

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

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 PROFIT MONEY ADVISOR AND ITS SOLE PROPRIETOR MR. PRATEEK SINGH

In respect of

Sl. No.	Name of the Noticee	PAN
1.	M/s Profit Money Advisor (Sole Proprietor Mr. Prateek Singh)	ENOPS8525K

1. The present proceedings originate from an *ex-parte ad interim order* dated March 18, 2021 (hereinafter referred to as “*interim order*”) passed by the Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) under Sections 11, 11B and 11D of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) against M/s Profit Money Advisor and its sole proprietor Mr. Prateek Singh (hereinafter collectively referred to as “*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 SEBI Act 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 and regulations 3 (a) (b), (c) & (d) and regulations 4(1) and

4(2)(k) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices 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 vide email dated November 04, 2020, wherein, the complainant *inter alia* alleged that M/s Profit Money Advisor is an unregistered investment advisory firm which is giving investment tips to people without being registered with SEBI and the website of the *Notices* contains various packages of different time period against fixed return.
 - ii. As per the information gathered from the archives of the website of the *Notices*, it was noted that that M/s Profit Money Advisor has claimed to be a leading financial services provider that indulged in providing high accuracy tips and investment recommendations for stocks listed on BSE and NSE, Derivatives like Nifty Futures and Options traded at NSE, Commodity derivatives and at MCX and NCDEX, Forex Domestic and International currencies and calls on investment in Crypto currencies etc. to the clients in lieu of monetary consideration. It is observed that the *Notices* are not registered with SEBI to perform the functions of an Investment Adviser in the securities markets. From the examination of the particulars of the bank account as mentioned on the aforesaid website of the *Notices*, it is observed that the *Notices* have bank account with Central Bank of India, bearing Account No. 3790292068, examination of which also reveals that the *Notices* had put up a whatapp and Paytm number +9109368967 on its website for clients who wish to subscribe to their ‘advisory services’.
 - iii. As per the information gathered from the bank statements collected from the Central Bank of India, it was observed that the total amount mobilized/credited by the *Notices* in the said bank account stood at INR 68,48,431/- during the period December 11, 2019 to March 04, 2021. From

the analysis of the aforesaid account statements, it has also been observed that the *Notices* have received continuous credits on November 25 and 26, 2020.

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 a preventive measure for protecting the interest of investors in securities markets and consequently, following directions were issued against the *Notices* in the *interim order*.

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

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

- 39.1.1. to cease and desist from acting as an investment advisor including the activity of acting and representing through any media (physical or digital) as an investment advisor, directly or indirectly, and cease to solicit or undertake such activity or any other activities in the securities market, directly or indirectly, in any matter whatsoever;*
- 39.1.2. not to divert any funds collected from investors, kept in bank account(s) and/ or in their custody;*
- 39.1.3. not to dispose of or alienate any assets, whether movable or immovable, or any interest or investment or charge on any of such assets held in their name, including money lying in bank accounts except with the prior permission of SEBI.*
- 39.1.4. to immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, websites, communications etc., in relation to their investment advisory activity or any other unregistered activity in the securities market;*

39.1.5. *not to access the securities market and buy, sell or otherwise deal in securities, either directly or indirectly, in any manner whatsoever;*

39.1.6. *to provide a full inventory of all assets held in their name, whether movable or immovable, or any interest or investment or charge on any of such assets, including details of all bank accounts, demat accounts and mutual fund investments, immediately but not later than 5 working days from the date of receipt of this order;*

39.1.7. *to submit the number and details of clients who have availed their investment advisory Services and to submit details of fees collected from each such client, immediately but not later than 5 working days from the date of receipt of this order.*

39.2. *If M/s Profit Money Advisor and its proprietor Shri. Prateek Singh have any open position in any exchange traded derivative contracts, as on the date of the order, they can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. M/s Profit Money Advisor and its proprietor Shri. Prateek Singh are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.*

39.3. *Central Bank of India is directed not to permit any debits / withdrawals and not to allow credits, from / to the following bank accounts, without the permission of SEBI. Paytm where M/s Profit Money Advisor / Shri. Prateek Singh is holding an account through mobile no. +9109368967 is directed to deactivate the said account. The said Bank and Paytm are directed to ensure that all the above directions are strictly enforced.*

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

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

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

39.5.1. M/s Profit Money Advisor and its proprietor

39.5.2. Shri. Prateek Singh either individually or jointly.”

4. The above *interim order* issued to the *Notices* was also in the nature of a Show Cause Notice (hereinafter also referred to as “**SCN**”) whereby the *Notices* were called upon to show cause as to why the investment advisory plans floated and offered by them to the clients should not be held as “Investment Advisory Services” in terms of the IA Regulations, 2013 and thereby the activity of the *Notices* be not treated as unregistered activity in violation of the SEBI Act and relevant Regulations and why suitable directions/prohibitions under the SEBI Act and relevant SEBI Rules/Regulations, as contained in the SCN should not be issued/imposed against them, for the alleged violation of provision of SEBI Act and IA Regulations.
5. The *interim order* provided the *Notices* 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 *Notices*. In that regard, it is noted from the records available before me that the *interim order* was sent to the *Notices* at two addresses available with SEBI namely at the permanent address i.e., *S/o Dinesh Singh, 73 to 77, Rameshvar Apartment, Room No. 206, Gayatri Society-1, Udhna Gam, Surat City, Surat, Udhna, Gujarat- 394210* and at the registered office address i.e., *Shop No. 3, Danish Nagar, Bawadiyan Kalan, Hoshangabad Road, Misrod Bhopal, Madhya Pradesh-462026* through SPAD on March 18, 2021. While the *interim order* sent to permanent address was delivered upon the *Notices* on March 20, 2021, the order forwarded to the *Notices* at their registered office address returned undelivered. The records further show that to ensure effective service of the *interim order* and compliance of principle of nature justice, the *Notices* were additionally served the *interim order* through newspaper publication dated April 09, 2021 in the newspapers namely, *The Times of India* and *Dainik Jagran*. I note that the *Notices* 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, as the records suggest that the order sent at the permanent address was not returned undelivered, an opportunity of personal hearing was considered to be granted and the same was provided to the *Notices* on September 23, 2021 for which, an attempt was made to serve the hearing notice upon the *Notices* through SPAD vide letters dated July 13, 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 July 13, 2021 at email addresses of the *Notices* available with SEBI i.e., info@profitmoneyadviser.net, support@profitmoneyadviser.net and info@maximumbackmoney.in. The aforesaid letters have again returned undelivered and the letters sent through emails could not get delivered at the above mentioned email addresses of the *Notices*. Therefore, steps were taken to serve the notice about the personal hearing upon the *Notices* through newspaper publication and the same was published in the newspapers namely *Times of India* and *Dainik Jagran* on September 15, 2021 intimating the *Notices* that hearing in the matter is schedule on September 23, 2021.

6. I note that no one appeared before me on the scheduled date of personal hearing i.e. September 23, 2021 as indicated in the above-stated newspaper publication. Under the circumstances, I observe that the principles of natural justice have been complied with adequately in the present matter. As the *Notices* have preferred to not participate in the present proceedings before me, I am constrained to deal with the matter on merit based on the material available on record.
7. I have carefully perused the facts recorded in the *interim order* and other materials available on record. After considering the charges levelled against the *Notices* in the instant matter as spelt out in the *interim order*, it leads me to examine of the following issue:

- *Whether acts of the Noticees as imputed in the interim order, have violated the provisions of SEBI Act, 1992 read with LA Regulations, 2013, and PFUTP Regulations, 2003 while providing the services related to Investment Advisory without having proper registration.*

8. Before I proceed to examine the issue framed above, it would be appropriate to refer to the relevant provisions of securities laws alleged to have been violated by the *Noticees*. Accordingly, the said provisions are being 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—

- (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 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, based on the examination of the material received by the SEBI, the *interim order*, *inter alia* alleges that M/s Profit Money Adviser (an unregistered investment advisory firm) was providing investment advisory tips to people and the website of the *Notices* contained various packages of different time periods against fixed return. From further scrutiny, it has emerged that the *Notices* were hosting a website <http://profitmoneyadviser.net> which was created on December 02, 2019 and that was last updated on December 08, 2020 as per the domain registration details checked on www.whois.com database. Further as per the registration details available, it is noted that the registration of the website i.e.,

<https://profitmoneyadvisor.net> expires on December 02, 2021 and the said website was active till December 2020. The said website was not found to be active at the time of passing of the *interim order*, however, from the snapshots of the webpages obtained from the its website, it was observed that the *Noticees* was claiming the following from its clients through their website:

- a) *Profit Money Advisor is india's leading advisory firm fully committed to make fair realistic and top quality financial recommendations and tips accessible to all traders and investors in India. The financial advice we offer connects all factors of financial planning and assist traders in taking holistic and merit based financial decisions to acquire their financial objectives. Profit Money Advisor have fully committed team of business analysts that take full case of customers individually online and through telephonic support round the clock. We have comprehensive assortment of services so that traders can employ our services according to their trading style.*
- b) *Profit Money Advisor is leading financial services provider with presence in India and other global capital markets. With its full-fledged research operations profit Money Advisor investment adviser has proven itself as a company that procures and delivers high accuracy tips and recommendations for*
- Equities for stock listed on BSE and NSE*
- Derivatives NSE and Nifty Futures and Options*
- Commodity MCX and NCDEX*
- Forex Domestic and International currencies*
- Crypto currencies*

10. I note that the following pricing details for availing various types of services from them were also announced on the aforesaid website of the *Noticees*:

Cash Service		Option Service	
Cash Intraday	Ideal For: Intraday, Risk Type: Medium 2-4 Call's Intraday	Option Intraday	Ideal For: Intraday Risk Type: Medium 2-3 Call's Intraday

	Investment 1 lakh +10 Limit Monthly Return 30-35% Monthly: INR 15,000/- + Gst Quarterly: INR 35,000/- +Gst (50%) Half-Yearly: INR 60,000/-		Investment Minimum 50k Monthly Return 50% Monthly: INR 15,000/- + Gst Quarterly: INR 35,000/- + Gst (50%) Half-Yearly: INR 60,000/-
Cash Premium	Ideal For: Intraday Risk Type: Medium 1-2 Call's Intraday Investment □ 3 lakh +10 Limit Monthly Return □ 40-50% Monthly: INR 35,000/+Gst Quarterly: INR 80,000/- + Gst (50%) Half-Yearly: INR 1,35,000/-	Option Premium	Ideal For: Intraday Risk Type: Medium 1-2 Call's Intraday Investment Minimum 1 lakh Monthly Return 50-75% Monthly: INR 42,500/- + Gst Quarterly: INR 1,05,000/- +Gst (50%) Half-Yearly: INR 1,75,000/-
Cash HNI	Ideal For: Intraday Risk Type: Medium 15-17 Call's Monthly 1-2 Day's Holding Investment □ 5lakh +5 Limit Monthly Return □ 55-70% Monthly: INR 65,000/- + Gst Quarterly: INR 1,45,000/- +Gst (50%)	Option HNI	Ideal For: Intraday Risk Type: Medium 1 Call's Hold 1-2 Day's Investment Minimum 2lakh Monthly Return 100% Monthly: INR 85,500/- + Gst Quarterly: INR 2,25,000/- +Gst (50%) Half-Yearly: INR 3,51,000/-

	Half-Yearly: INR 2,55,000/-		
Cash MBM Pack	Ideal For: Intraday Risk Type: Medium Investment 10-15 Lakh +5 Limit Monthly Return 100% + Return Monthly: Not Available Quarterly: Not Available Half-Yearly: INR 2,51,000/-	Option MBM Pack	Ideal For: Intraday Risk Type: Medium Investment 6 Lakh Monthly Return 150-200% +Return Monthly: Not Available Quarterly: Not Available 45 Day's: INR 3,51,000/-
Nifty Index Service		Nifty Index Option Service	
Nifty index	Ideal For: Intraday Risk Type: Medium 15-18 Call's Monthly Monthly Return 50% Monthly: INR 45,000/- + Gst Quarterly: INR 1,10,000/- + Gst (50%) Half-Yearly: INR 2,51,000/-	Nifty Index Option	Ideal For: Intraday Risk Type: Medium 15-20 Call's Monthly Monthly Return 75% Monthly: INR 75,000/- + Gst Quarterly: INR 1,90,000/- +Gst (50%) Half-Yearly: INR 3,51,000/-
Nifty Index Premium	Ideal For: Intraday Risk Type: Medium 12-15 Call's Monthly Monthly Return 75% Monthly: INR 85,000/- + Gst Quarterly: INR 1,95,000/- +Gst (50%) Half-Yearly: INR 3,51,000/-	Nifty Index Option Premium	Ideal For: Intraday Risk Type: Medium 12-15 Call's Monthly Monthly Return 100% Monthly: INR 1,15,000/- + Gst Quarterly: INR 3,05,000/- +Gst (50%) Half-Yearly: INR 5,51,000/-
Nifty Index HNI	Ideal For: Intraday Risk Type: Medium 7-10 Call's Monthly Monthly Return 100%	Nifty Index Option HNI	Ideal For: Intraday Risk Type: Medium 7-10 Call's Monthly Monthly Return 125%

	Monthly: INR 85,500/- + Gst Quarterly: INR 2,25,000/- + Gst (50%) Half-Yearly: INR 4,51,000/-		Monthly: INR 1,51,000/- + Gst Quarterly: INR 4,25,000/- + Gst (50%) Half-Yearly: INR 7,51,000/-
Nifty Index MBM Pack	Ideal For: Intraday Risk Type: Medium Monthly Return 150% Monthly: Not Available Quarterly: Not Available 45 Day's: INR 5,51,000/-	d) Nifty Index Option MBM Pack	Ideal For: Intraday Risk Type: Medium Monthly Return 150% + Return Monthly: Not Available Quarterly: Not Available 45 Days: INR 6,51,000/-
MCX Service		Forex Service	
MCX Intraday	Ideal For: Intraday Risk Type: Medium 3-4 Call's Intra Day Investment 1lot Monthly Return 40-50% Monthly: INR 12,500/- + Gst Quarterly: INR 30,500/- + Gst (50%) Half-Yearly: INR 45,000/-	Forex Intraday	Ideal For: Intraday Risk Type: Medium Monthly: INR 42,500/- + Gst Quarterly: INR 1,05,000/- + Gst (50%) Half-Yearly: INR 1,75,000/-
MCX Premium	Ideal For: Intraday Risk Type: Medium 2-3 Call's Intra Day Investment 1 lot Monthly Return 50-70% Monthly: INR 18,500/- + Gst	Forex Premium	Ideal For: Intraday Risk Type: Medium Monthly: INR 85,000/- + Gst Quarterly: INR 1,95,000/- + Gst (50%) Half-Yearly: INR 3,51,000/-

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

			Monthly: INR 10,000/- + Gst Quarterly: INR 25,500/- + Gst (50%) Half-Yearly: INR 45,000/-
		NCDE X Combo	Ideal For: Intraday Risk Type: Medium 2-3 Call's Intra Day I Investment 1lot Monthly Return 50-70% Monthly: INR 18,500/- + Gst Quarterly: INR 45,500/- +Gst (50%) Half-Yearly: INR 75,000/-

11. From the aforesaid narration of facts, I find that M/s. Profit Money Adviser, which is the sole proprietorship concern of Proprietor Mr. Prateek Singh 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://profitmoneyadviser.net>. It is noted that the *Notices* have announced to the public and prospective investors, the fees they charge for various investment advisory services, which was ranging from INR 15,000/- on monthly basis to INR 7,51,000/- on a half yearly basis, based on the segment of advisory selected by the respective clients. From the disclosures and proclamations made by the *Notices* through its website, it is also observed that the *Notices* have promised an assured return in the range of 30% to 200% to its investors against the investment made by the clients based on the advisory services offered by the *Notices*. 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."

12. 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 also by offering various service packages to investors at large, of the securities markets which were nothing but purely in the nature of the services of investment advisory.
13. 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 concerned investor in the account of the *Notices* with Central Bank of India bearing Account no. 3790292068. It is also noted that website of the *Notices* was offering various types of investment advisory services with corresponding monetary considerations as fee and the details of the above mentioned bank account was also mentioned under the payment option on the website advising the investors to pay into the said Bank Account. It is noted that a perusal of the Bank Account statement of the *Notices* reveals that an aggregate amount of around INR 68,48,431/- have been credited in the said Bank Account between December 11, 2019 to March 04, 2021. It is also noted that the aforesaid Bank Account was active at the time of passing of the *interim order* and the said account has received continuous credits as per the latest bank statement as recorded in the *interim order* including instances of 16 credit entries on November 25, 2020 and 18 credit entries on November 26, 2020. I note that there have been four credit transactions during March 01-04,

2021, amounting to INR 55,001/- as recorded in the *interim order*. Further, Profit Money Adviser had put up a whatsapp and Paytm number +9109368967 on its website for clients who wished to subscribe to their 'advisory services'. It is observed that out of these two modes of payment, Paytm mode was available for making payment to Profit Money Adviser even at the time when the *interim order* was passed against the *Notices*.

14. Considering the above factual analysis about the activities of the *Notices* as proclaimed by them on their own website, the details of payment received by the *Notices* in the said bank account, the bank statement of the *Notices* (supported by the KYC/ bank account statements documents of the *Notices*), and most importantly, the fact that there has been no denial or objection by them to the charges/allegations levelled against the *Notices* made in the *interim order*, it leaves me with no option but to conclude that the alleged activities of the *Notices* squarely fall under the category of Investment Adviser as defined under regulation 2 (1)(m) of the IA Regulations, 2013.
15. Further, the credit entries in the Central Bank of India account of the *Notices* clearly highlight the fact that the monies that were received in the said bank account were received towards proceeds from the business operations of the *Notices* as Investment Adviser and considering the fact that the website of the *Notices* undisputedly show that the services rendered/offered were in the nature of investment advisory services and the *Notices* were offering various subscription packages in various segments of the market viz, equity, derivatives, forex and commodity coupled with the fact that the said bank account was mentioned on 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 bank account were in fact the amounts received towards consideration in lieu of the investment advisory services rendered by the *Notices*. Therefore, it can be conclusively held that the amounts that have been credited to the Central Bank of India account of the *Notices*, were received by the *Notices* in lieu of providing investment related services as indicated on the website of the *Notices*.

16. 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 considerations which was received and credited into their aforesaid bank account. Therefore, there is no ambiguity left that M/s. Profit Money Adviser and its proprietor Mr. Prateek Singh 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.
17. 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 such person has to conduct his/its activities in accordance with the provisions of IA Regulations, 2013. Further, safeguards provided under IA Regulations, 2013 include such stipulations such as continued minimum professional qualification and net-worth requirement for investment adviser, 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. so as to protect the interest of the investors and prevent fraudulent conduct by the IAs.

18. The activities of 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 investment adviser are in violation of Section 12(1) of the SEBI Act, 1992 read with regulation 3(1) of the IA Regulations, 2013.
19. In order to ensure protection of investors who receive investment advice, it is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and has to conduct its activities in accordance with the provisions of the relevant SEBI Regulations.
20. 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*, announced that M/s. Profit Money Adviser indulge in providing high accuracy tips and recommendations for stocks listed on BSE and NSE, Derivatives like Nifty Futures and Options traded at NSE, Commodity derivatives at MCX and NCDEX, Forex trading in domestic and International currencies, investments in Crypto currencies etc. The *Notices* on their website have further represented that M/s. Profit Money Adviser is India's leading advisory firm fully committed to make fair realistic and top quality financial recommendations and tips accessible to all traders and investors in India.
21. As stated above, the 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, the *Notices* were not holding any certificate of registration from SEBI to act as investment advisor. The *Notices* have also promised assured "monthly return" between 30% to 200% to their

clients knowing fully well that every investment in the market is subject to market risk and the said investment made by the client can also run into losses. 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 without even holding any registered Investment Advisor certificate. Thus the *Notices* have offered their investment advisory services through their website, in an illegal manner to investors, with the objective of raising money from the investors by way of subscriptions to their various plans.

22. 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 (a), (b), (c), (d) and regulations 4(1) of 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 investment adviser on their website. Thus, I find that the *Notices* have also violated regulation 4(2)(k) of the PFUTP Regulations, 2003.

23. I note that the *interim order* records that the *Notices* have received credits worth INR 68,48,431/- in their Central Bank of India Account Number 3790292068 and this account number was also published on their website to enable the

investors to make payment to the *Notices*. I further note that the *Notices* have preferred to remain absent from attending the personal hearing granted in the matter and have also chosen to remain silent and not filed any reply refuting the allegations/observation recorded in the interim order. In view of the absence of any materials on record rebutting the observations made in the *interim order* including the amount credited in the bank account towards fee allegedly received against the offering of investment advisory services, I am left with no other option but to conclude that all the sums of money received in the above mentioned bank account of the *Notices* were nothing but the monetary consideration received by it from the clients by way of providing investment advisory services and selling various investment packages to the investors, in violation of the provisions of the IA Regulations, 2013.

24. 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*. Therefore, I am of the view that the direction issued regarding employees of the *Notices* in the *interim order* need not require to continue.

25. In view of the foregoing discussions and my observations/findings about the activities engaged in by the *Notices* in rendering investment advisory in unauthorized and illegal manner, as established in facts & 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 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* cum SCN 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 March 18, 2021;
- 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 law.
- 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.

26. The direction for refund, as given in paragraph 25(i) above, does not preclude the clients/investors of the *Notices* 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.
27. This Order shall come into force with immediate effect.
28. It is clarified that directions issued under the *interim order* against the employees of the *Notices* are directed to be discontinued.
29. 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.
30. 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.
31. A copy of this Order shall be forwarded to the *Notices*, the recognized Stock Exchanges, Depositories, Registrar and Transfer Agents and the Banks to ensure necessary compliance with the above directions.

-Sd-

DATE: OCTOBER 29, 2021

PLACE: MUMBAI

S. K. MOHANTY

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA