

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1), 11(4) AND 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 IN THE MATTER OF M/S ANALOG RESEARCH, SOLE PROPRIETOR MR. SHUBHAM KUMAR JAIN

In respect of:

Serial No.	Name of the Entity	PAN
1	M/s Analog Research (Sole Proprietor Mr. Shubham Kumar Jain)	BJWPJ0567K

Background

1. The present proceedings have originated from an *ex-parte ad-interim* order dated February 07, 2020 (hereinafter referred to as “*interim order*”) passed by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against M/s. Analog Research and its sole proprietor Mr. Shubham Kumar Jain (hereinafter collectively referred to as “*the Noticees*”), as the unregistered investment advisory activities of the *Noticees* were *prime facie* found to be in violation of the provisions of Section 12(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act, 1992**”) read with regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations, 2013**”). Further, in the *interim order*, the activities of the *Noticees* were also, *prima facie*, found to be fraudulent and manipulative and in violation of provisions of Section 12A (a), (b) & (c) of the SEBI Act, 1992 and regulations 3 (b), (c) & (d) and regulations 4(1) and 4(2)(k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices

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relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations, 2003**”).

2. I note that the *interim order* passed in the matter contained following observations with respect to the *Notices*:

- i. SEBI received a complaint from Mr. Harsha G (hereinafter referred to as “**Complainant**”), *inter alia*, alleging that he received a proposal from M/s Analog Research (<http://www.analogresearch.co.in>) stating that, they are given authority to handle clients demat account.
- ii. From the website link shared by the *Complainant*, it is observed that Analog Research was using Easebuzz Payment Gateway (hereinafter referred to as “**Easebuzz**”). Therefore, account details were sought from Easebuzz and it was gathered that the HDFC Bank Account Number 50200032091068 linked with Easebuzz belonged to the *Notices*. The beneficiary details of the aforesaid HDFC Bank Account are mentioned below:

Name: Analog Research

Email: infoanalogresearch@gmail.com

Name of Owner: Mr. Shubham Kumar Jain

Bank Name: HDFC Bank

Account Number: 50200032091068

PAN No: BJWPJ0567K

- iii. From the aforementioned HDFC Bank Account statement, it was observed that around INR 49,25,230/- (INR 49.25 Lakh) had been credited during the period July 01, 2018 to June 18, 2019. The examination of the said bank statements also revealed that various credits have been received in the aforementioned account of the *Notices* and it appeared that the payments had come from various individuals. Further, the narration in such transactions also observed to have used terms such as “investment”, “salary and incentives” etc.

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- iv. It was further gathered that the *Notices* were hosting a website namely, <http://www.analogresearch.co.in>. The website provided information that the firm is a leading stock advisory firm in Stock and Commodity Market and it provides customized services to the clients as per their requirements. It offers recommendations in Basic Cash, Premium Cash, Analog HNI Cash, Basic Bullions and Analog HNI Bullions. Further, it was also mentioned on the website that, “*Analog Research is register firm has been gained afoot strongly among Stock Advisory Companies and Investment Advisory Companies in India by giving best research calls and heavy one to one follow-ups.*”
3. On the basis of the aforesaid observations, the evidence gathered during examination and considering the nature of the alleged activities undertaken by the *Notices*, it was thought proper to pass an order and issue directions as preventive measures for protecting the interest of investors of securities market and consequently, following directions were issued against the *Notices* in the *interim order*.
- i. *The Notices shall 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 manner whatsoever, until further orders.*
 - ii. *The Notices shall not access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*
 - iii. *The Notices shall not divert any funds raised from investors, kept in bank account(s) and/or in their custody until further orders.*
 - iv. *The Notices shall not dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of assets held in their name, including money lying in bank accounts except with the prior permission of SEBI.*
 - v. *The Notices shall 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 until further orders.*

- vi. *The Noticees shall provide a full inventory of all assets held in the name of the proprietorship or the proprietor and firm or the partner, 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.*
 - vii. *Any person while working under the above mentioned Noticees as employee or otherwise, shall cease and desist from undertaking the activity of investment advisory services, including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, till further orders.*
 - viii. *The Banks are directed not to allow any debits/ withdrawals from or credits to the accounts of the Noticees, held jointly or severally, without the permission of SEBI. The Banks are directed to ensure that all the above directions are strictly enforced.*
 - ix. *The Depositories are directed to ensure that till further directions no debits are made in the demat accounts of the Noticees held jointly or severally.*
 - x. *The Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including Mutual Fund units, held in the name of the Noticees, jointly or severally, are not transferred or redeemed.*
4. The *interim order* provided the Noticees with an opportunity to file their objections/reply, if any, within 21 days from the date of the *interim order* and also provided them with an opportunity of personal hearing before SEBI, on a date and time to be fixed on a specific request to be made by the Noticees, in that regard. I note from the records available before me that an attempt was made to serve a copy of the *interim order* upon the Noticees on their last known addresses i.e. “554, Gali no. 08, Awan, Guna, Madhya Pradesh – 473226” and “Flat No. 101 CH, Scheme No. 74, Indore, Madhya Pradesh-452010” through SPAD vide letters dated February 10, 2020, however the same was returned undelivered. Therefore, the *interim order* was served upon the Noticees through newspaper publications dated August 10, 2020 [*The Times of India (Bhopal edition)* and *Dainik Bhaskar (Guna edition)*] and August 23, 2020 [*The Times of India (Indore edition)* and *Dainik Bhaskar (Indore edition)*]. I note that the Noticees have neither filed any reply/objections to the *interim order* nor have sought any personal hearing.

However, in conformity with the principles of natural justice, an opportunity of personal hearing was provided to the *Notices* on August 12, 2021 for which an attempt was made to serve the hearing notice upon the *Notices* through SPAD vide letters dated June 24, 2021 on the aforementioned last known addresses of the *Notices*. Further, the scanned copy of the aforesaid letters was also sent to the *Notices* vide email dated June 24, 2021 to email addresses of the *Notices* available with SEBI i.e., info@analogresearch.co.in, infoanalogresearch@gmail.com, and shubham.jain0810@gmail.com, as obtained from Easebuzz and noticed from the bank statement of the aforesaid HDFC Bank Account. However, as the aforesaid letters were again returned undelivered and the aforesaid email could not get delivered to the said email addresses of the *Notices*, the notice about the personal hearing was served upon the *Notices* through newspaper publication dated August 06, 2021 in the newspapers namely *Times of India* and *Patrika*.

5. However, I note that in response to the aforesaid notice served through newspaper publication, Mr. Shubham Kumar Jain, proprietor of M/s Analog Research appeared in person before me on the scheduled date of personal hearing i.e. August 12, 2021 held through video conferencing and made oral submissions.
6. Subsequently, as per his submissions made during the personal hearing, he has filed his written submissions vide his letter dated August 12, 2021 and has further provided certain documents vide his letter dated August 20, 2021. The submissions made by Mr. Shubham Kumar Jain are briefly as under:
 - i. That after completing the Bachelor Degree in engineering from Indore in 2013, he went back to his home town (Guna, Madhya Pradesh) and started working in father's kirana shop.
 - ii. That his financial situation was not good, hence, he came back to Indore again in 2016- 2017, got a job in the field of engineering and started working in M/s Ripples Advisory Pvt. Ltd. (SEBI registered Investment Adviser). He worked in Ripples Advisory Pvt. Ltd. for about 5-6 months.

- iii. That after leaving the job at Ripples Advisory Pvt. Ltd., he met two persons namely Mr. Purshottam Sharma and Mr. Tarun Chauhan. Further, he got placed in CapitalVia Global Research Limited (SEBI registered Investment Adviser) where he worked for about 3 months.
- iv. That after some time, Mr. Purshottam Sharma and Mr. Tarun Chauhan asked for his documents for opening HDFC Bank Account for a new company and promised to provide some amount of money for the same to him on a monthly basis.
- v. That at the time of commencement of business of Analog Research, he had knowledge about share market but did not know that mandatory registration was required to be taken for Analog Research, so he agreed and provided the documents for opening the aforesaid bank account. The above mentioned persons took his documents and opened the bank account in HDFC Bank under the name and style of Analog Research.
- vi. That he got money for about 8-9 months as promised, but later on Mr. Purshottam Sharma and Mr. Tarun Chauhan stopped taking his calls and sending money to him.
- vii. That after getting a call from the Police on February 07, 2020 stating that they have a notice against him for running an unregistered advisory company, he went to the STF office where these two persons also came to meet him. One of the two persons told him to delete his email address and phone number to solve his problem. Accordingly, he deleted the same so that he does not have any communication with SEBI.
- viii. That as the aforesaid persons are from Gwalior city and he met them in Indore, he does not know the proper addresses of any of them except for their phone numbers.
- ix. That he has received all the documents related to the present case.
- x. The Appointment letter issued by Ripples Advisory Pvt. Ltd. dated August 24, 2015 to Mr. Shubham Kumar Jain has been produced.

- xi. The Bank Account statement for Axis Bank Account no. 916010040333365 of Mr. Shubham Kumar Jain for the period July 01, 2016 to June 30, 2017 has been produced.
 - xii. The Relieving and Experience Letter dated August 19, 2021 issued by CapitalVia Global Research Limited to Mr. Shubham Kumar Jain in response to his resignation letter dated December 20, 2016, has been produced.
7. I have carefully perused the facts recorded in the *interim order*, the submissions made by the *Notices* and other materials available on record. I note that the limited issue that requires adjudication in the extant proceedings in light of the charges so levelled against the *Notices* in the *interim order* is as under:
- *Whether acts of the Notices as imputed in the interim order, have violated the provisions of SEBI Act, 1992 read with the LA Regulations, 2013 and the PFUTP Regulations, 2003 while providing the services related to Investment Advisory.*
8. Before adverting to the facts of the case to deal with the aforesaid issue, it is apposite to refer to the relevant provisions of securities laws alleged against the *Notices* in the *interim order* which are reproduced hereunder:

“SEBI ACT, 1992

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) “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:

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

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;

SEBI (INVESTMENT ADVISER) REGULATIONS, 2013

Application for grant of certificate.

3. (1) 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:

SEBI PFUTP REGULATIONS, 2003

Definitions

2. (1) In these regulations, unless the context otherwise requires, —

(c) “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;

3. Prohibition of certain dealings in securities

No person shall directly or indirectly—

- (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 fraudulent or an unfair trade practice in securities.*
- (2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely: -*
 - (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”*

9. As stated earlier SEBI had received a complaint from the *Complainant* vide email dated June 18, 2019, *inter alia*, alleging that he received a proposal from M/s Analog Research (<http://www.analogresearch.co.in/>) stating that they are given authority to handle client demat account. So, the *Complainant* wanted to confirm the same from SEBI as to whether the company is authorized or not. From further scrutiny, it emerged that the *Notices* were hosting a website called <http://www.analogresearch.co.in/>. From the pages of the aforesaid website of the *Notices*, it was observed that the *Notices*, at the time of asking the clients to invest as per the investment services rendered to them, claimed the following through their website:

- i. *It is one of the leading Stock Advisory firms in Stock and Commodity market and is equipped with a team of best and most experienced professionals;*
- ii. *It offers recommendations in Basic, Premium and Analog HNI categories in Cash, Future and Option segments, along with Basic and Analog HNI categories in Bullions, Basemetal, Energy;*
- iii. *It provides customized services to the clients as per their requirements;*
- iv. *The first priority is profit of its clients and it achieves this by working constantly for them and their good.*

10. It has also been mentioned on the website that, “*Analog Research is register firm has been gained afoot strongly among Stock Advisory Companies and Investment Advisory Companies in India by giving best research calls and heavy one to one follow-ups*” and “*now, it has become most desirable Investment Advisory firm who covers each and every segments*”.

11. I note that the following pricing details for availing various types of services from them were also advertised on the aforesaid website of the *Notices*:

Services	Monthly (in INR)	Quarterly (in INR)	Half Yearly (in INR)	Yearly (in INR)
<i>Stock Cash</i>	9,999	19,999	29,999	49,999
<i>Cash HNI</i>	35,000	95,000	1,70,000	3,35,000
<i>Super Cash</i>	75,000	1,35,000	2,50,000	4,50,000
<i>Cash BTST</i>	9,999	19,999	34,999	59,999

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<i>Cash BTST Super</i>	15,000	35,000	55,000	1,00,000
<i>Positional Cash</i>	-	40,000	70,000	1,20,000

12. From the aforesaid facts, I find that M/s. Analog Research, which is the sole proprietorship concern of Proprietor Mr. Shubham Kumar Jain was indeed engaged in giving advice in an unauthorized manner relating to investing in, purchasing, selling or otherwise dealing in securities and various other investment products of securities, as was proclaimed by the said firm through its website <http://www.analogresearch.co.in>. At this juncture, it is pertinent to look at the definition of Investment Adviser (or short “**IA**”) as articulated in regulation 2(1)(m) of the IA Regulations, 2013 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 regulation 2(1)(l) of the IA Regulations, 2013 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.*”
13. In the light of the aforesaid definitions and the content published on the website of the *Notices* as well as the allegations imputed in the *interim order*, I note that the *Notices*, through their website were offering investment advice as defined under regulation 2(1)(l) of the IA Regulations, 2013 by offering to give advice related to investing in, purchasing and selling of securities and were also offering various service packages to investors at large for subscription to securities which were nothing but purely in the nature of the services of investment advisory.
14. I also note that the *interim order* has recorded that the aforesaid investment advisory services were being offered by the *Notices* in lieu of monetary considerations which was being paid by the investor concerned through Easebuzz payment gateway as per the instructions of the *Notices* the details of

which were also provided on the website of the *Notices* under the payment details section. As stated above, Easebuzz vide its email dated June 18, 2019 confirmed that HDFC Bank Account number 50200032091068 was available with them for M/s Analog Research and the said facts have not been disputed by the *Notices*. I also find that the *Notices* have owned that the above account with HDFC Bank belonged to them and the perusal of bank account statements of the said Bank Account of the *Notices* reveals that an aggregate amount of around INR 49,25,230/- has been credited in the said bank account during the period July 01, 2018 to June 18, 2019. It is observed that the aforesaid account has been closed since August 23, 2019.

15. The submission by Mr. Shubham Kumar Jain that at the time of opening of M/s Analog Research, he did not know registration requirement for M/s Analog Research, does not inspire confidence so as to give a clean chit to the *Notices* in this regard. It is a trite law that ignorance of law is not a defence which the *Notices* can take and the requirement of registration is compulsory to be honoured in letter and spirit. Law does not provide any exception to anyone to act as per his whims and fancies. The above submission further deserve rejection on the count that Mr. Shubham Kumar Jain has claimed to have worked previously at two SEBI registered Investment Advisers (i.e., Ripples Advisory Pvt. Ltd. and CapitalVia Global Research Limited) for a total of around 8-9 months as stated above and therefore, it is highly uncanny to accept the averment that he was not aware that registration is required before any person indulges into the activities of investment advisory. It is also observed that Mr. Shubham Kumar Jain has worked as “Business Analyst” in both the aforesaid SEBI registered Investment Advisers. From the perusal of the Appointment Letter issued by Ripples Advisory Pvt. Ltd., it is observed that as a “Business Analyst”, Mr. Shubham Kumar Jain was responsible for “*identifying the new business avenues and also propagating new products issued by the company*”. It is further found that the SEBI registration no. INA000003049 was mentioned in the aforesaid Appointment Letter issued to Mr. Shubham Kumar Jain by Ripples Advisory Pvt. Ltd. and Thus, the aforesaid facts make it abundantly clear that Mr. Shubham Kumar Jain was aware that he is required

to propagate new investment advisory products issued/or other services provided by Ripples Advisory Pvt. Ltd. which was a SEBI registered Investment Adviser and resultantly, he was very well aware that there is a requirement of registration from SEBI to act as IA. Therefore, his pleadings for innocence that, at the time of opening M/s Analog Research, he did not know registration requirement for M/s Analog Research, so he agreed and provided his KYC documents for opening the HDFC Bank Account in his name to the aforesaid two persons, is devoid of any substance or truth and thus outrightly rejected.

16. Further, I note that Mr. Shubham Kumar Jain apart from distancing himself from the acts of opening, operating and closing of the HDFC Bank Account no. 50200032091068 wherein the monies to the tune of INR 49,25,230/- were received against the investment advisory services offered to the investors, has not been able to bring any material on record to proof that it was those two persons referred to above namely Mr. Purshottam Sharma and Mr. Tarun Chauhan are the ones who indeed opened, operated and controlled the said bank account in his name and on behalf of M/s Analog Research. The fact that when Mr. Shubham Kumar Jain went to STF office on February 07, 2020 where these two persons came to meet him to advise him to delete his email address and phone number which he complied with also casts a serious doubt on his claim that those two persons alone were controlling everything and he was only contained with some monthly monetary benefits received from them.
17. I note that though Mr. Shubham Kumar Jain claims to have provided his KYC documents to the two aforesaid persons for opening of bank account, however, it is not his case that his documents were fraudulently obtained or misused by these two persons to open the HDFC Bank Account as well as M/s Analog Research. It is also not the case of Mr. Shubham Kumar Jain that having opened the bank account, he was not the authorised signatory or was not having any control or monitoring over the operation in the said bank account. Mr. Shubham Kumar Jain has not adduced any evidence to lay credence on the submission that he under bonafide belief shared his KYC documents with which got finally misused and for which he had no knowledge.

In this respect, I note that *interim order* was issued on February 07, 2020 and it is already more than 15 months now, however, Mr. Jain has not submitted documents to show any evidence that having come to know about the illegal and unauthorised activates done in his name under the name and style of M/s Analog Research, he has immediately taken actions against the two person who he claim, s have used his KYCs and are actually responsible for managing the affairs of M/s Analog Research. He has also not produced even an iota of evidence to show that he has acted against the aforesaid persons for misusing his documents to open HDFC Bank Account number belonging to M/s Analog Research either after he received the *interim order* or when they stopped the financial help/monetary benefits to him nor even after the *Notices* were advised during the course of personal hearing held on August 12, 2021 to submit the details of action taken by him against entities who have misused his KYC documents so as to prove his innocence in the matter. Since, the *Notices* have not submitted any such details, it strongly suggests that the said documents (KYC details) were not taken without his consent and knowledge. In fact, he has submitted that he has provided the said documents in lieu of monetary benefits from these two persons. Further, it is noted that email address i.e., shubham.jain0810@gmail.com is linked with the aforesaid HDFC Bank Account and it is also not the case of Mr. Shubham Kumar Jain that the said email account was not used by him or that he was not receiving bank account statement of the HDFC Bank Account no. 50200032091068 in the said email. Thus, in my considered view he, at this belated stage, cannot be allowed to distance himself from opening and operating of the proprietary firm M/s Analog Research and the HDFC Bank Account attached with the said firm.

18. I note that the *Notices* vide letter dated August 20, 2021 have submitted the bank account statement for his Axis Bank Account Number 916010040333365 to demonstrate that he (Mr. Jain) was receiving salary from CapitalVia Global Research Limited during the period he was working fir it from the period September 07, 2016 to December 20, 2016 and also to demonstrate the fact that he is operating and controlling the said bank account starting from the

date of its opening till date. In this regard, it is noted from the details provided by Easebuzz that the Axis Bank Account Number 916010040333365 belonging to Mr. Shubham Kumar Jain was linked with the said payment gateway wherein, payments amounting to INR 7,76,715/- were received between April 25, 2018 to July 05, 2018. In this regard, I note that the *Notices* have not denied the facts that they have received all the material relied upon in the present proceedings including the aforesaid details about HDFC Bank Account as well as Axis Bank Account as was received from Easebuzz. Therefore, I find that both the bank accounts i.e., Axis Bank Account Number 916010040333365 and HDFC Bank Account Number 50200032091068 linked with Easebuzz were undeniably belonging to and operated by Mr. Shubham Kumar Jain. Hence, the *Notices* now cannot claim and argue that the investment advisory services offered by them were without knowledge and active participation of Mr. Shubham Kumar Jain or that the HDFC Bank Account did not belong to him and only the Axis Bank Account belonged to him.

19. Considering the above factual narrations about the activities of the *Notices* as proclaimed by them on their website, the details of payment received by the *Notices* in the said Bank Account, the bank statements of the *Notices* (supported by the KYC/ AOFs documents of the *Notices*), and most importantly the fact that apart from distancing themselves from the affairs of M/s Analog Research or the plea of victimisation by two persons known to him, there has been no denial or objection by Mr. Jain to the charges/allegations levelled against the *Notices* made in the *interim order*, it constrains me to conclude that the unauthorised activities allegedly indulged into by the *Notices* squarely fall under the category of investment advisory services as defined under regulation 2 (1)(l) of the IA Regulations, 2013.
20. Further, the credit entries in the said HDFC Bank Account of the *Notices* are supported by various narrations such as investment services, equity services, long time investment, etc., which clearly highlight the fact that the monies that were being received in the said HDFC Bank Account were being received as proceeds from the business operations of the *Notices* as Investment Adviser.

Further, considering the fact that the website of the *Notices* clearly showed that its services were in the nature of investment advisory services coupled with the fact that the aforesaid Bank Account was linked with Easebuzz payment gateway as specified in the website itself for receiving fees into it from the clients, it leads to an unassailable conclusion that the said pay-in amounts as reflected in the said HDFC Bank Account were in fact the amounts received towards consideration in lieu of the advisory services rendered by the *Notices*. Therefore, it can be conclusively held that the amounts that have been credited to the HDFC Bank Account of the *Notices*, were received by the *Notices* in lieu of providing investment related services as indicated on the website of the *Notices*.

21. In view of the above and as discussed earlier, I have no doubt that in terms of regulation 2(1)(l) of the IA regulations, 2013 such kind of advisory services rendered by the *Notices* in fact constituted “investment advice” and the *Notices* were providing investment advice, in lieu of monetary consideration which was received and credited into their HDFC Bank Account. Therefore, there is no ambiguity left that M/s. Analog Research, and its proprietor Mr. Shubham Kumar Jain were engaged in the business of providing investment advice to the public, in lieu of monetary consideration and were thus, acting as an ‘investment adviser’, as defined under regulation 2(1)(m) of the IA Regulations, 2013.
22. It is relevant to note here that in order to protect the interest of investors and to preserve the integrity of the securities market, the IA Regulations, 2013 provides various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to obtain registration from SEBI as required under regulation 3(1) of the IA Regulations, 2013, which, *inter alia*, provides that, no person shall act as an investment adviser or hold himself/itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and has to conduct his/its activities in accordance with the provisions of the IA Regulations, 2013. Further, various crucial safeguards provided under the IA

Regulations, 2013 which include continued minimum professional qualification and net-worth requirement for IA, disclosure of all conflicts of interest, prohibition on IA to enter into transactions on its own account which is contrary to advice given by IA to its clients for a period of 15 days from the day of such advice given, monetary risk profiling of investors, maintaining documented process for selecting investments for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc. have been stipulated in the said Regulations with a primary objective to protect the interest of the investors who take investment advisory services from the Investment Advisor.

23. The activities engaged in by the *Notices*, as brought out from various materials described above including their website, seen in the backdrop of the aforesaid regulatory provisions show that the *Notices* were holding themselves out and acting as an IA. However, it is noted that the *Notices* are not registered with SEBI in the capacity of IA. Hence, I find that these activities/ representations as were being made by the *Notices* without holding the certificate of registration as IA are in violation of Section 12(1) of the SEBI Act, 1992 read with regulation 3(1) of the IA Regulations, 2013.
24. In my view, unregistered investment advisors like the *Notices* in the present case can put the interest of the investors at great risk by misleading them or misutilising their funds to the detriment of the interest of the investors. In the present case, the *Notices* on their website have, *inter alia*, mentioned that M/s. Analog Research offers advises in stocks, future and option (F&O), bullions and provide daily and weekly news letters having stock and commodity market overview, etc. The *Notices* on their website have further misrepresented that M/s Analog Research is a registered firm which has been gaining foot strongly among Stock Advisory Companies and Investment Advisory Companies in India by giving best research calls.
25. As stated above, SEBI Act, 1992 and IA Regulations, 2013 mandate that an investment advisor has to hold a certificate of registration to act as such. However, as already pointed out above, I find that the *Notices* were not holding

any certificate of registration from SEBI to act as investment advisor despite the fact that Mr. Shubham Kumar Jain has previously had worked with two SEBI registered Investment Advisers and was aware that there is a requirement of registration with SEBI to act as IA. Thus, the claims/representations made by the *Notices* on their website were blatantly misleading and were made only to allure the investors to avail investment advisory services being offered by the *Notices*. The *Notices* have knowingly misrepresented on the websites floated by them that they are experts in stock market analysis and are experienced in investment advisory and without even holding any registered Investment Advisor certificate, the *Notices* held out themselves as an investment advisory firm through their website, and rendered investment advisory services in an illegal manner to investors, with the objective of raising money from the investors by way of subscriptions to their various plans.

26. The above discussed misleading representations made by the *Notices* are therefore, deceptive and fraudulent in nature and are well covered within the definition of “fraud” defined under regulation 2(1)(c) of the PFUTP Regulations, 2003. It is noted that fraudulent activities/ conduct/ act/ practice of the *Notices*, as discussed above, are also in violation of provisions of Section 12A (a), (b), (c) of the SEBI Act, 1992 and regulations 3 (b), (c), (d) and regulations 4(1) of the PFUTP Regulations, 2003. Regulation 4(2)(k) of the PFUTP Regulations, 2003, provides that dealing in securities shall be deemed to be a manipulative, fraudulent or an unfair trade practice if it involves even 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. In the present case, the *Notices* without holding a certificate of registration as investment adviser have knowingly held themselves out as a registered investment adviser on their website. Thus, I find that the *Notices* have also violated regulation 4(2)(k) of the PFUTP Regulations, 2003.
27. I note that the materials available on record do not indicate the exact amount of fees collected by the *Notices* in lieu of providing investment advisory services to the investors in violation of the provisions of the IA Regulations,

2013. However, the *interim order* records that the *Notices* have received credits worth INR 49.25 Lakh (INR 49,25,230/-) in their HDFC Bank Account Number 50200032091068 and this account number was also linked with Easebuzz payment gateway published on their website to enable the investors to make payment to the *Notices*.

28. It is noted that records available before me including the *interim order* do not suggest that any employees of the *Notices* are involved in the affair/scheme of the *Notices*. Further, the *Notices* have also not claimed that any employee(s) was/were involved in this regard. Therefore, I am of the view that the direction issued regarding employees of the *Notices* in the *interim order* need not continue.
29. In view of the foregoing discussions and findings about the activities engaged in by the *Notices* in rendering investment advisory services in unauthorised & illegal manner as has been established in facts and circumstances of the case, in order to achieve the avowed object of SEBI Act, 1992, I, in exercise of the powers conferred upon me in terms of Sections 11, 11(4), 11B (1) and 11D, read with of Section 19 of the SEBI Act, 1992 and regulation 11 of the PFUTP Regulations, 2003, while disposing of the allegations levelled in the *interim order* hereby direct the following:
- i. The *Notices* shall within a period of three months from the date of this Order, refund the money received from the clients/investors/complainant, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;
 - ii. The *Notices* 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 their contact person such as names, addresses and contact details, within 15 days of coming into force of this Order;
 - iii. The repayments to the clients/investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;

- iv. The *Notices* are prevented from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the clients/investors who were availing the investment advisory services from the *Notices*, as directed in this Order, from the bank account of the *Notices*; wherein debit has been frozen by virtue of *interim order* dated February 07, 2020.
- v. The *Notices* shall resolve all the complaints pending against them and file a report of such resolution with SEBI addressed to the Division Chief, Investment Management Department, SEBI Bhavan, Plot No. C4 A, G Block, Bandra Kurla Complex, Bandra (East) Mumbai – 400051, within a period of 30 days from date of this Order.
- vi. After completing the aforesaid repayments, the *Notices* shall file a report of such completion with SEBI addressed to the Division Chief, Investment Management Department, SEBI Bhavan, Plot No. C4 A, G Block, Bandra Kurla Complex, Bandra (East) Mumbai – 400051, within a period of 15 days, after completion of three months from the coming into force of this Order, duly certified by an independent Chartered Accountant. The restraint on sale of assets in sub paragraph (iv) shall cease to operate once the refund to the investors is complete and the report as contemplated herein is filed;
- vii. The *Notices* are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 02 (two) years from the date of this Order or till the expiry of 02 (two) years from the date of completion of refunds to investors as directed in sub-paragraph (i) above, whichever is later;
- viii. The *Notices* are also restrained from associating with any company whose securities are listed on a recognized stock exchange and any company which intends to raise money from the public, or any

intermediary registered with SEBI in any capacity for a period of 02 (two) years from the date of this Order or till the expiry of 02 (two) years from the date of completion of refunds to investors as directed in sub-paragraph (i) above, whichever is later;

- ix. The *Notices* shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in sub-paragraph (vii) and (viii) above, either directly or indirectly, investment advisory services or any other activity in the securities market without obtaining a certificate of registration from SEBI as required under the Securities Laws.
 - x. The *Notices* shall not to divert any funds collected from investors, kept in bank account(s) and/or in their custody except for the purpose of refund as directed in sub-paragraph(i).
 - xi. The *Notices* shall 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 for the purpose of refund as directed in sub-paragraph(i) and until the refund is completed and a report as mandated under sub-paragraph (vi) is filed with SEBI.
30. The direction for refund, as given in paragraph 29(i) above, does not preclude the clients/investors from pursuing the other legal remedies available to them under any other law, against the *Notices* for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.
31. This Order shall come into force with immediate effect.
32. It is clarified that directions issued under the *interim order* against the employees of the *Notices* are directed to be discontinued.
33. It is further clarified that during the period of restraint, the existing holding of securities including the holding of units of mutual funds of the *Notices* shall remain frozen.
34. Obligation of the *Notices*, in respect of settlement of securities, if any, purchased or sold in the cash segment of the recognized stock exchange (s), as

existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order, only in respect of pending unsettled transactions, if any. Further, all open positions, if any, of the *Notices* in the F & O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

35. A copy of this Order shall be sent to the Noticees, the recognized Stock Exchanges, the Depositories, Registrar and Transfer Agents of Mutual Funds and the Banks to ensure necessary compliance.

Sd/-

DATE: OCTOBER 29, 2021

PLACE: MUMBAI

S. K. MOHANTY

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA