

SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

**UNDER SECTION 11(1), 11(4) AND 11B(1) OF THE SECURITIES AND
EXCHANGE BOARD OF INDIA ACT, 1992**

In respect of

Sl. No.	Name of the Noticee	PAN
1.	Mr. Yash Chawla, Sole Proprietor of Khelo MCX Research Services	AZDPC8667K

Background

1. Securities and Exchange Board of India (hereinafter referred to as ‘SEBI’) received a complaint dated February 12, 2020 wherein it was alleged that that investment advisory services were being run in the name of ‘Bazaar Trading’ from website www.bazaartrading.in. On the basis of such complaint, SEBI carried out a preliminary examination to ascertain whether unregistered investment advisory activities are being carried out by Bazaar Trading.
2. It is noted in the course of the said preliminary examination that the website www.bazaartrading.in was active at that time. It was also found during the course of examination that there were other identical live websites viz., www.100mcxtips.in and www.khelomcx.com in which Bazaar Trading had mentioned itself as Investment Adviser/Tips Provider. The website of Bazaar Trading had also contained information that it was offering packages in commodity investments and trading to its clients as part of its advisory activity. Similarly, the website of 100mcxtips provided information that it was offering packages wherein it was

giving commodity market tips. The website of khelomcx was disclosing information that it was offering packages in MCX trading tips, NCDEX share tips, Equity market tips, NIFTY tips, Stock tips, Intraday Tips.

3. It was observed from website of Khelo MCX that an account with State Bank of India (hereinafter referred to as '**SBI**') bearing account number 336XXXXXX04 in the name of 'Khelo MCX Research Services' (hereinafter referred to as '**Khelo MCX**'), opened at SBI Jabalpur, was mentioned under the head payment details. Further, a common mobile number 97XXXXXX012 and a common address viz. 109, Rajul Arcade, Russel Crossing, Jabalpur-482001 was mentioned on all the three aforementioned websites. As per the account opening form submitted to SBI while opening the aforementioned bank account, it was found that Mr. Yash Chawla (hereinafter referred to as '**Noticee**') is the sole proprietor of Khelo MCX Research Services. Further, other options to make payments were also mentioned on the website www.bazaartrading.in indicating that payments can be made through SBI Collect, PayUMoney and UPI Payments.
4. It was observed during examination that the *Noticee* was not registered with SEBI to act as an Investment Adviser in the securities markets.
5. A further scrutiny of the aforesaid websites showed that all three websites were active at the time of preliminary examination. It was observed that the *Noticee*, at the time of inviting the investors to invest in securities market as per various investment advisory services rendered to the clients, was also making the following tall claims before the public through the respective websites:

www.100mcxtips.in	<i>GET STOCK AND COMMODITY MARKET TIPS</i> <i>- Earn 5-10% Profit Every Week</i> <i>- <u>Earn 100% Profit in 3 Months</u></i> <i>with 85-90% High Accurate Market Research</i>
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www.bazaartrading.in	<i>At Bazaartrading, we offer a comprehensive range of services and advisory to give you all you need to know about commodity investments and trading.</i> <i>Get online MCX tips advisory from Professional Day Traders and Market Experts. So that, you could get the 85-90% trade profits assured, right service and best results in the long run. Get MCX Intraday Tips, and Commodity Trade Recommendations with India's No.1 MCX Tips Provider. We having a very rare background of trading experience and a method you won't find anywhere else.</i>
www.khelomcx.com	<i>Employ experienced brokers or advisors to predict investors buying and trading trends at various market environments. The risks a trader might get while trading is minimized by our research services. We offers you the better investment & trading solutions in MCX trading tips, NCDEX share tips, Equity market tips, NIFTY tips, Stock tips, Intraday Tips.</i> <i>Guaranteed Maximum Profits</i> <i>Our clients & Traders follows over all research based trading tips and they must be in profit upto Rs 2,00,000 per month.</i> <i>Accurate Intraday Tips</i> <i>Our intraday trading tips accuracy levels at 95-99% on a daily basis. Our clients says, "<u>KheloMCX best on the accuracy levels in the industry.</u>"</i>

6. The websites also made proclamations like: “*First YOU Earn Then Pay Only 10% of YOUR Profit*” while providing free trial and made outlandish claims such as “*We provide 100% Returns in 18-24 Months*” and “*Earn 100% Profit in 3 Months*”.
7. I note from the material available on record that the pricing for various investments products being offered by the *Noticee* as mentioned on both *www.bazqaartrading.in* and *www.khelomcx.in* were the same, as following:

Table 1:Commodity plans:

Sl. no	Product	Monthly package (Rs.)	Quarterly Package (Rs.)	Half Yearly Package (Rs.)	Yearly Package (Rs.)
1	Single Segment Premium Plan	9,800/-	23,520/-	44,100/-	82,320/-
2	Double Segment Premium Plan	14,800/-	35,520/-	66,600/-	1,24,320/-
3	Triple Segment Premium Plan	20,800/-	49,920/-	93,600/-	1,74,720/-
4	Basemetal Premium Plus Plan	14,800/-	35,520/-	66,600/-	1,24,320/-
5	Energy Premium Plus Plan	14,800/-	35,520/-	66,600/-	1,24,320/-
6	Bullion Premium Plus Plan	20,800/-	49,920/-	93,600/-	1,74,720/-
7	Basemetal + Energy Premium Plus Plan	20,800/-	49,920/-	93,600/-	1,74,720/-
8	Bullion + Basemetal Premium Plus Plan	25,800/-	61,920/-	1,16,100/-	2,16,720/-
9	Bullion + Energy Premium Plus Plan	25,800/-	61,920/-	1,16,100/-	2,16,720/-
10	Complete MCX Premium Plus Plan	31,800/-	76,320/-	1,43,100/-	2,67,120/-
11	Single Segment (Basemetal, Bullion, Energy – Any 1)	36,800/-	88,320/-	1,65,600/-	3,09,120/-
12	Triple Segment (Basemetal, Bullion, Energy – All 3)	61,800/-	1,48,320/-	2,78,100/-	5,19,120/-
13	Ultra Premium Plan – (Traders Choice)	81,800/-	1,96,320/-	3,68,100/-	6,87,120/-

Table 2: Stock plans:

Sl no	Product	Monthly package (Rs.)	Quarterly Package (Rs.)	Half Yearly Package (Rs.)	Yearly Package (Rs.)
1	Stock Cash Premium Plan	12,800/-	30,720/-	57,600/-	1,07,520/-
2	Stock Futures Premium Plan	18,800/-	45,120/-	84,600/-	1,57,920/-
3	Stock Cash Premium Plus Plan	18,800/-	45,120/-	84,600/-	1,57,920/-
4	Stock Futures Premium Plus Plan	31,800/-	76,320/-	1,43,100/-	2,67,120/-
5	Premium HNI Plan – Stock Cash	25,800/-	61,920/-	1,16,100/-	2,16,720/-
6	Premium HNI Plan – Stock Futures	61,800/-	1,48,320/-	2,78,100/-	5,19,120/-
7	Ultra-Premium Plan – Stock Cash	61,800/-	1,48,320/-	2,78,100/-	5,19,120/-
8	Ultra-Premium Plan – Stock Futures	81,800/-	1,96,320/-	3,68,100/-	6,87,120/-
9	Ultra HNI Premium Plan – Stock Cash	71,800/-	1,72,320/-	3,23,100/-	6,03,120/-
10	Ultra HNI Premium Plan – Stock Futures	1,05,800/-	2,53,920/-	4,76,100/-	8,88,720/-

8. It is further observed from an internet search of the particulars being hosted through the three websites that were apparently being operated by the *Noticee* that, the website www.100mcxtips.in was hosted for the first time on June 27, 2014 as mentioned on www.whoisrequest.com. Similarly, website of www.khelomcx.com was hosted for the first time on July 02, 2013 and the website of www.bazaartrading.in was hosted for the first time on January 17, 2018. A thorough examination of the SBI Account no. 336XXXXXX04 showed that the *Noticee* has collected a total sum of INR 1,25,65,805/- in the account of Khelo MCX

during the period of operations of the aforesaid three websites, through which the *Noticee* apparently conducted his advisory activities.

9. In the light of the fact that the *Noticee* was continuously luring gullible investors by making unreasonable and outlandish claims through the aforesaid three websites operated by him and was continuously collecting monies from the investors by offering them various investment packages in an authorized manner, it was deemed necessary by SEBI to take urgent and preventive action in this matter to stop Yash Chawla, Proprietor of Khelo MCX, from collecting any more fees from the public and from indulging in such unauthorized investment advisory activities. Therefore, an *ex-parte ad Interim Order* dated September 07, 2020 (hereinafter referred to as “**Interim Order**”) under Sections 11, 11B and 11D of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) was passed wherein the above activities of the *Noticee* 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 said *Interim Order*, the activities of the *Noticee* 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), 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**”).
10. On the basis of the aforesaid findings from the preliminary examination, the evidence gathered during examination and considering the sensitive nature of the alleged illegal advisory activities being undertaken by the *Noticee*, in order to protect the interest of investors in securities market and, as a preventive measures, *Interim Order* was passed to prevent the *Noticee* from carrying on those illegal investment advisory services both directly as well as through his

proprietorship concern Khelo MCX, which were *prima-facie* found to be being undertaken in violation of the provisions of IA Regulations, 2013 and PFUTP Regulations, 2003. Consequently, the following directions were issued against the Noticee in the aforesaid *Interim Order*:-

a. *Yash Chawla, Proprietor of Khelo MCX Research Services is directed to:*

- i. *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, until further orders.*
- ii. *Not to divert any funds raised from investors, kept in bank account(s) and/ or in their custody until further orders.*
- iii. *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.*
- iv. *Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., physical or digital in relation to their investment advisory activity or any other unregistered activity in the securities market until further orders.*
- v. *Not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*
- vi. *If Yash Chawla, Proprietor of Khelo MCX Research Services has any open positions 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. Yash Chawla, Proprietor of Khelo MCX Research Services is 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.*
- vii. *To provide a full inventory of all assets held in his 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.

- viii. State Bank of India wherein Yash Chawla (SBI Account No. 336XXXXXX04) is holding bank account, is directed not to allow any debits/ withdrawals from and credits to the said account, without the permission of SEBI. The Bank is 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 Yash Chawla, Proprietor of Khelo MCX Research Services.*
- 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 Yash Chawla, Proprietor of Khelo MCX Research Services, are not transferred or redeemed.*

11. The aforementioned *Interim Order* issued to the *Noticee* was also in the nature of a Show Cause Notice (hereinafter also referred to as “**SCN**”) whereby the *Noticee* was called upon to show cause as to why the various representations made by him to the public through his three websites and the services being offered by him in the securities market should not be treated as fraudulent practice/act/conduct, in terms of PFUTP Regulations, 2003 and further to explain as to why the investment advisory plans/packages being offered by him through these websites in lieu of fees from the customers should not be held as “Investment Advisory Services” in terms of the IA Regulations, 2013 and thereby, such activities, being carried out by him, be treated as unregistered activity of providing investment advisory services in terms of the SEBI Act and relevant Regulations.

12. In the said *Interim Order*, the *Noticee* was also directed to show cause as to why appropriate directions, under Sections 11, 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations, including directions for imposing prohibition on buying, selling or otherwise dealing in securities market, either directly or indirectly in any manner whatsoever for a particular period issuing directions to him not to be associated with any registered intermediary/listed entity in the securities market in any manner whatsoever, and also why any direction to refund the amounts so far collected from the investors/clients by

offering such unregistered and unauthorized investment advisory services should not be issued against him.

13. In this regard, the *Noticee* was provided with an opportunity to file his objections/reply if any, within 21 days from the date of the *Interim Order* and was also provided 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 him, in that regard.

14. I note from the records available before me that the *Interim Order* was delivered to the *Noticee* at his address through SPAD on September 15, 2020 the receipt of which was confirmed by him *vide* his letter dated September 28, 2020 wherein, he informed that he had submitted to SEBI, a settlement application dated September 21, 2020 to settle the proceedings arising out of the *Interim Order*. It is however observed from the materials available on record that the said settlement application was rejected by SEBI and the same was intimated to the *Noticee vide* an email dated February 09, 2021. Subsequently, *vide* letter dated June 09, 2021, the *Noticee* submitted his reply to the *Interim Order* wherein he has made the following submissions:

14.1. The advisory services were rendered by him through Khelo MCX for a brief period of time but later on, he decided to enter into educating investors about Technical & Fundamental Analysis so that they can take informed decisions in the market and invest/trade in a better way. Mostly the payments received in the SBI account were received in lieu of teaching courses related to market education, technical fundamental analysis, live trading guidance and that such courses were taught by imparting such education in the live market.

14.2. He has also submitted that during the alleged period he gained skills of Digital Marketing & Website Development and then started giving the services of Digital Marketing & Website Development to many clients and collected payments in the same bank account.

14.3. He has also contended that the figure of collection of INR 1,25,65,805/- allegedly made by him from the investors was not correct and the real

collections figure was INR 1,08,03,888 out of which INR 83,24,436/- was spent on expenses. The difference amount of INR 17,61,917/- represented friendly loans taken by him from friends and families over a period of 6-7 years to fund his expenses and obligations which were mostly returned by him from the same current account out of which there remained an unpaid loan amount of INR 7,30,000/- as on February 12, 2020. The *Noticee* submitted that the said loan transactions can be certified and submitted to SEBI by his friends, if required.

14.4. In the end, requesting for leniency in the matter, the *Noticee* has submitted that his personal financial situation is weak and he has no stock holdings, no house or property, etc. He was operating from a rental office property for conducting his business during the alleged period. The only cash amount (roughly 5 lacs) which he had, has been already freezed by SEBI *vide* the *Interim Order*. He also submitted that he is a young entrepreneur aged about 27 years and his intentions were bonafide and the violations if any, were unintentional. To show his bonafide, he has stated that, immediately after receipt of a copy of the *Interim Order*, he has appeared for NISM Investment Advisor - Level 1 XA Examination and has successfully cleared it, and has under taken to produce a copy of the certificate of the said examination whenever sought from him.

15. Subsequently, in compliances with the principles of natural justice, an opportunity of personal hearing was granted to the *Noticee* on July 29, 2021 wherein he appeared in person through video conferencing and reiterated the abovementioned submission. Certain queries were raised during the course of personal hearing, which the *Noticee* undertook to reply along with supporting documents within a period of 10 days. Thereafter, *vide* email dated August 12, 2021, the *Noticee* requested time till August 30, 2021. Subsequently, *vide* letter dated September 12, 2021, the *Noticee* made additional submissions in which the *Noticee* has mostly reiterated the aforementioned contentions already made earlier through his written and oral submissions. The *Noticee* has also submitted certain additional documents such as Income Tax Returns ('**TTR**') for FY 2013-14 to

2019-20, self-generated list of certain transactions claimed to be friendly loans taken and repayments of the same, self-generated unaudited profit and loss accounts for FY 2014-15 to FY 2019-20, self-generated employee list and their respective salaries etc. to support his contentions and claims made vide his two letters dated June 09, 2021 and September 12, 2021. However, on a scrutiny of the said documents it is observed that other than his ITR, no other documents can be verified through any independent source, rendering the authenticity of those documents to be doubtful hence cannot be relied upon for the present proceedings.

Consideration of Issues and Submission

16. I have carefully perused the observations recorded in the *Interim Order*, the submissions made by the *Noticee* and other materials available on record. I note that it was *prima-facie* held in the *Interim Order* that the *Noticee* was providing Investment Advisory Services through his sole proprietorship firm Khelo MCX by using three separate websites namely www.bazaartrading.in, www.100mcxtips.in, www.khelomcx.com. It was found in the preliminary examination that all the three websites were being used to collect funds from the investor clients and the norms so collected as fees, were being deposited in one common SBI Account no. 336XXXXXX04 which was opened & held in the name of Khelo MCX. In view of the aforesaid finding, it was *prima-facie* held in the *Interim Order* that the *Noticee* has violated the relevant provisions of IA Regulations, 2013 and PFUTP Regulations, 2003 read with provisions of SEBI Act. Those relevant provisions are being reproduced hereunder, for the benefit of ready reference:

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 recognised 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”*

17. As stated earlier, SEBI had received a complaint dated February 12, 2020 against www.bazaartrading.in alleging it to be involved in unauthorized Investment Advisory activities. From further scrutiny of the said website, it emerged that the *Noticee* was operating through this website and was also operating through two more websites namely www.100mcxtips.in & www.khelomcx.com and all the above named three websites were found to be active at the time of passing of the *Interim Order*. It was observed that the *Noticee* was making certain irresponsible and outlandish claims about his investment advisory services and was enticing the investors to invest as per the investment advisory services rendered by him. The claims so made by him through his websites have already been illustrated above in Table 1. Sufficient to say that the *Noticee* was luring gullible investors by making proclamations such as “*First YOU Earn Then Pay Only 10% of YOUR Profit*” and “*We provide 100% Returns in 18-24 Months*” etc.

18. All the aforesaid three website were connected by common mobile number viz. 97XXXXX012, common address and also by a common bank account number as mentioned in the said websites, which was opened in the name of Khelo MCX, the sole proprietorship concern of the *Noticee*. I also note that the *Noticee* has not refuted the aforesaid allegations during the whole proceedings and has admitted to have undertaken the business of Investment Advisory Service, albeit for a short period of time.

19. As per the information available on the aforesaid three websites, payments for subscribing to the services being offered by the *Noticee* could be made directly to his SBI account number 336XXXXXX04 opened in the name of Khelo MCX i.e. the sole proprietorship concern of the *Noticee*. Further, other payment methods suggested on the website www.bazaartrading.in viz. through SBI Collect

and PayUMoney and UPI Payments also led all monies to be deposited in the aforementioned SBI Account. I note from the materials available on record that the said PayUMoney account was also opened in the name of Khelo MCX. A perusal of both the SBI Account and PayUMoney Account shows that the *Noticee* started receiving money in the SBI Account from June 2014 onwards and the last deposit in the said account had been made on February 12, 2020. Similarly, the *Noticee* started receiving money in the said PayUMoney Account from December 31, 2015 and the last deposit in the said account had been made on February 13, 2020.

20. It is observed that, against the allegation of undertaking unregistered investment advisory services for a prolonged period of 2013 to 2020, the *Noticee* has admitted having undertaken Investment Advisory services only for a brief period of time. The *Noticee* has contended that he was teaching different courses related to securities market and has also provided services related to Digital Marketing and the fees received by him towards these services were also deposited in the same bank account where fees of investments advisory services were deposited. In this regard, the *Noticee* was advised during personal hearing to submit documentary evidence in support of the aforesaid claim of having received fees for other services (teaching, digital marketing etc.) into the same SBI account. However, the *Noticee* has failed to submit any documentary evidence in support of such claims. In the absence of any documentary evidence, I find no reason to believe in or rely upon the said contention of the *Noticee*.

21. On the other hand, a perusal of bank statement of SBI Bank A/c no. 336XXXXXX04 reveals that there have been numerous deposits into the said account wherein the figures of various amounts deposited match with different plan/package fees as highlighted in the abovementioned tables no. 1 & 2 and some of these deposits are also dated as late as in February 2020. It would be quite a strange coincidence that the amount of fees prescribed by the *Noticee* for different plans of investment advisory services match with the different amounts of deposits in the said SBI Account made in the names of various plans and yet

the *Noticee* would deny those deposits as receipts from his investment advisory services. Therefore, the contention of the *Noticee* that he had offered investment advisory services for a short period or that he has received fees by offering other services such as teaching, digital marketing etc. cannot be relied upon for want of evidence and merit.

22. I find that the name of the *Noticee* doesn't appear in the list of registered Investment Advisors available with SEBI. The same has not been disputed even by the *Noticee* either in his written submission or during the course of personal hearing attended by him.

23. From the aforesaid narration of facts, the replies filed by the *Noticee* in response to the allegations made in the *Interim Order* and submissions so advanced in the course of personal hearing, I find that the *Noticee*, acting through his sole proprietorship concern Khelo MCX 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 *Noticee* and his firm through his three websites viz. *www.bazaartrading.in*, *www.100mcxtips.in* and *www.khelomcx.com*.

24. 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 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.*”

25. In the light of the aforesaid definitions and the content published on the three aforementioned websites of the *Noticee* read with the allegations imputed in the

Interim Order, I note that the *Noticee*, through his three websites was 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 investment advisory service plans/packages to investors at large for subscription to securities, which were nothing but purely in the nature of the services of investment advisory.

26. The *Interim Order* has recorded that the aforesaid investment advisory services were being offered by the *Noticee* in lieu of monetary considerations which were being paid by the concerned investors either directly into the SBI Bank Account number 336XXXXXX04 or into the PayUMoney account which in-turn is linked with the aforementioned SBI Account, both of which are registered in the name of Khelo MCX. The details of these payment methods were also provided under the payment option section on the aforementioned three websites being run by him.
27. Further, the credit entries in the PayUMoney account of Khelo MCX are supported by narrations such as mobile numbers and names of the clients with the deposit amounts matching with different payment plans mentioned in the Tables 1 & 2 above thereby clearly demonstrating the fact that the monies that were received into the said PayUMoney Account, which was in-turn linked with the SBI Account no. 336XXXXXX04, were received by way of proceeds from the business operations of the *Noticee* as Investment Adviser. Considering the fact that the websites of the *Noticee* ostensibly demonstrated that the services offered by the *Noticee* were in the nature of investment advisory services coupled with the fact that the aforesaid PayUMoney Account and Bank Account were specified in all the three websites intimating the investors to deposit the fees into these accounts, it leads me to an unassailable conclusion that the said pay-in amounts as reflected in the said SBI Account were in fact the amounts received towards consideration in lieu of the advisory services offered by the *Noticee*.
28. Considering the above factual analysis about the activities of the *Noticee* as proclaimed by him on his own websites, the details of payment received by the

Noticee from various investors, the bank statement of Khelo MCX (supported by the KYC records of the firm along with that of the *Noticee*), and most importantly, the fact that the *Noticee* has admitted, albeit partly, to the charges/allegations levelled against him in the *Interim Order* in his written submission dated June 09, 2021 as well as during the course of hearing held on July 29, 2021 followed by his failure to submit any documentary evidence to refute the allegations or to support his claim that he has received fees by providing services other than investment advisory services, constrains me to conclude that the activities indulged into by the *Noticee* squarely fall under the category of investment advisory services as defined under regulation 2(1)(l) of the IA Regulations, 2013.

29. The *Noticee*, *vide* his submissions dated June 09, 2021 as well as during the course of the hearing held on July 29, 2021, has submitted that the total amount of INR 1,25,65,805/- credited in the SBI Account No. 336XXXXXX04 during the period between February 2014 and February, 2020 did not entirely relate to fees received from investment advisory services but also included income earned from securities market related education courses as well as website management service provided by him. To verify this claim, the *Noticee* was advised to provide the copies of his ITR filed for the FYs from 2013-14 to 2019-20 along with the Profit and Loss showing source of income related to his other businesses as per his claim, as such income would have been offered to tax in the IT Returns. However, the *Noticee* has failed to submit the profit and loss accounts for the aforementioned years to demonstrate any income from such revenue streams other than from investment advisory services and has submitted a single unaudited consolidated ledger with a title as 'consultancy fee receipt'. However, his ITRs for any of the years do not reflect any separate income from the various revenue streams, as claimed by the *Noticee* before me during his personal hearing. Thus, in the absence of any documentary evidence to support any fees purportedly received from any educational and website management services claimed to have rendered by him, it can be conclusively inferred that all the funds that have been credited to the SBI Account of Khelo MCX during the above stated period, were actually received by the *Noticee* in lieu of providing investment related services as indicated on the three websites of the *Noticee*.

30. Further, the *Noticee* has contended that part of the amount received into the said SBI account comprised of friendly loans and not fees from investment advisory services, which he had taken from friends & relatives to run his operations which were partly repaid by him while some loans remained outstanding. In support of such a contention, the *Noticee* has submitted a list of certain entries from his SBI Account indicating that those entries were loan receipts and their repayment. However, the *Noticee* has not been able to furnish any corresponding confirmations of receipts and repayments of such loans from any of the concerned second parties i.e. persons from whom such loans were taken, making it possible to ascertain veracity of such a submission of him, despite specifically advised to submit the same during the course of personal hearing.
31. In view of the aforesaid discussions and overwhelming factual findings pertaining to the advisory activities being undertaken by the *Noticee* during the relevant period, I have no doubt that in terms of Regulation 2(1)(h) of the IA regulations, 2013 such kind of advisory services rendered by the *Noticee* in fact constituted “investment advice” and the *Noticee* was providing investment advice through his sole proprietorship firm Khelo MCX, in lieu of consideration which was received and credited into its SBI Account. Therefore, there is no ambiguity left that Yash Chawla and his sole proprietary firm Khelo MCX Research Services 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.
32. 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 provide various safeguards to ensure that the interests 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 itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and also has to conduct its

activities in accordance with the provisions of IA Regulations, 2013. Further, various crucial safeguards provided under IA Regulations, 2013 include, continued minimum professional qualification and net-worth requirement for investment adviser, disclosure of all conflicts of interest, prohibition on investment adviser to enter into transactions on its own account which is contrary to the advice given by investment adviser 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.

33. The activities of the *Noticee*, executed through his sole proprietorship concern Khelo MCX, as brought out from various materials described above including his three websites, seen in the backdrop of the aforesaid regulatory provisions show that the *Noticee* was holding himself and his sole proprietorship concern 'Khelo MCX' out as an Investment Advisory service and through it, he was acting as an IA. However, it is noted that neither the *Noticee* nor 'Khelo MCX' is registered with SEBI as an Investment Advisor, which is mandatory under IA Regulations, 2013. Hence, I find that these activities/representations as were being made by the *Noticee* without holding the certificate of registration as investment adviser are in violation of Section 12(1) of SEBI Act, 1992 read with regulation 3(1) of the IA Regulations, 2013.
34. In order to ensure protection of investors who receive investment advice, it is imperative that any person carrying out investment advisory activities should be competent enough to deal with investors monies and SEBI as a regulator, has made it necessary for anyone to conduct Investment Advisory service to first obtain registration after acquiring relevant qualification, as prescribed by SEBI, and such person has to conduct its activities in accordance with the provisions of the relevant SEBI Regulations.
35. In my view, unregistered investment advisors like the *Noticee* in the present case can put the interest of the common investors at great risk by misleading them or

misutilising their funds to the detriment of the interest of such investors as well as others in the securities market. In the present case, the *Noticee*, on the aforementioned three websites has, *inter alia*, mentioned that M/s. Khelo MCX Research Services offers advices in stocks, future and option (F&O), and provide daily and weekly reports having stock and commodity market overview etc. The *Noticee* on these website has further represented that M/s. Khelo MCX Research Services is a leading financial and investment advisory firm having a team of highly qualified and experienced analysts having massive experience in carrying out capital market research with as high as 85-90% accuracy in the calls generated by them.

36. I find it relevant to mention here that unregistered investment advisory services are a menace to the securities market and SEBI has been fighting hard to curb this evil since long. In that direction, SEBI has also enacted IA Regulations, 2013 and has been conducting investment awareness seminars throughout the country. Curbing this breed of unregistered investment advisors is a necessity to make securities market more reliable for retail investors so that they get an opportunity to approach the persons who are qualified and eligible to give such kind of advisory service to them. 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 prescribed in the IA Regulations, 2013. An investor receiving a service from unregistered investment advisor *vis-a-vis* an investor who receives such service from a registered investment adviser in consonance with the IA Regulations, 2013, stands at a disadvantageous position in respect of his protection as an investor as envisaged under the IA regulations, 2013. An unregistered investment adviser has not even satisfied the Regulator that he is a fit and proper person to hold the certificate of registration as investment adviser. Availing of service from such persons is detrimental to investors and such unqualified service would result in irreparable damage as the investors' money is invested based on advice given by an unqualified and un-regulated advisor. Exposing investors to such unauthorized and unregulated services also has the effect of interfering with the

development of securities market, as victims of such services as well as their close ones also tend to lose faith in the securities market. Such an injury/detriment to the development of the securities market also qualifies as an “irreparable injury”. The objective of SEBI as enshrined in the SEBI Act is not only the protection of investors but also orderly development of securities market. Therefore, the investment advisory services should only be allowed to be conducted by persons who are deemed fit under the IA Regulations, 2013 after following the safeguards mentioned therein.

37. As stated above, SEBI Act 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 *Noticee* neither in his personal capacity nor through his sole proprietorship concern M/s Khelo MCX was holding any certificate of registration from SEBI to act as investment advisor. The *Noticee* was also promising “assured returns/profits” to his prospective clients’ with promised returns as high as ‘100% return within 18-24 months’ knowing fully well that every investment in the securities market is subject to market risks and the said investment made by the client can also run into losses. Thus, the claims/representations made by the *Noticee* through his three websites were blatantly misleading and were made only to allure the investors to avail his unauthorized investment advisory services. The *Noticee* has knowingly misrepresented on these websites floated by him that they (his team) are experts in stock market analysis and are experienced in investment advisory without even holding a minimum registration certificate from SEBI to act as a registered Investment Advisor. The *Noticee* offered the investment advisory services through three different websites in an illegal manner to investors, with the objective of raising money from the investors by way of subscriptions to various plans offered through these websites. Further, in order to attract maximum number of such gullible investors to fall prey to his inducements, the *Noticee*, deliberately and in execution of a pre-conceived fraudulent scheme, made similar representation from three separate distinctive websites. The above discussed misleading representations made by the *Noticee* 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.

38. It is noted that fraudulent activities/conduct/ act/ practice of the *Noticee*, 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 4(1) of PFUTP Regulations, 2003. I note that 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 *Noticee*, without holding a certificate of registration as investment adviser under the relevant provisions of law, has knowingly held himself out as Investment Adviser on his three websites. Thus, I find that the *Noticee* has also violated the provisions of Regulation 4(2)(k) of the PFUTP Regulations, 2003.
39. I note that the materials available on record do not indicate the exact amount of fees collected by the *Noticee*, as a result of providing investment advice to investors in violation of the provisions of the IA Regulations, 2013. However, I find from the *Interim Order* that the *Noticee* has received credits worth INR 1.25 Crore (INR 1,25,65,805/-) in the SBI account number 336XXXXXX04, belonging to M/s Khelo MCX, either directly through account transfer of funds or through various other payment mediums such as PayUMoney. I also find that this account number was also published on all three abovementioned websites being run by the *Noticee* in order to enable the investors to make payment to the *Noticee*.
40. Therefore, after holding that the *Noticee* was running unauthorized Investment Advisory services through which he lured numerous gullible retail investors, who are the most vulnerable sections of participants of securities market, as the regulator, it is the duty of SEBI to protect the interest of such investors in its attempt to develop securities market. As the *Noticee* has failed to provide specific

details of the funds collected by him in and credited into his SBI account, I take the entire amount of funds received by him in the said SBI account no. 336XXXXXX04 i.e. an amount of INR 1,25,65,805/- treating the same as the funds collected by him from unauthorized Investment Advisory services only. The only method I find it feasible to redeem the investors is to direct the *Noticee* to repay such funds collected from the investors.

ORDER

41. In view of the foregoing discussions and observations/findings about the activities engaged in by the *Noticee* in rendering investment advisory in an unauthorized and illegal manner, as has been established in facts & circumstances of the case, and 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:

41.1. The *Noticee* 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 his unregistered investment advisory activities;

41.2. The *Noticee* 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;

41.3. 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;

- 41.4. The *Noticee* is prevented from selling his assets, properties and holding of mutual funds/shares/securities held by him 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 *Noticee*, as directed in this Order, from the bank account of the *Noticee*; wherein debit has been frozen by virtue of *Interim Order* dated September 07, 2020.
- 41.5. The *Noticee* shall resolve all the complaints pending against him and his sole proprietorship concern 'Khelo MCX' 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.
- 41.6. After completing the aforesaid repayments, the *Noticee* 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 paragraph 41.4 shall cease to operate once the refund to the investors is complete and the report as contemplated herein is filed;
- 41.7. The *Noticee* is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 06 (six) months from the date of this Order or till the expiry of 06 (six) months from the date of completion of refunds to investors as directed in paragraph 41.1 above, whichever is later;

- 41.8. The *Noticee* is 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 06 (six) months from the date of this Order or till the expiry of 06 (six) months from the date of completion of refunds to investors as directed in paragraph 41.6 above, whichever is later;
- 41.9. The *Noticee* shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 41.7 and 41.8 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.
- 41.10. The *Noticee* 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 paragraph 41.1 above.
- 41.11. The *Noticee* 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 his name, including money lying in bank accounts except for the purpose of refund as directed in paragraph 41.1 and until the refund is completed and a report as mandated under sub-paragraph 41.6 is filed with SEBI.
42. The direction for refund, as given in paragraph 41.1 above, does not preclude the clients/investors of Khelo MCX or of the *Noticee* from pursuing the other legal remedies available under any other law, against the *Noticee* for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.
43. This Order shall come into force with immediate effect.
44. Obligation of the *Noticee*, 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 *Noticee* in the F & O segment of the stock exchange, are permitted to be squared off, irrespective of the restraint/prohibition imposed by this Order.

45. A copy of this Order shall be served upon the *Noticee*, all the recognized Stock Exchanges, Depositories, registrar and transfer agents and Banks for necessary compliance with the above directions.

DATE: November 30, 2021

PLACE: Mumbai

Sd/-

S. K. MOHANTY

WHOLE TIME MEMBER