

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 Guruji and its proprietor Shri. Pradeep Chaudhary alias Shri Pradeep Kumar Ola	ABYP06213C

In the matter of Profit Guruji

-
1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) received a complaint, vide email dated July 15, 2020, wherein, the complainant *inter alia* alleged that;

- 1.1. Mr. Pradeep Chaudhary, sole proprietor of M/s Profit Guruji is providing stock market advisory services. Complainant has mentioned that he has not entered into any written agreement with the M/s Profit Guruji or its proprietor Mr. Pradeep Chaudhary
- 1.2. The complaint got to know of Shri Pradeep Chaudhary through the YouTube Channel, providing level of nifty, bank nifty and other stock and investment services. Shri Pradeep Chaudhary on December 21, 2019, forwarded a screenshot to the complainant containing Mark To Market (MTM) profit of Rs. 6725/- on bank nifty option and assured to give profit of this kind every day. Shri Pradeep Chaudhary added the complainant in the WhatsApp group on March 18, 2020, and lured him for availing the services.
- 1.3. Complainant has mentioned that, as per the advice of Mr. Pradeep Chaudhary, he opened trading and demat account with Astha Credit & Securities Pvt. Ltd. (herein after referred as 'Astha') for trading. Post which the complainant initially transferred Rs.2,00,000/- in the account with Astha and subsequently transferred more money to the Astha for trading as demanded for the services. During initial period from April 7-27, 2020, Mr. Pradeep Chaudhary's services did make some profit, however, after April 28, 2020, the trades on various dates resulted in losses to the tune of Rs.3,35,000/-. The complainant has alleged that this loss in his trading was due to Mr. Pradeep Chaudhary's carelessness, trading calls of large quantity without stop loss.
- 1.4. To substantiate his claim, complainant provided YouTube videos, Telegram Message, WhatsApp messages, call recordings and bank account details of M/s Profit Guruji. Complainant also stated that M/s Profit Guruji is active on YouTube

and Telegram channel. The following bank account details were provided by the complainant with respect to M/s Profit Guruji:

Bank	Account name	Account number	Branch
State Bank of India (SBI)	Pradeep Kumar Ola	34855952080	Jaipur

- 1.5. As per the complainant, there were three contact number provided for contacting Shri Pradeep Chaudhary i.e. 9588229481, 7221901473 and 9649144111 for trade related services

SEBI's Examination:

2. SEBI conducted an examination in relation to the affairs of M/s Profit Guruji 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.
3. It was observed that the complainant has referred the proprietor of M/s Profit Guruji as Shri Pradeep Chaudhary. However from the SBI Bank account details provided by the complainant of M/s Profit Guruji and the Know Your Client (KYC), bank statements and Account Opening Form (AOF) obtained from SBI Bank, it was observed that the bank account No. 34855952080, is in the name of Shri. Pradeep Kumar Ola.
4. In order to ascertain whether Shri Pradeep Chaudhary and Shri Pradeep Kumar Ola, are the same person a google search on the contact numbers provided by the complainant i.e. 9588229481, 7221901473 and 9649144111, was made. It was observed that search query with the phone number 9588229481 resulted in showing the search result of the YouTube and Telegram channel, in the name of Shri Pradeep Chaudhary with contact email id as er.pcola@gmail.com and

poojaimportexport@gmail.com. Google search with the query on mobile no. 9649144111, resulted in the pdf file of 'Pooja Import Exports' on indiamart platform and olla battery page. The details on the resultant pages were in the name of Shri Pradeep Kumar Ola with contact email id er.pcola@gmail.com and contact no 9649144111, located at Plot No. 8-9 Anand Enclave Harsuliya, Jaipur, Rajasthan. Further, it was noted that the email id in the SBI bank statement of Shri Pradeep Kumar Ola is also er.pcola@gmail.com. Further reference of Pooja Import Export appeared common in both google search. Therefore, since in all the places the email id and a common reference, it is *prime facie* observed that Shri Pradeep Chaudhary and Shri Pradeep Kumar Ola are same person and the name is being interchangeably used.

5. As per the registered intermediary database on SEBI website, it is observed that neither M/s Profit Guruji nor its proprietor Shri. Pradeep Chaudhary alias Shri Pradeep Kumar Ola (*hereinafter referred as 'Shri Pradeep'*) (collectively referred to as noticees) are registered with SEBI in any capacity.
6. Domain registration was checked on www.whois.com database, to check if there is any website registered in the noticees name, however, no information was obtained. Shri. Pradeep is active through his YouTube and Telegram channel in the name of *Profit Guruji*. On perusal of the YouTube channel, it was observed that the entity is giving price target and making buy and sell recommendations in Bank nifty and various stocks.
7. From the details available on Digital Platform it was observed that, the YouTube channel was created on Mar 17, 2018, has around 732 videos and 6,55,239 views, however no subscribers' details are available on the YouTube channel and Telegram channel created on July 25, 2019 with 1.06K subscribers. SEBI's preliminary examination based on the YouTube and Telegram channel and the WhatsApp chat screenshots provided by the complainant, it was observed that M/s Profit Guruji is

acting as an Investment Adviser 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

8. I have perused the material available on record, such as, information available on the YouTube and Telegram channel, WhatsApp chat provided by the complainant and the information obtained from SBI Bank. In this context, *prima facie*, the following issues arise for determination:

- 8.1. **Issue No. 1: Whether M/s Profit Guruji is holding itself out and/or acting as investment adviser?**
- 8.2. **Issue No. 2: If answer to the aforesaid issue is in affirmative, whether M/s Profit Guruji have, 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”)?**
- 8.3. **Issue No. 3: If answers to Issue Nos. 1 & 2 are affirmative, who are responsible for the violations?**
- 8.4. **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 M/s Profit Guruji is holding itself out and/or acting as investment adviser?

9. As regards the first issue, I note the following from the material available on record:
10. With respect to the Telegram channel, it is observed to be created around July 25, 2019. The messages posters and screenshots of Telegram shows that the entity is making statements of assured return, no loss, doubling of money, etc. such as;
- 10.1. Telegram post dated July 26, 2020
*“no loss daily kamao (earn)
Intrady strategy - Earn 4000/day”*
- 10.2. Telegram post dated December 28, 2019
“I give formula earn monthly 10-15%, call : 9588229481”
- 10.3. Telegram post dated November 11, 2019
*“Live Day Trade 9588229481
Profit : 3390/Rs Capital Used: 3700/Rs”*
11. It is observed that through Telegram channel M/s Profit Guruji is providing investment instruction, tips and advises and giving assurance of monthly and daily return on the trades.
12. Further no disclaimer has been observed from the telegram messages furnished by the complainant. The Telegram channel is active till date.
13. On perusal of the YouTube channel of M/s Profit Guruji, it is observed that YouTube channel is active till date. It is observed that M/s Profit Guruji has uploaded various videos on YouTube channel giving buy, sell recommendations on specific stocks/indices.
14. Upon perusal of the information obtained from the YouTube channel, it is observed that there are around 732 videos. Amongst the videos, two sample videos posted on

YouTube on February 17, 2021 were checked, which has the below mentioned caption:

*Yeh level tuta tho bhayankar toofan
and
Kal se yeh share karege paison ki baarish*

15. Extracts of a few other tips/recommendations included in the YouTube videos are placed below reference:

15.1. YouTube post on July 26, 2020, with the caption

"no loss intraday trading strategy || only profit intraday strategy || intraday tips"

15.2. YouTube post on August 20, 2020 with the caption

"Ye 35 ka share dega 1000% ka profit, target Rs.350"

15.3. YouTube post on August 24, 2020 with the caption

"yeh share daudne wala hai. Paisa double ho jaayega"

16. Further various advertisements have been made on the YouTube channel providing the contact no 9588229481 for contacting where the caption of the advertisements are as follows:

16.1.No Loss >Daily Kamao > Intraday Strategy > Earn 4000/- Day

16.2.Intraday Trading > Profit : 8000 > Profit Guruji

16.3.I give Formula Earn Monthly 10-15% > Call 9588229481

16.4.Live Trade Trade > 9588229481 > Profit 3390/- > Capital Used 3700/-



17. It is observed that the entity provides disclaimer in the beginning of his videos on YouTube. It was observed that such disclaimer is shown only for few milliseconds. Extract of disclaimer provided on the YouTube channel is as below:

*“Do not take a position unless you are prepared to sustain a TOTAL LOSS. Your loss could include the money you invested as well as **commission and transaction charges**.....*

.....YOU SHOULD NOT MAKE ANY DECISIONS, FINANCIAL, INVESTMENTS, TRADING OR OTHERWISE, BASED ON ANY OF THE INFORMATION PRESENTED WITHOUT UNDERTAKING INDEPENDENT DUE-DELIGENCE AND CONSULATION WITH A LICENSED PROFESSIONAL.

You understand that you are using this information AT YOUR OWN RISK”.

18. From above, it is observed that the entity has put out some sort of disclaimer on market risk, to consult a professional or make due diligence before making investments. It is observed that such disclosures are shown only for a few milliseconds at the beginning of the video. As the disclaimer is available only for few milliseconds, it is not possible for anybody to read/understand even a sentence of the disclaimer.
19. Though there is some sought of disclaimer given in the videos, however it is known fact that investments in the securities market are subject to market risk and no guarantee and assurance of any kind is possible. Therefore, by giving these assurances or even so by making such representations in the videos and messages, M/s Profit Guruji has actively concealed the fact of guarantee of any sought of return is not possible in the securities market to lure the gullible public to invest their money.

20. Since no assurance or guarantee of any sought of return or profit is possible in the securities market, therefore by making such claims and presentations knowing that the same is not true, realistic and correct, is grossly misleading the public.
21. Further even though the disclaimer is provided, in any event the same cannot be considered as defense where completely contradictory and misleading claim of no loss/assured return/target return in absolute amount, percentage return, daily and monthly return, no loss, only profit, etc. is given in the post and messages, concealing the facts.
22. It is observed that, M/s Profit Guruji while making advertisement through YouTube Channel is providing contact no. 9588229481 and/or asking to WhatsApp directly to get in touch for services of any investment and trade related activities.
23. It is observed from the screenshots of WhatsApp chat shared by complainant, that the M/s Profit Guruji is engaged in investment advisory services with the following service charges with linked assured monthly profit:

S.No.	Monthly profit (in Rs.)	Service Charge (in Rs.)
1	20000-25000	3500/per month
2	70000-75000	16500/per month
3	100000-110000	24000/per month
4	145000-155000	42500/per month
5	190000-2lakh	42500/per month

24. It is important to note that no such structure of service charge could be found on public domain i.e. YouTube and Telegram channel. Hence, it is observed that such

service charge messages may be forwarded through WhatsApp exclusively to the clients, to whom entity is providing advices.

25. From the above table, it is noted that service fees charged by noticees varies based on the monthly profit guaranteed. The service charges range from Rs.3,500/- to Rs.42,500/- with monthly profit between Rs.20,000/- to Rs.2,00,000/-.

26. From examination of the AOF, KYC and bank statements details, the following was observed,

26.1. The saving account was opened in the name of Shri Pradeep Kumar Ola on March 24, 2015, with occupation type mentioned is "others" with monthly income of Rs.20,001/- to Rs.50,000/-. Further details observed are as follows:

S.No.	Details	Particulars
1	Account Name	Shri Pradeep Kumar Ola
2	Bank Name/Payment Gateway	State Bank of India
3	Account Number	34855952080
4	IFSC Code	SBIN0012823
5	Branch Code	12823
6	Date of Account Opening	08/04/2015
7	Bank Statement Period	08/04/2015 to 19/03/2021
8	Date of last Credit	19/3/2021
9	Total Credit since 08/04/2015 to 19/03/2021	Rs. 1,52,05,057.46
10	Credit in bank account from 17/03/2018* to 19/03/2021	Rs. 1,41,36,318.00

*Date of Creation of the YouTube Channel

- 26.2. From the bank statement analysis and the narration, it is observed that there are various entries of trading and transfer of funds to Zerodha and Astha Credit (registered stock broker with SEBI namely, Zerodha Broking Ltd and Astha Credit & Securities Pvt. Ltd., respectively. These entries indicate that Shri Pradeep is actively involved in securities market trading/investment.
- 26.3. It is observed that the major credits in the bank account only happened after the YouTube channel creation date i.e. March 17, 2018. However, details on various credit entries (except for where Zerodha and Astha is mentioned) in the bank statement, in terms of counter parties could not be ascertained though the narrations are available.
26. I observe that, M/s Profit Guruji is promoting its various service packages ranging between Rs 3,500/- to Rs 42,500/- monthly fee and the same is being offered in securities market through WhatAapp mode to the clients/investors. It is also observed that these plans / packages are coupled with monthly assured return ranging between Rs. 20,000 to Rs. 200,000/-. Further the telegram content indicating “*I give formula earn monthly 10-15%, call: 9588229481*” and other content of assured earnings/ Target return and profits (few captions mentioned in paragraph 17 above) and also providing contact details, shows that the formula, strategy and tips of relevant investment advice may be given through Telegram channel also apart from WhatsApp mode. Thus, it is observed, that M/s Profit Guruji is holding itself out as an Investment Adviser. In view of the above facts and circumstances, and the content of Telegram and the WhatsApp, coupled with the service charges and the monthly profit assured, prima facie, it is inferred that M/s Profit Guruji is carrying out services related to investments in securities market.
27. 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."

28. In light of the aforesaid definitions, it is, *prima facie* noted, from the activity of the M/s Profit Guruji that it is holding itself out as Investment Adviser by offering to provide services related to investing, purchasing and selling in securities market and is also offering various packages relating to investment advisory for subscription/fees and these services fall within the definition of "Investment Advice" under Regulation 2(l) and Investment Adviser as defined under Regulation 2(m) of the IA Regulations. Therefore, M/s Profit Guruji is not only holding itself out as Investment Adviser but has also acting as an Investment Adviser for consideration.

Issue No 2: If answer to the aforesaid issue is in affirmative, whether M/s Profit Guruji have, 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")?

29. 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”

30. 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*”.
31. 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.
32. The activities of M/s Profit Guruji, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions shows that, the M/s Profit Guruji, is holding itself out as Investment Adviser and is acting as Investment Adviser. However, no material was available on record to indicate that M/s Profit Guruji or its proprietor Shri Pradeep, had a certificate of registration as an Investment Adviser. In this context, it is noted that M/s Profit Guruji or its proprietor Shri Pradeep, are not registered with SEBI in any capacity. The characteristics and features of the business activity carried out by M/s Profit Guruji, as discussed in the preceding issue, *prima facie*, leads to the conclusion that the M/s Profit Guruji is holding itself out and acting as Investment Adviser without a certificate of registration from SEBI. In my view, these activities/representations of M/s Profit Guruji are, *prima facie*, in violation of Section 12(1) of SEBI Act, read with regulation 3(1) of the IA Regulations.
33. 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), 4(2)(k), 4(2)(r) and 4(2)(s) 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: -
 - (r) [knowingly] planting false or misleading news which may induce sale or purchase of securities
 - (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".
 - (s) mis-selling of securities or services relating to securities market;
Explanation- For the purpose of this clause, "mis-selling" means sale of securities or services relating to securities market by any person, directly or indirectly, by—
 - (i) knowingly making a false or misleading statement, or
 - (ii) knowingly concealing or omitting material facts, or
 - (iii) knowingly concealing the associated risk, or
 - (iv) not taking reasonable care to ensure suitability of the securities or service to the buyer}};

34. In my view, an unregistered investment adviser like M/s Profit Guruji, can put investors at great risk by misleading them. Without having a registered Investment

Adviser certificate, M/s Profit Guruji 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, M/s Profit Guruji has put information in public domain and advertising using YouTube channel, about investment in securities market and providing services and advices through Telegram channel and WhatsApp mode and also offering services on subscription model for assured monthly return/target. It is also *prima facie* observed that various plans / packages being offered by M/s Profit Guruji ranges between Rs. 3,500/- to RS. 42,500/- monthly fees with assured monthly return from Rs.20,000 to Rs.200,000/-

35. Thus, by making the aforesaid claims of assured “monthly return”, between Rs.20,000 to Rs.200,000/-, and other assurances such as no loss, only profit, daily target, etc. M/s Profit Guruji is, *prima facie*, inducing investors to deal in securities by availing its services. It is observed that M/s Profit Guruji claims to provide assured and specific monthly return on client’s investment. This 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 and other assurances 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 M/s Profit Guruji to actively conceal material information and to suggest/assure return is a non-genuine and a deceptive act and has been, *prima facie*, made with an intent to influence the client to avail its advisory services.

36. Further even though some disclaimer is displayed before the videos, in any event the same cannot be considered as defense where completely contradictory and misleading claim of no loss/assured return/target return and also in absolute amount, is given in the post and messages. It may be noted that, securities market is subject to market risk and a particular return, or for that matter, any form of return on an

investment cannot be guaranteed or assured, no matter how long the period for which the investment is held or advice on that investment is offered to the client. I note that the M/s Profit Guruji, is well aware of the market and has admitted of this fact through some kind of disclaimer, however despite this, M/s Profit Guruji has concealed the fact that no guarantee and assurance of any kind is possible in the securities market and even so with this knowledge M/s Profit Guruji has provided such an assurance/Target Return in the post/messages, misleading the public. Therefore, it is clear that M/s Profit Guruji, is making misrepresentation to the clients and also actively concealing the fact.

37. The above discussed omission and act of M/s Profit Guruji 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:

38. "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;

39. It is noted that, prima facie, fraudulent activities/conduct/act/practice of M/s Profit Guruji 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), 4(2)(k), 4(2)(r) and 4(2)(s) of the PFUTP Regulations.

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

40. I note that Shri Pradeep is the sole proprietor running the business in the name of M/s Profit Guruji. I also 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 Pradeep Chaudhary alias Shri Pradeep Kumar Ola is liable for all the acts of M/s Profit Guruji.

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?

41. 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.

42. 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 giving services and collecting any more fees from the public and indulging in unauthorized investment advisory activities. It is noted from material available on record that, YouTube videos around 732 (nos) and telegram messages/contents, are released and available to the public and active till date. The threat of the investors getting lured towards the unregistered activity of Noticees through any of these mode in the securities market is still in existence and imminent.

43. 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 Adviser not in consonance with the IA Regulations vis-a-vis an investor who receives such service from registered Investment Advisers 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 Advisor has not even satisfied the Regulator that he is a

fit and proper person to hold the certificate of registration as Investment Advisor. 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.

44. Further, if an ex-parte order is not passed, many prospective investors may subscribe to the unauthorised services 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 vis-a-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 *ex-parte interim order* at this stage. Therefore, I consider the balance of convenience is also not in favour of Noticees.

45. There is impending threat and urgency that Noticees should be prevented from further committing breach of securities laws whether directly or indirectly. The

imminent threat is further compounded by evading the jurisdiction of SEBI by non-registration under the relevant regulations. As the securities market provides for various avenues of investment. Making of such investment by buying securities and liquidation of the same by selling securities need to be undertaken in compliance of various securities laws while dealing in securities. Since there is *prima facie* violation of securities laws and evading the jurisdiction of SEBI by not getting registered for the services being offered and circumventing the regulation compliance as registered intermediary, urgency further requires that, the investors be insulated from the undesirable effects of any further breach of securities laws by the Noticees. Further the orderly development of the securities market demands faith of investors in the timely action to prevent imminent breach of securities laws. The investor who may become victim of infringement of securities laws tend to lose confidence in the securities market. Investor confidence is the bedrock of the orderly development of the securities market. Therefore, on this ground as well the balance of convenience is not in favour of the Noticees, which requires that the Noticees be not allowed to access securities market directly or indirectly.

46. 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 luring public in securities market and indulging in unauthorized investment advisory activities. As noted Noticees, are continuing its activities through digital platforms, namely, YouTube, Telegram and WhatsApp. 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 for the services being availed, is still in existence and imminent.

47. It is *prima facie* observed that, SBI bank account is being used for collection of money for the services and the same is active as on date. Though the credit in the SBI bank account of Rs.1,41,36,318.00 since March 17, 2018, at this stage, could not be

directly correlated to the investment advisory services being offered from the narrations. however the quantum of flow of funds, indicates an ongoing threat to the investors. In light of the same, I find that there is no other alternative but to take recourse through an *ex-parte interim order* against Noticees for preventing them by defrauding investors and by indulging in unauthorized investment advisory services without obtaining the mandatory registrations from SEBI in accordance with the law. Since the digital platforms for providing services and reaching out to prospective and present investors is continuing and the SBI bank account is still active, this *prima facie*, shows that the investors can be continuously lured towards the unauthorised services which can cause them irreparable loss. As Noticees have already evaded the jurisdiction of SEBI by *prima facie*, acting as unregistered investment adviser, the balance of convenience demands preventive measure by an appropriate direction of stopping the investment advisory activities being undertaken through the digital platform and any subscription and collection of money through SBI bank account and any other mode by the subscribing investors. Accordingly, an appropriate direction stopping any credit to the SBI bank account has also been incorporated.

48. 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 without registration, 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, in SBI Bank account. 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 of the mode, the balance of convenience lies against the Noticees, which requires immediate action against them to not alienated any assets moveable or immoveable, including not to divert the money collected from the subscribers / clients / investors in SBI Bank account.

49. I note that at this stage, there is not enough information available to determine, if the *prima facie* total amount credited/collected in the SBI bank account, belonging to Shri Pradeep Kumar Ola proprietor of M/s Profit Guruji, is through the unregistered investment advisory activities, although, there is, *prima facie*, evidence that the SBI bank account, is being used for receiving payments from the investors for investment advisory activities/services. Hence, SEBI is directed to ascertain the quantum of fee collected in these bank accounts. Thereafter, if required, SEBI shall issue additional Show Cause Notice directing Noticees to show cause why the amount collected by Noticees, as fee for investment advisory services not be refunded to the investors.

ORDER:

50. In view of the above, pending conclusion of enquiry on granting of hearing opportunity as per this Order, to M/s Profit Guruji and its proprietor Shri Pradeep Chaudhary alias Shri Pradeep Kumar Ola, 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*: -

51. M/s Profit Guruji and its proprietor Shri Pradeep Chaudhary alias Shri Pradeep Kumar Ola are directed:

51.1. *to cease and desist from acting as an Investment Adviser including the activity of acting and representing through any media (physical or digital) as an Investment Adviser, 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;

- 51.2. not to divert any funds collected from investors, kept in bank account(s) and/or in their custody;*
- 51.3. 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.*
- 51.4. to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, video, Whatsapp, YouTube videos, Telegram Channel, websites, communications etc., in relation to their investment advisory activity or any other unregistered activity in the securities market;*
- 51.5. not to access the securities market and buy, sell or otherwise deal in securities, either directly or indirectly, in any manner whatsoever;*
- 51.6. 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;*
- 51.7. 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.*

52. If M/s Profit Guruji and its proprietor Shri Pradeep Chaudhary alias Shri Pradeep Kumar Ola, 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 Pradeep Chaudhary 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.

53. State Bank of India is directed not to permit any debits / withdrawals and not to allow credits, to the following bank account, without the permission of SEBI. State Bank of India is 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	Shri Pradeep Kumar Ola	34855952080	State Bank of India

54. The Depositories are directed to ensure, that they neither permit any debits nor any credits in the demat accounts held by Shri Pradeep Chaudhary alias Shri Pradeep Kumar Ola either individually or jointly.

55. 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 M/s Profit Guruji and its proprietor Shri Pradeep Chaudhary alias Shri Pradeep Kumar Ola either individually or jointly.

56. 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.

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

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

59. A copy of this order shall be served upon Noticees, Stock Exchanges, State Bank of India, Registrar and Transfer Agents and Depositories for necessary action and compliance with the above directions.

-sd-

DATE: April 30, 2021

MADHABI PURI BUCH

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA