adviser. However, no material is available on record to indicate that PMA or its proprietor Shri. Prateek Singh in their individual capacity had a certificate of registration as an investment adviser. In this context, it is noted that PMA and Shri. Prateek Singh in their individual capacity are not registered with SEBI in any capacity. The characteristics and features of the business activity carried out by PMA, as discussed in the preceding issue, *prima facie*, leads to the conclusion that PMA is holding itself out and acting as an investment adviser without a certificate of registration from SEBI. Thus, in my view, these activities/representations of PMA are, *prima facie*, in violation of Section 12(1) of SEBI Act read with regulation 3(1) of the IA Regulations.
24. Before proceeding further, I would like to refer to the provisions of Sections 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c) and (d) and Regulations 4(1) and 4(2)(k) of the PFUTP Regulations. The text of the aforesaid provisions is reproduced below:

SEBI Act

Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control

Section 12A: No person shall directly or indirectly:

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

PFUTP Regulations

Regulation 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 manipulative, fraudulent or an unfair trade practice in securities market.*

(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following: -

...

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities”.

25. In my view, an unregistered investment adviser like PMA, can put investors at great risk by misleading them. Without having a registered investment adviser certificate, PMA is engaged in the business of providing investment advice to clients with the objective of making money/collecting fees through various services and packages. Further, PMA has put in information in public domain / advertising by using website namely www.profitmoneyadvisor.net about the various services/packages offered by it in securities market. It is also *prima facie* observed that various plans / packages being offered by PMA assure monthly return from 30% to 200%.

26. Thus, by making the aforesaid claims of assured “monthly return”, between 30% to 200%, PMA is, *prima facie*, inducing investors to deal in securities by availing its services. Such *modus operandi* is being continuously used by PMA, which is evident from the fact that there are continuous credits in its bank accounts.

27. It is observed that PMA’s claim to provide a specific monthly return on client’s investment, is, *prima facie*, an active concealment of the material fact that every investment in the market is subject to market risk. Considering the dynamics of the market, the returns from the investment in the market are unpredictable, no matter how much and for how long the investment is made. This act of conveying specific monthly returns is, *prima facie*, indulged for the purpose of luring customers in its net and thereby increasing its income. In light of the same, the act of PMA to actively conceal material information and giving misleading assurance of 30% to 200%

monthly return on investment, is non-genuine and a deceptive act and has been, prima facie, made with an intent to influence the client to avail its advisory services.

28. The above discussed omission and act of PMA are, prima facie, fraudulent and are covered under the definition of 'fraud' defined under regulation 2(1)(c) of the PFUTP Regulations which reads as under:

29. "fraud" includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include--

- (1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;
- (2) a suggestion as to a fact which is not true by one who does not believe it to be true;
- (3) an active concealment of a fact by a person having knowledge or belief of the fact;
- (4) a promise made without any intention of performing it;
- (5) a representation made in a reckless and careless manner whether it be true or false;
- (6) any such act or omission as any other law specifically declares to be fraudulent;
- (7) deceptive behaviour by a person depriving another of informed consent or full participation;
- (8) a false statement made without reasonable ground for believing it to be true;
- (9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.

And "fraudulent" shall be construed accordingly;

30. It is noted that, prima facie, fraudulent activities / conduct / act / practice of PMA as discussed above are, prima facie, in violation of provisions of Sections 12A (a), (b) and (c) of the SEBI Act and Regulations 3 (a), (b), (c) and (d) and Regulations 4(1) and 4(2)(k) of the PFUTP Regulations.

Issue No. 3: If answers to Issue Nos. 1 & 2 are affirmative, who are responsible for the violations?

31. I note that Shri. Prateek Singh is the sole proprietor of PMA. I note the legal status of the proprietary firm from the judgment of the Hon'ble Supreme Court of India in *Ashok Transport Agency vs. Awadhesh Kumar & another*, [(1998) 5 SCC 567] that, "... A proprietary concern is only the business name in which the proprietor of the business carries on the business. A suit by or against a proprietary concern is by or against the proprietor of the business...".

Therefore, I find that Shri. Prateek Singh is liable for the acts of PMA.

Issue No. 4: If answer to Issue No. 2 is in affirmative, whether urgent directions, if any should be issued against those responsible for the violations?

32. SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it thinks fit for fulfilling its legislative mandate. The IA Regulations have been formulated with the main objective of regulating investment advisory activities to safeguard the interests of investors and hence registration of investment advisory activities with SEBI has been made mandatory. The IA Regulations *inter alia* seek to create a structure within which investment Advisers will operate and also make them duly accountable for their investment advice by requiring investment Advisers to comply with the relevant provisions of the IA Regulations. The same is imperative for the protection of interests of investors and to safeguard the integrity of the securities market.

33. In the instant case, it is noted that Noticees are soliciting and inducing the investors to deal in securities market on the basis of investment advice, stock tips, intra-day calls etc., *prima facie*, without having the requisite registration as mandated under the IA Regulations. Considering the facts and circumstances of the present matter and on the basis of the *prima facie* findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Noticees, from collecting any more fees from the public and indulging in unauthorized investment advisory activities. It is noted from material available on record that, transactions took place in the bank account of Shri. Prateek Singh / PMA as recently as on March 04, 2021, in the CBI bank account and also number +9109368967 is also available as another mode of payment through paytm, to PMA. Moreover, the website of PMA, www.profitmoneyadvisor.net, was last updated on December 08, 2020, as per whois.domain though it is presently is not active. However, the threat of the investors getting lured towards the unregistered activity of Noticees through any other mode in the securities market is still in existence and imminent. The total amount of money, *prima facie*, observed to have been collected by PMA is Rs. 68,48,431/- since opening of the account in December 11, 2019 till March 04, 2021, with 701 numbers of credit transactions. Further, there is an imminent threat that more amount of money may have been collected and continuing to be collected through paytm mode, by PMA. Since credits in the bank account is as recently as March 04, 2021 and paytm is also available for receiving money this indicates the magnitude of the prospective threat to the investors.

34. It is noted that, permitting the investors to receive an investment advisory service from an unregistered entity, in effect means, the same is received from the unqualified person without following the safeguards mentioned in the IA Regulations. An investor receiving service from unregistered investment advisor not in consonance with the IA Regulations vis-a-vis an investor who receives such service from registered investment Adviser following the IA Regulations stands in a disadvantageous position in respect of his protection as investor as envisaged under the IA regulations. An unregistered investment adviser has not even satisfied the Regulator that he is a fit

and proper person to hold the certificate of registration as investment Adviser. Availing of service from such person is detrimental to investors and such unqualified service can result in irreparable detriment as the investors' money is invested based on unqualified and un-regulated service. Exposing investors to such service also has the effect of interfering with the development of securities market, as victim of such services tend to lose faith in the securities market. Such an injury to the development of the securities market also qualifies as "irreparable injury" or "irreparable detriment" as the objective of SEBI as enshrined in the SEBI Act is not only the protection of investors but also orderly development of securities market.

35. Further, if an ex-parte order is not passed, many prospective investors may subscribe by parting with significant fees and may cause irreparable injury to themselves as discussed earlier. However, if an ex-parte order is passed, what is at stake is right of the current entity herein visa-vis multitude of prospective and current clients of the entity. It may be noted that one of the underlying differences between the "ex-parte orders in the case of private suits" and "ex-parte public enforcement actions", is the identification of the injured party. In private damage suits, the injured individual, as "whole", is identifiable whereas ex-parte public enforcement actions, seeks to protect the floating multitude of investing public by preventing, continuous and imminent violations of the securities laws. Though, it can be argued that a final remedy by way of refund is available, as against the step of passing an ex-parte interim order, the potential loss of investment by the investors by following the advice from an unqualified person and resultant loss of investor's confidence and reliability of securities market, cannot be retrieved, if prima facie unregistered investment advice is permitted to be extended to the investors by not passing an *exparte-interim order* at this stage. Therefore, I consider the balance of convenience is also not in favour of Noticees.

36. Considering the facts and circumstances of the present matter and on the basis of the prima *facie*, findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Noticees from collecting any more funds from

the public and indulging in unauthorized investment advisory activities. As noted in the preceding paragraphs, monies are being credited in the bank accounts since December 11, 2019 and bank accounts are still active with credits in the account as recently as March 04, 2021. Further, another mode for collection of money through paytm is still available. Therefore, the threat of investors getting lured towards the unregistered activity of Noticees in the securities market and loss of potential money invested and fees paid, is still in existence and imminent.

37. The amount of money, *prima facie*, observed to have been collected by Noticees is approximately Rs. 68,48,431, also there is another mode available through paytm for collection of money which is observed to be continuing, this indicates the magnitude of the prospective threat to the investors. In light of the same, I find that there is no other alternative but to take recourse through an *interim ex-parte* order against Noticees for preventing them from collecting funds by defrauding investors and by indulging in unauthorized investment advisory Services without obtaining the mandatory registrations from SEBI in accordance with the law. As the credit in the bank statements of PMA is continuing which *prima facie*, shows that the investors are still continuing to make payment for the services of PMA, the balance of convenience demands the preventive measure of stopping the collection of money in the above-mentioned bank accounts from investors. The same can be effectively achieved by an appropriate direction of stopping credit into the abovementioned bank account. As Noticees have already evaded the jurisdiction of SEBI by *prima facie*, acting as unregistered investment adviser, the balance of convenience also demands that Noticees have to be prevented from diverting the funds collected from the investors through the fraudulent and unauthorized investment advisory activity. Accordingly, an appropriate direction stopping the debit from the above-mentioned bank account has been incorporated.

38. With the initiation of quasi-judicial proceedings, given the fact that Noticees have already evaded the jurisdiction of SEBI by *prima facie*, acting as unregistered investment adviser, it is possible that Noticees may divert the money collected from

the subscribers / clients. The same may result in defeating the effective implementation of the direction of refund, if any, to be passed after deciding the matter on merits. It therefore becomes necessary for SEBI to take urgent steps to prevent Noticees from diverting the money collected from the subscribers / clients. It is also essential to take urgent steps to prevent them from alienating any assets, whether movable or immovable, or any interest or investment or charge in any of such assets, so that the final remedies, if any, do not become infructuous. In view of the facts and circumstances discussed hereinabove, and considering the interests of already existing clients of Noticees and also the interests of those who may fall prey to the unregistered investment advisory by reaching Noticees through any other mode, the balance of convenience lies against the Noticees, which requires immediate action against them including not to divert the money collected from the subscribers / clients / investors.

ORDER:

39. In view of the above, pending conclusion of enquiry on granting of hearing opportunity as per this Order, to M/s Profit Money Advisor and its proprietor Shri. Prateek Singh, I, in order to protect the interests of investors and integrity of the securities market, in exercise of the powers conferred upon me under Sections 11, 11(4), 11B (1) and 11D read with Section 19 of the SEBI Act, hereby issue by way of this *interim ex-parte order*, the following directions, *which shall be in force until further orders*: -

39.1. *M/s Profit Money Advisor and its proprietor Shri. Prateek Singh are directed:*

39.1.1. *to cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever;*

39.1.2. *not to divert any funds collected from investors, kept in bank account(s) and/or in their custody;*

- 39.1.3. *not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, including money lying in bank accounts except with the prior permission of SEBI.*
- 39.1.4. *to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, communications etc., in relation to their investment advisory activity or any other unregistered activity in the securities market;*
- 39.1.5. *not to access the securities market and buy, sell or otherwise deal in securities, either directly or indirectly, in any manner whatsoever;*
- 39.1.6. *to provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order;*
- 39.1.7. *to submit the number and details of clients who have availed their investment advisory Services and to submit details of fees collected from each such client, immediately but not later than 5 working days from the date of receipt of this order.*
- 39.2. *If M/s Profit Money Advisor and its proprietor Shri. Prateek Singh have any open position in any exchange traded derivative contracts, as on the date of the order, they can close out/square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. M/s Profit Money Advisor and its proprietor Shri. Prateek Singh are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.*
- 39.3. *Central Bank of India is directed not to permit any debits / withdrawals and not to allow credits, from / to the following bank accounts, without the permission of SEBI. Paytm where M/s Profit Money Advisor / Shri. Prateek Singh is holding an account through mobile no. +9109368967 is directed to deactivate the said*

account. The said Bank and Paytm are directed to ensure that all the above directions are strictly enforced.

Sr. No	Name of Bank Account Holder	Bank Account Number	Name of the Bank
1	M/s Profit Money Advisor and its proprietor Shri. Prateek Singh	3790292068	Central Bank of India

39.4. The Depositories are directed to ensure, that they neither permit any debits nor any credits in the demat accounts held by Shri. Prateek Singh either individually or jointly.

39.5. The Registrar and Transfer Agents are directed to ensure, that they neither permit any transfer nor redemption of the securities, including Mutual Funds units, held by

39.5.1. M/s Profit Money Advisor and its proprietor

39.5.2. Shri. Prateek Singh either individually or jointly.

40. This Order shall also be treated as a Show Cause Notice and M/s Profit Money Advisor and its proprietor Shri. Prateek Singh are show caused as to:

40.1. Why the investment advisory plans floated by them should not be held as "Investment Advisory Services" in terms of the IA Regulations and thereby the activity of PMA be treated as unregistered activity under the SEBI Act and relevant Regulations;

40.2. Why suitable directions / prohibitions under Sections 11(1), 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations, including the following, should not be issued / imposed against them, for the prima facie violation of provision of SEBI Act and IA Regulations as discussed above in this order:

40.3. Directions for prohibition from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for an appropriate period;

- 40.4. *Directions to not be associated with any registered intermediary/listed company and any public company which intends to raise money from public in the securities market, in any manner whatsoever;*
- 40.5. *Directions as to why Shri. Prateek Singh should not be directed to refund, the fees collected using the proprietary firm, from the investors/clients for unregistered investment advisory activities under Sections 11 and 11B (1) of SEBI Act;*
- 40.6. *Any other directions as it deemed necessary.*

41. The *prima facie* observations contained in this Order, are made on the basis of the material available on record. In this context, Noticees may, within 21 days from the date of receipt of this Order, file their reply/objections, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request to be made in that regard.

42. This Order is without prejudice to the rights of SEBI to take any other action that may be initiated against Noticees in accordance with law

43. The above directions shall take effect immediately and shall be in force until further orders.

44. A copy of this order shall be served upon Noticees, Stock Exchanges, Banks namely CBI Bank, Paytm, Registrar and Transfer Agents and Depositories for necessary action and compliance with the above directions.

DATE: March 18, 2021
PLACE: MUMBAI

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