# National Stock Exchange of India
# Circular

| Department: Investigation | |
|---|---|
| Download Ref No: NSE/INVG/53213 | Date: August 04, 2022 |
| Circular Ref. No: 102/2022 | |

To All NSE Members

**Sub: SEBI Order in the Matter of Gainer Street - Proprietor Anoop Singh Tomar**

SEBI vide its Order no. WTM/AB/WRO/WRO/18274/2022-23 dated August 04, 2022, has hereby debarred below entity from accessing the securities market in any manner and are also prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 3 years from the date of the order or till the expiry of 3 years from the date of completion of refunds to complainants/investors as directed in para 6.1 (i) of the Order, whichever is later.

| Sr. No. | Name of the Entity | PAN |
|---|---|---|
| 1 | Anoop Singh Tomar, Proprietor of Gainer Street | ARAPT7685B |

The Order shall come into force with the immediate effect.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under "Home-Regulation-Members-Action against Members-Regulatory Actions".

Members are advised to take note of the above and ensure compliance.

# National Stock Exchange of India

In case of any further queries, members are requested to contact the following officials:

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**For and on behalf of**
**National Stock Exchange of India Limited**

**Anand Jangir**
**Manager**

**Annexure**

**SEBI Order in the Matter of Gainer Street - Proprietor Anoop Singh Tomar**

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA**

**ORDER**

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

**In the Matter of Gainer Street (Proprietor - Anoop Singh Tomar)**

**In respect of –**

| Sr. No. | Noticee | PAN |
|---|---|---|
| 1. | **Anoop Singh Tomar, Proprietor of Gainer Street** | **ARAPT7685B** |

**1. Background –**

1.1. The present matter emanates from a complaint dated November 24, 2019 received against Gainer Street (Proprietor- Anoop Singh Tomar) from Jasvant S Vadalia (the "**Complainant**"). In the complaint, it was alleged that Gainer Street had advised the Complainant to use the services being offered by them. In this regard, the Complainant in his complaint stated that convinced by the claims, he made a total payment of INR 1,74,528 in multiple tranches into the bank account of Gainer Street maintained with ICICI Bank bearing number – 004105501438. When he sought receipts for the payments made by him, he received no response. Consequent to the same, he stopped any further payments and filed a complaint with SEBI.

1.2. Pursuant to the receipt of the said complaint, the matter was examined by SEBI to verify the veracity of the information brought out in the complaint and ascertain whether there had been any violation of the provisions of the Securities and Exchange Board of India Act, 1992 (the "**SEBI Act**"), the Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 (the "**IA Regulations**") and any other Rules or Regulations. Consequent to the completion of examination in the matter, a Show-cause Notice bearing No. SEBI/WRO/ILO/NM/OW/P/18349/1/2021 dated July 31, 2021, was issued to Anoop Singh Tomar, Proprietor of Gainer Street, based on the findings of the said examination ("**SCN**"). It is in this background that the present proceeding, which is to consider the allegations made in the SCN, is before me.

## 2. The Show-cause Notice

2.1. The SCN has *inter alia* brought out that a website by the name: www.gainerstreet.com was being operated, on which it was claimed that 'Gainer Street' was an investment adviser and had highly qualified analysts who were skilled in analysis and could predict the movement of the market that would assist its clients in getting the most out of the share market. Further, the said website made references to bank accounts of Gainer Street maintained with ICICI Bank, Axis Bank, and State Bank of India that could be used by clients to make payments for services offered. The website as an alternative had provided a payment link which could be accessed by the clients to make payments through the payment gateway, Easebuzz. The SCN records that the above-mentioned accounts were operated by Anoop Singh Tomar. In this regard, the SCN has recorded that the total of the credit entries in the bank accounts operated by Anoop Singh Tomar came to INR 3,45,17,730.17 which related to the period January, 2013 to October, 2020 .

2.2. The SCN has alleged that Anoop Singh Tomar (Proprietor of Gainer Street) was involved in carrying out investment advisory services without obtaining a certificate of registration from SEBI. As such, it has been alleged that that Anoop Singh Tomar (Proprietor of Gainer Street) had violated Section 12 (1) of the SEBI Act read with Regulation 3 (1) of the IA Regulations. Accordingly, the SCN has called upon Anoop Singh Tomar to show cause as to why suitable directions under Sections 11(1), 11(4) and 11 B (1) should not be issued against him.

3. **Service of SCN, Personal Hearing, and Replies and Written Submissions from the Anoop Singh Tomar –**

3.1. The SCN along with the annexures has been served on Anoop Singh Tomar by hand. Consequent to the service of the SCN, Anoop Singh Tomar has, by way of his reply dated September 09, 2021 and email dated July 25, 2022, provided his response to the SCN. It is further stated that Anoop Singh Tomar was also provided an opportunity of hearing on July 08, 2022, and he entered appearance through his authorised representative on the scheduled date of hearing and made his submissions.

3.2. After perusing the written replies filed by Anoop Singh Tomar and considering the oral arguments made by him before me during the personal hearing, the submissions and arguments made by him are sumamrised hereunder:

a. Anoop Singh Tomar has submitted that the allegations made in the complaint filed by Jashvant Vadalia were not against him. Also, it has been submitted that he was not involved in any act that would make him a party to the present proceeding, and he was not involved in the running or control of Gainer Street. He has claimed that Gainer Street was controlled and managed by the owners of Money Desire Research. Anoop Singh Tomar has also provided an affidavit of Jashvant Vadalia. He has claimed that Jashvant Vadalia in his affidavit had stated that Gainer Street was a sister concern of Money Desire Research controlled by Anoop Tiwari, Altamas Shaikh, Ashok Bansal, Rakshashu Jain and Sandeep. Anoop Singh Tomar has also claimed that Jashvant Vadalia had withdrawn all allegations made in his complaint and that the allegations in the complaint were in fact against the owners of Money Desire Research.

b. Anoop Singh Tomar has also submitted that prior to the receipt of the present SCN, he did not have any knowledge about the existence of the website, "gainerstreet.com" and the nature of business it was carrying out.

c. Anoop Singh Tomar has submitted that he joined Ambah PG College in Ambah, Morena, Madhya Pradesh from 2009 to 2012 to pursue a Bachelor of Science degree in Computer Science. Subsequently, he pursued an MBA in Finance and Marketing from Vikrant Group of Institutions, Gwalior.

d. After the completion of his studies, he worked as an Associate Financial Consultant with Epic Research Private Limited. After that he joined Equity Research Lab as a Senior Business Analyst, where he worked from December 2015 to February 2017. Thereafter, he joined Money Desire Research as a Floor Manager.

e. He has further submitted that after joining Money Desire Research, the owners of the firm, namely, Anoop Tiwari, Altamas Shaikh, Ashok Bansal and Raghvendra Singh asked him to submit copies of various documents including Driving License, PAN Card, bank account details and Voter ID. He has submitted that in the month of September 2017, he started receiving money in his HDFC Bank account bearing number 50100185070845. Regarding this, he approached the owners of Money Desire Research and objected to the transactions. He was however informed by them that the transactions were just for the business purposes of Money Desire Research.

f. Anoop Singh Tomar has also submitted that in the month of October 2017, the owners of Money Desire Research approached him to obtain a Gumasta License for the firm Gainer Street and to open a bank account which would be used by the owners of Money Desire Research for accounting and tax management purposes. Upon the assurance of the owners of Money Desire Research, he agreed to follow the said directions. He has further submitted that Money Desire Research also operated another proxy firm similar to Gainer Street, namely, Samrat Trades. The phone number linked to the ICICI Bank account was 7999992003, which was owned and operated by the owners of Money Desire Research. The same number appeared on the website of Samrat Trades.

g. Anoop Singh Tomar has submitted that he had no access to the ICICI Bank account of Gainer Street and had no knowledge about its transactions. The website, www.gainerstreet.com, was registered without his knowledge and it was solely being operated by the owners of Money Desire Research.

h. During the month of November 2018, it came to the notice of Anoop Singh Tomar that various high value transactions were being carried out in the bank account of Gainer Street (ICICI Bank account no. 004105501438) ; so he immediately closed the bank account. Further, it has been submitted that he realised that the transactions could put him in legal trouble; so he immediately sent an information letter dated December 09, 2018, to the MIG Indore Police Station mentioning the above details.

i. Anoop Singh Tomar has submitted that the owners of Money Desire Research ran similar surrogate firms and bank accounts using the documents of other low-ranked employees. He has submitted that another Gumasta License for Gainer Street had been taken in the name of one Sandeep Yadav, who was an office boy in Money Desire Research.Further, Anoop Singh Tomar has submitted that his personal accounts namely, HDFC Bank savings bank account bearing number 50100185070845, Axis Bank savings bank accounts bearing numbers 914010057126754, 917020052896058, 918010094908720 and SBI savings bank account bearing number 32755686729, contained ordinary transactions and did not include transactions that would qualify as transactions of investment advisory activities.

j. Anoop Singh Tomar by way of his additional submissions dated July 25, 2022, has also given a bifurcation of the total credit transactions appearing in his accounts. He has also provided copies of his IT returns and that of his wife.

3.4. **Relevant Provisions**

a. **Provisions of the SEBI Act —**

**Section 12 (1)**

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

"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"

b. **Provisions of the SEBI (IA) Regulations, 2013 —**

**Regulation 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".

4. **Issues –**

4.1. In view of the submissions made, the issues for consideration are:–

**I. Whether Gainer Street—**

**a. was offering services in the nature of investment advice through its website and acting as an investment adviser;**

**b. was the proprietorship firm of Anoop Singh Tomar; and**

**c. has violated Section 12 (1) of the SEBI Act and Regulation 3(1) of the SEBI (IA) Regulations?**

**II. If the answer to the above is in the affirmative, what is the amount mobilised by the Anoop Singh Tomar through Gainer Street?**

5. **Consideration and findings –**

***Issue I***

***I- a) Whether Gainer Street was offering services in the nature of investment advice through its website and acting as an investment adviser?***

5.1. It has been alleged in the SCN that Gainer Street, a sole proprietorship firm through its website, www.gainerstreet.com, was providing investment advisory services. The SCN also records that the archived webpages of www.gainerstreet.com (as accessed from web.archive.org) show the various advisory services/products being offered by it. In this regard, I note from the record that the said website provided a payment link which was registered with the payment gateway, Easebuzz. Upon a perusal of the account opening form submitted to the payment gateway, I find in the name section, the name of Gainer Street. Similarly, in the website section of the application form, the website, www.gainserstreet.com finds mention. Further, in the 'About Us' section of the website as appearing in the screen-grabs of the webpages of www.gainerstreet.com, I note an introduction, which highlights Gainer Street's work, its objectives and the abilities of its team of analysts and experts. Accordingly, the website – www.gainerstreet.com was that of Gainer Street.

5.2. That being the case, reference is made again to the 'About Us' section of the website as appearing in the screen-grabs of the webpages of www.gainerstreet.com. In the said part it has been highlighted by Gainer Street that " *Our team consists of highly qualified analysts who are skilled and incredible in their analysis. These analysts, using their experience and latest software tools, are able to predict the movements of the market on time and with high accuracy. <u>As a result, using our tips, our clients gain the most out of the share market</u>. <u>We provide recommendation Live through SMS and Chat Room. Our SMS facility is a very efficient system ensuring the instant delivery of Message without any loss of time. So, the clients get adequate time to enter into the trade and fetch the profit.</u>*" (emphasis supplied) So, from the above it is gathered that Gainer Street was offering tips relating to the share market to investors so that investors could trade in the share markets and earn profits. Also, from the screen-grabs of the webpages of www.gainerstreet.com, it is seen that Gainer Street was offering tips relating to shares, bullion, futures and options.

Further, it is also seen that the tips relating to the above-mentioned asset classes were curated into various packages viz., Positional Pack, Combo Pack, Forex Premium etc. Furthermore, for making payment for the said packages, the website had a payment link connected to the payment gateway EaseBuzz. I also note from the webpages that details (without the bank account numbers) with respect to bank accounts maintained with ICICI Bank, Axis Bank and State Bank of India had been provided on the website.

5.3. In this regard, reference is made to Regulation 2 (1) (b) of the IA Regulations, which defines investment advice. The said provision 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:*

*Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations*".

5.4. It is gathered from the preceding paragraphs that Gainer Street was offering tips and recommendations in respect of shares, futures and options, which are securities as per the definition provided in Section 2(h) of the Securities Contract Regulation Act, 1956 . It is also noted that Gainer Street was offering tips and recommendations in respect of shares, futures and options so that the *clients …. enter into the trade and fetch the profit.* So, I find that a) Gainer Street was offering tips and recommendations relating to securities; and b) the tips and recommendations were for the clients to invest, purchase, sell or deal in securities. Thus, it is established that the services offered by Gainer Street were in the nature of investment advice.

5.5. Further, I draw reference to Regulation 2 (1)(m) of the IA Regulations, which defines an investment adviser. The said provision defines investment adviser as,

" *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*".

5.6. It has already been brought out that Gainer Street was offering services which were in the nature of investment advice. I note from the facts elaborated above that Gainer Street was providing its services for fees, and had provided various modes on its website for the clients to make their payments. I further note from the complaint of Jashvant Vadalia that the amounts stated to have been paid by him are reflected in the bank account statement of the ICICI Bank account bearing number 004105501438 in the name of Gainer Street. So, it is clearly established that the services/packages offered by Gainer Street were available for consideration. Accordingly, in line with the definition of an investment adviser brought out above, I find that Gainer Street was acting as an investment adviser.

***I- b) Whether Anoop Singh Tomar was the proprietor of Gainer Street?***

5.7. Anoop Singh Tomar in his submissions has contested the allegation made in the SCN that he was the proprietor of Gainer Street. In this respect, Anoop Singh Tomar has submitted that it was Money Desire Research and its owners who had set up Gainer Street, and they were controlling the website and the bank account opened in the name of Gainer Street (ICICI bank account no. 004105501438 ). He has also claimed that he was only a low-level employee in Money Desire Research, and had no knowledge about the nature of business carried out by Gainer Street though its website, www.gainserstreet.com.

5.8. Upon a perusal of the record, I see that a "Business Licence"/Gumasta Licence was issued in the name of Anoop Singh Tomar by the Municipal Commission of Indore on August 03, 2017. From the copy of the said Business Licence, it is seen that the same was issued to Anoop Singh Tomar for the firm Gainer Street and the period of the licence was from April 01, 2017 to March 31, 2018. Further, the SCN has recorded that Anoop Singh Tomar was operating multiple bank accounts. The details of the same are provided hereunder:

**Table No. 1**

| Sl. No. | Bank Name | Account Name | Account Opening Date | Account No. | Total Credited Amount (INR) |
|---|---|---|---|---|---|
| 1. | ICICI Bank | Gainer Street | 10-10-2017 | 004105501438 | 78,69,998 |
| 2. | HDFC Bank | Anoop Singh Tomar | 28-09-2016 | 50100185070845 | 70,21,935 |
| 3. | Axis Bank | Anoop Singh Tomar | 06-06-2017 | 917010042444712 | NIL |
| | | Anoop Singh Tomar | 10-10-2018 | 918010094908720 | 61,99,819 |
| | | Anoop Singh Tomar | 26-07-2017 | 917020052896058 | 75,695.90 |
| | | Anoop Singh Tomar | 26-12-2014 | 914010057126754 | 1,19,78,964.03 |
| 4. | State Bank of India | Anoop Singh Tomar | 07-01-2013 | 32755686729 | 13,71,319 |
| **Total** | | | | | **3,45,17,730.93** |

5.9. I find from the KYC documents relating to the ICICI Bank account that Anoop Singh Tomar in a letter addressed to the branch manager of ICICI Bank dated September 10, 2017 had stated that he was the sole proprietor of Gainer Street. I also note that Anoop Singh Tomar was the authorised signatory for the running of the said account, and had debit card access and corporate internet banking. So, it is seen that Anoop Singh Tomar had access to the necessary credentials for controlling and operating the bank account. It is also relevant to note that the initial deposit for opening the ICICI Bank account was made through a cheque for INR 50,000 drawn on the HDFC Bank account of Anoop Singh Tomar, details of which are mentioned at Sl. No. 2 of Table No.1. Anoop Singh Tomar in his replies has claimed that barring the ICICI Bank Account, the other accounts, details of which are mentioned at Sl. Nos. 2 to 4 of Table No.1, were personal accounts and the transactions in those accounts could not be considered as an outcome of Investment advisory activities. In this respect, if the ICICI Bank account in the name of Gainer Street was opened at the behest of Money Desire Research, as has been claimed by Anoop Singh Tomar, it appears rather odd that the initial deposit for the said account should be paid through a cheque for INR 50,000 drawn on his personal HDFC Bank account.

5.10. Also, Easebuzz, the payment gateway whose link was provided on the website of Gainer Street has, in reply to SEBI, provided details of the linked bank accounts. The linked bank accounts are: ICICI Bank account bearing number 004105501438 and HDFC Bank account bearing number 50100185070845. Again, the 'personal account' of Anoop Singh Tomar , i.e. the above-mentioned HDFC Bank account is found connected to the link for making payments on the website. I observe that in the account opening form of Easebuzz, the payment gateway used for receiving payments from the clients, was in the name of Anoop Singh Tomar and the purpose mentioned for availing the services of Easebuzz was "Advisory Services".

5.11. In addition to the payment link connected to the payment gateway EaseBuzz, the website of Gainer Street provided details with respect to the following bank accounts (without the bank account numbers): a) an ICICI Bank account maintained with the Malav Parisar, Indore branch; b) an Axis Bank account maintained with the Sapna Sangita, Indore branch; and c) a State Bank of India account maintained with the Goyal Nagar, Indore branch, using which clients could make payments. In this regard, I note from the record that ICICI Bank account of Gainer Street bearing number 004105501438 was being maintained at the Malav Parisar, Indore branch. Similarly, Axis Bank account in the name of Anoop Singh Tomar bearing number 914010057126754 was being maintained with the

Sapna Sangita, Indore branch. In view of the above, it cannot be a coincidence that the branches in which Anoop Singh Tomar had accounts find mention in the website.

5.12. So, the fact that the account claimed by Anoop Singh Tomar to be his personal accounts were found mentioned on the website, vitiates his argument that he was unaware of the transactions. Also, the fact that the use of payment gateway Easebuzz for advisory services had been obtained by Anoop Singh Tomar defeats his claim that prior to the receipt of the SCN from SEBI, he was unaware of the nature of work being carried out by Gainer Street and its website, www.gainerstreet.com.

5.13. In support of his assertions, Anoop Singh Tomar has submitted a copy of an affidavit dated August 31, 2021 filed by Jasvant S Vadalia. In the complaint, Jasvant S Vadalia had submitted that two persons namely, Sandeep and Ashok Bansal of Gainer Street had advised him to use the services being offered by them, and that Jasvant S Vadalia was offered a guaranteed return of INR 12,00,000, in three equal investments, upon payment of INR 5,50,000. In this regard, Jasvant S Vadalia in his complaint stated that convinced by the above-mentioned claims, he made a total payment of INR 1,74,528 in multiple tranches into the bank account of Gainer Street maintained with ICICI Bank bearing number – 004105501438. When he sought receipts for the payments made by him, he received no response. He, however, received an email which had the phone number of one Rakshashu Jain. Jasvant S Vadalia got in touch with him, who informed him that he was a senior officer with Money Desire Research, and that Gainer Street was a sister concern of Money Desire Research. His issue was, however, not resolved. Consequent to the same, he stopped any further payments and filed a complaint with SEBI.

5.14. In contrast to the complaint, in his affidavit, Jasvant S Vadalia has made certain affirmations which are excerpted hereunder:

"*4. As per my information Mr. Sandeep , Mr. Ashok Bansal, both were employees of the Gainer Street. Mr. Rakshashu Jain, was sr. officer of M/s Money Desire Research. Mr. Altamas Shaikh, and Mr. Anoop Tiwari were partner of M/s Money Desire Research/ Gainer Street and they are control and manage the both the company.*

*5. My compliant against Gainer Street in which I had labeled MR. ANOOP SINGH as a one of the officer of Gainer Street However, now I come to know that Mr. Anoop Singh was merely an employee of Money Desire Research and not the person managing/controlling Money Desire Research as well as Gainer Street*" (sic)

5.15. So, it is observed from the above affirmations of Jasvant S Vadalia that a) Altamas Shaikh and Anoop Tiwari were partners of Money Desire Research, and they were managing and controlling both Gainer Street and Money Desire Research and b) Anoop Singh Tomar was merely an employee of Money Desire Research, and not the person managing/controlling Gainer Street. In this regard, I draw reference from Order 19, Rule 3 of the Civil Procedure Code, 1908. The said Rule provides that "*Affidavits shall be confined to such facts as the deponent is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that the grounds thereof are stated.*" Elucidating on the principle as contained in Order 19, Rule 3 of the Civil Procedure Code, the Hon'ble Supreme Court in *State of Bombay v. Purushottam Jog Naik*, AIR 1952 SC 317; *Barium Chemicals Limited and another v. Company Law Board and others*, AIR 1967 SC 295; and *A. K. K. Nambiar v. Union of India and another,* AIR 1970 SC 652 has held that when the matter deposed to is not based on personal knowledge, the sources of information should be clearly disclosed. It is not in dispute that Jasvant S Vadalia is a resident of Mumbai and the record does not reveal that he has had any personal interaction with persons about whom he has made affirmations in his affidavit. He was also not involved in the business affairs of the entities or persons named in the affidavit. Thus, it cannot be said that Jasvant S Vadalia had personal knowledge with respect to the control and management of Gainer Street or the employment status of Anoop Singh Tomar. He has stated in his affidavit at paragraph no. 4 that as per his 'information' Altamas Shaikh and Anoop Tiwari were partners of Money Desire Research, and were managing and controlling both Gainer Street and Money Desire Research. In this respect, in line with the stipulation of the Hon'ble Supreme Court in the cases cited above, when the matter deposed to is not based on personal knowledge but information received otherwise, the sources of information should be clearly disclosed; which has not been done by Jasvant S Vadalia in his affidavit. In view of the above, I find the affidavit to be defective and without any probative value. Accordingly, I deem it unfit for reliance in the present proceeding.

5.16. Without prejudice to the foregoing, even if the complaint filed against Gainer Street/Anoop Singh Tomar stands withdrawn, the examination conducted by SEBI pursuant to receipt of such complaint, did however reveal serious violations by Anoop Singh Tomar of the provisions of the SEBI Act and the IA Regulations. So, the withdrawal of the complaint by Jasvant S Vadalia becomes immaterial, as the examination by SEBI has revealed several violations of the aforementioned securities laws by Anoop Singh Tomar.

5.17. Additionally, as stated earlier, Anoop Singh Tomar has submitted that Money Desire Research also operated another named as Samarat Trades. The phone number linked to the ICICI Bank account was 7999992003, which was owned and operated by the owners of Money Desire Research. The same number appears on the website of Samrat Trades. I note from the screen grab of the webpage of Samrat Trades that the above-mentioned phone number does appear as the contact number for Samrat Trades' complaint desk. From the KYC documents received from ICICI Bank, I do not find any phone number, including the above-named number, linked to the ICICI Bank account. However, I do observe that in the account opening form of Easebuzz, the payment gateway used for receiving payments from the clients, the said phone number. I note that the said account opening form was in the name of Anoop Singh Tomar, and it is assumed that the phone number was provided by him. Also, the fact of a common phone number cannot by itself lead to any conclusion, when Anoop Singh Tomar has not disclosed the specific person in whose name the said phone number is registered, much less that Gainer Street was controlled and managed by the owners of Money Desire Research who in turn were owners of Samrat Trades.

5.18. Anoop Singh Tomar has also provided a letter dated December 09, 2018, addressed to the MIG Police Station, Indore. The contents of the letter are similar to the stand taken by him with respect to Gainer Street and the bank account of Gainer Street maintained with ICICI Bank, in the present reply. I note from the letter, which is in Hindi, that the same was being given for information. Accordingly, it is assumed that no specific action was agitated by Anoop Singh Tomar before the Police. Also, it has not been specifically pointed out by him if any action has been taken by the police in furtherance of the letter. In view of the above, I take the contents of the letter as contested claims which are not established facts. Further, Anoop Singh has submitted a Business Licence dated September 12, 2018 purportedly issued to one Sandeep Yadav for the period April 01, 2018 to March 31, 2019. In this regard, I note from the replies that Anoop Singh Tomar by way of his letter requested ICICI Bank to close the account maintained in the name of Gainer Street, and the same was closed on December 04, 2018. So, it is evident that all this while he had control of the account in the Gainer Street. In view of the above fact, the issuance of a Business Licence to some other person is not material to the present examination.

5.19. Thus, upon an appreciation of the facts brought out in the preceding pargaraphs, that a) Anoop Singh Tomar had obtained the Business Licence of Gainer Street; b)he had made an application for opening the ICICI Bank account (004105501438) in the name of Gainer Street; c) the application form for the use of payment gateway, Easebuzz for receiving payments bore his name; and d) the bank account claimed by him to be his personal accounts find mention on the website I am convinced that Gainer Street was the proprietorship firm of Anoop Singh Tomar and was managed by him.

***I- c) Whether Anoop Singh Tomar through Gainer Street was acting as an investment adviser in violation of the provisons of the SEBI Act and the IA Regulations?***

5.20. It has already been established that Anoop Singh Tomar through his proprietorship firm Gainer Street was carrying out investment advisory activities. I note from the record that Anoop Singh Tomar/Gainer Street was at no time registered as an investment adviser with SEBI. That being the case, I find that Anoop Singh Tomar through his proprietorship firm Gainer Street was carrying out investment advisory activities time without being registered as an investment adviser with SEBI.

5.21. In this regard, reference is made to Section 12(1) of SEBI Act and Regulation 3(1), SEBI (IA) Regulations, 2013. The said provisions mandate that any person wanting to carry out the activities of an investment adviser has to first to get himself/herself registered with SEBI as an investment adviser. In view of the foregoing, I find that Anoop Singh Tomar by engaging in the activities of an 'investment adviser' as defined under Regulation 2 (m) of SEBI (Investment Adviser) Regulations, 2013, and holding itself out as an investment adviser, without having any certificate of registration, has violated Section 12 (1) of the SEBI Act read with Regulation 3(1) of the SEBI (Investment Adviser) Regulations, 2013.

***Issue II – What is the amount mobilised by Anoop Singh Tomar through Gainer Street?***

5.22. As already stated above, Anoop Singh Tomar has claimed that the bank accounts, appearing at Sl. Nos. 2 to 4 of Table No.1 were his personal accounts, and as such, the credit entries in those bank accounts could not be considered as derived from investment advisory activities. From Table No. 1, it is gathered that out of the total amount of 3,45,17,730.93 credited to the bank accounts operated by Anoop Singh Tomar, a total of INR 2,66,47,732.93 had been credited into his so-called personal accounts.

5.23. In his additional submissions dated July 25, 2022, Anoop Singh Tomar has provided copies of his IT returns and that of his wife. The details of the same are provided hereunder:

**Table No. 2**

| Sl. No. | Assessment Year | Gross Income of Anoop Singh Tomar (INR) | Gross Income of Shradha Kushwah, wife of Anoop Singh Tomar (INR) |
|---|---|---|---|
| 1 | 2015-16 | 195256 | Not provided |
| 2 | 2016-17 | 291536 | Not Provided |
| 3 | 2017-18 | 564900 | Not Provided |
| 4 | 2018-19 | 591129 | 288250 |
| 5 | 2019-20 | 1799840 | 425937 |
| **Total** | | **34,42,661** | **714187** |

5.24. Further, Anoop Singh Tomar in his replies has submitted that after the completion of his studies, he worked as an Associate Financial Consultant with Epic Research Private Limited. After that he joined Equity Research Lab as a Senior Business Analyst, where he worked from December 2015 to February 2017. Thereafter, he joined Money Desire Research as a Floor Manager. In this respect, I note that he has not provided any letter of appointment or payslip to support his claim that he was an employee of Money Desire Research.

5.25. It is seen from the above table that between FY 2014 and FY 2016, his earning was only INR 10,51,692. So, barring the above–mentioned amount of INR 10,51,692, the predominant portion of the funds that was credited in the personal bank accounts of Anoop Singh Tomar came post March 2017. It is also the same time that the Gainer Street started its operations.

5.26. Anoop Singh Tomar by way of his additional submissions dated July 25, 2022 has given a bifurcation of the total credit transactions appearing in his personal accounts. The said bifurcation is provided hereunder:

**Table No. 3**

| Sl. No. | Explanation | Amount (INR) |
|---|---|---|
| 1. | Contra entries (April 2014 to October 2020) i.e., amount transfers amongst his own accounts | 1,36,04,159.10 |
| 2. | Salary and employment bonus from April 2014 to October 2020 | 55,00,802 |
| 3. | Rent/agricultural income from family owned properties from April 2014 to October 2020 | 11,31,076.87 |

| | | |
|---|---|---|
| 4. | Immoveable property brokerage | 6,29,000 |
| 5. | Loans/repayments from friends/relatives from April 2104 to October 2010 | 49,73,556.90 |
| **Total** | | **2,59,38,594.90** |

5.27. By way of the above information, Anoop Singh Tomar has attempted to show that he had alternate sources of income for the credit entries in the said 'personal accounts'. As may be seen from the above, it has been submitted by Anoop Singh Tomar that between April 2014 and October 2020, by way of salary and employment bonus he had earned a total of INR 55,00,802. However, as is noted from Table 2 , Income Tax Returns have been filed only in respect of gross income of INR 34,42,661. Further, by way of his reply dated September 09, 2021, Anoop Singh has also provided a letter dated December 09, 2018 addressed to the MIG Police Station, Indore, the details of which have been considered in the subsequent paragraphs of this Order. It has been claimed by Anoop Singh in the said letter that he was employed at Money Desire Research from July 01, 2017 to May 31, 2018, and had cut his ties with Money Desire Research when he purportedly discovered certain transactions being carried out in his account which he was not agreeable to. It has also been claimed by Anoop Singh Tomar that Money Desire Research was also operating another firm similar to gainer Street, namely, Samarat Trades. I note from the Income Tax Return of Anoop Singh Tomar for the Assessment Year, 2018 -19 i.e. for income made in FY 2017-18 that his sources of income were under two heads: a) Income for Business or Profession; and Income from Other Sources. This is strange as Anoop Singh Tomar has claimed that during this period he was employed with Money Desire Research, so accordingly his income should have reflected Income form Salary, which however is not the case. Similarly, I note from the Income Tax Return of Anoop Singh Tomar for the Assessment Year, 2019 -20 i.e. for income made in FY 2018 that his sources of income were under two heads: a) Income from Salary (Samrat Trade-PAN CPPS6004G); and Income from Other Sources. This is again strange as Anoop Singh Tomar has claimed that he had cut off all ties with Money Desire Research, and as an extension from Samrat Trade by May 31, 2018. If he had cut off his ties with them, he could not have earned INR 17,40,250 from Samrat Trades as salary for the FY 2018.

5.28. As regards the head of loans and repayments from his friends, I take specific note of Annexure- R8 provided by Anoop Singh Tomar with his reply dated September 09, 2021. For instance, on November 13 and 17 of 2017, on three instances he borrowed money from his father totalling to INR 64,000. Then again on November 17, 2017 his father gifted him an amount of INR 8,000. Similarly, between January 08 and 10 of 2018, on nine instances his brother Neeraj gifted him monies totalling to INR 38,001. Thereafter, on January 12, 2018, his sister gifted him INR 5,000 for 'shopping purpose'. Such explanations find reiteration with respect to entries seen in the rest of the bank accounts. There is a clear template like pattern to the explanations and are mere afterthoughts. Accordingly, the said explanations lack credibility and cannot be accepted.

5.29. With respect to the head of rent income from family owned properties, I see from the explanations that they were essentially receipts from a proprietorship firm by the name Shree Sai Advertiser, which was owned by his father and the funds were directly transferred from his father. So, the same does not reflect any rent income which directly accrued to him. Lastly, with respect to his earnings from "immoveable property brokerage", Anoop Singh Tomar in his reply has enlisted 13 entries between July 18, 2017 and September 29, 2107. These 13 entries however relate to only two people, namely, Suraj Londhe and Sampathila Jagadeesha. It is very doubtful that brokerage income was constantly coming from only two individuals. Further, the details of the transactions of immoveable property for which Anoop Singh Tomar received brokerages has not been provided by him.

5.30. Upon a consideration of the facts brought out in the preceding paragraphs, I find that Anoop Singh Tomar has not advanced any evidence to show that he had any alternate sources from where the funds could have been received in his 'personal accounts' except Gainer Street. Accordingly, I find the said argument completely specious.

5.31. Coming to the contra entries, Anoop Singh has stated that an amount of INR 1,36,04,159.10 constituted 'contra entries', meaning that out of the total amount of INR 3,45,17,730.93 stated to have been mobilised by Anoop Singh Tomar, the above mentioned amount of INR 1,36,04,159.10 has been considered twice. In this regard, he has provided details with respect to four (4) of his bank accounts, namely, HDFC bank Account number 50100185070845, Axis Bank Account number 917020052896058, Axis Bank Account number 918010094908720 and SBI Account Number 32755686729, wherein purportedly credit entries have been considered twice. In this respect, I shall proceed to check the unique credit entries for each of the above four accounts separately.

*HDFC bank Account number 50100185070845*

5.32. Anoop Singh Tomar has stated that a large number of entries in his HDFC bank account bearing number 50100185070845 were with respect to payments received from his "OWN ICICI ACCOUNT 094601506168". In this regard, reference is made to Table No. 1 of this Order. I note that the ICICI Bank Account bearing number 094601506168 does not find mention in the said table. So, the assertion in the SCN that the credit entries in the bank accounts operated by Anoop Singh Tomar amounting to INR 3,45,17,730.17 (period January, 2013 to October , 2020) as stated in the SCN has not considered the ICICI Bank Account bearing number 094601506168. So, the question of contra entries does not arise. I also note that the funds received from Angel Broking have been described as funds from "OWN DEMATE ACC. ANGEL BROKING LIMITED". However, he has not provided any details of his DEMAT account purportedly held with Angel Broking. So, this assertion is not backed by any documentary evidence.

5.33. The only entries that appear to have been considered twice are seven entries, where money has been received from Axis Bank account bearing number 914010057126754, State Bank of India account bearing number 32755686729 and redemption of a Fixed Deposit. I note that the credit entries of the above two bank accounts have been considered for computing the sum of the total credit entries in the bank accounts operated by Anoop Singh Tomar. In view of the above, the credit entries which have been considered twice amount to INR **3,44,286**.

*Axis Bank Account number 914010057126754*

5.34. Anoop Singh Tomar in his explanation has stated that a large number of entries in his Axis Bank Account number 914010057126754 were with respect to payments received from his "OWN ICICI ACCOUNT 094601506168". As already stated the ICICI Bank Account bearing number 094601506168 does not find mention in Table No.1. So, the question of contra entries does not arise. As noted above, the funds received from Angel Broking in the said bank account have been described as funds from "OWN ACCOUNT ANGEL BROKING LIMITED". However, he has not provided any details of his DEMAT account purportedly held with Angel Broking. So, this assertion is not backed by any documentary evidence.

5.35. I, however, notice that there are ten (10) entries where money has been received from HDFC bank Account number 50100185070845. I note that the credit entries of the above bank account has been considered for computing the sum of the total credit entries in the bank accounts operated by Anoop Singh Tomar. In view of the above, the duplicate credit entries amount to INR **1,83,200**.

*Axis Bank Account number 917020052896058*

5.36. I notice from the details provided by Anoop Singh Tomar that there are a total of twelve (12) entries which have been described as payments received from his "OWN AXIS BANK ACCOUNT 914010057126754". I note that the credit entries of Axis Bank Account 914010057126754 have been considered for computing the sum of the total credit entries in the bank accounts operated by Anoop Singh Tomar. In view of the above, the credit entries which have been considered twice amount to INR **75,895.90**.

*Axis Bank Account number 918010094908720*

5.37. I notice from the details provided by Anoop Singh Tomar that there are total of sixteen (16) entries which have been purported to have been considered twice. Out of the sixteen (16) entries, nine (9) entries have been shown as "CREDIT BACK FD AMOUNT". In this regard, reference is made to the bank statement with respect to Axis Bank Account number 918010094908720 for the period October 10, 2018 to January 21, 2020. From a perusal of the statements. I note that certain debits have been made from the bank account with the following narration: " BRN-FLEXI DEPOSIT PRIN DEPOSIT TRANSFER TO 919049061749937". Similarly, I note a credit entry on March 27, 2019, which is one of the above nine (9) entries, appearing in the bank statement with the narration: "BRN-FLEXI DEPOSIT PRIN DEPOSIT TRANSFER FROM 919049061749937". Thus, I am willing to acknowledge that the nine (9) entries were fixed deposit amounts which have been credited back to the account. Further, the rest of the seven (7) entries have been described as payments received from his "OWN AXIS BANK ACCOUNT 914010057126754". I note that the credit entries of Axis Bank Account 914010057126754 have been considered for computing the sum of the total credit entries in the bank accounts operated by Anoop Singh Tomar. In view of the above, the credit entries which have been considered twice with respect to this account amount to INR **46,33,794**.

*SBI Account Number 32755686729*

5.38. Anoop Singh Tomar in his explanation has stated that a large number of entries in his SBI Account Number 32755686729 were with respect to payments received from his "OWN ICICI ACCOUNT 094601506168". As already stated the ICICI Bank Account bearing number 094601506168 does not find mention in Table No.1. So, the question of contra entries does not arise. The rest of the entries pertain to entries where money has been received from HDFC bank Account number 50100185070845, Axis Bank Account number 917020052896058 and Axis Bank Account number 914010057126754. In view of the above, the credit entries which have been considered twice with respect to this account amount to INR **3,22,685**.

5.39. Thus, as discussed in the preceding paragraphs, the total amount which has been considered more than once comes to **INR 55,59,860.90.**

5.40. With respect to Salary and employment bonus, I have in the preceding paragraphs, already brought out as to how the amount was grossly overstated and is not borne out from the documents on record. However, only with respect to the earning of **INR 10,51,692**, as reflected in Anoop Singh Tomar's IT Returns for FYs 2014-15, 2015-16, 2016-17, has Anoop Singh Tomar been able to give any semblance of evidence regarding his salary and bonus. With respect to the other heads namely, Rent/agricultural income from family owned properties; Immoveable property brokerage; and Loans/repayments from friends/relatives, I have already brought out in the preceding paragraphs that the explanations given in respect of them were specious and without merit. I note that the SCN has brought out that the credit entries in the bank accounts operated by Anoop Singh Tomar came to INR 3,45,17,730.17 during the period January, 2013 to October, 2020. I find that with respect to the earning of INR 10,51,692, as reflected in Anoop Singh Tomar's IT Returns for FYs 2014, 2015 and 2016, has Anoop Singh Tomar been able to give any semblance of evidence. Also, I note that Anoop Singh Tomar has been able show that an amount INR 55,59,860.90 had been considered twice from the amount of INR 3,45,17,730.17. Accordingly, I find that, Anoop Singh Tomar has mobilised an amount of INR 2,79,06,177.27 through unregistered investment advisory activities.

## 6. Directions –

6.1. I, in exercise of powers conferred upon me under sections 11(1), 11 (4) and 11B(1) of the Securities and Exchange Board of India Act, 1992 and in the interest of investors do hereby pass the following directions: –

i. Anoop Singh Tomar shall within a period of three (3) months from the date coming into force of this Order, refund the money received from any investors/clients, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities.

ii. Anoop Singh Tomar shall cause to effect a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, inviting claims in respect of the claims of investors/clients that are still outstanding within a period of fifteen (15) days from the date of this Order. The said public notice shall detail the modalities for refund, including the details of contact person such as names, addresses and contact details. A period of two (2) months from the date of the publication of the public notice shall be provided to the investors/clients for submitting their claims.

iii. The repayments to the investors/clients shall be effected only through bank transfers, which ensures audit trails to identify the beneficiaries of repayments.

iv. Anoop Singh Tomar 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, banks are directed to allow debit from the bank accounts of Anoop Singh Tomar, only for the purpose of making refunds to the clients/ investors who were availing the investment advisory services from Anoop Singh Tomar.

v. After completing the aforesaid repayments, Anoop Singh Tomar shall file a report of such completion with SEBI addressed to the "Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Depatment, SEBI Bhavan II, Plot No. C7, 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 the directions at para 6.1 (i) above, duly certified by an independent Chartered Accountant and the direction at para 6.1 (iv) above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors, to the satisfaction of SEBI.

vi. Anoop Singh Tomar is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever, for a period of 3 years from the date of this Order or till the expiry of 3 years from the date of completion of refunds to complainants/ investors as directed in para 6.1 (i) above, whichever is later.

6.2. This Order is without prejudice to any other action that SEBI may initiate.

6.3. The direction for refund, as given in paragraph 6.1(i) above, shall not act as a bar on the clients /investors to pursue any other legal remedy available to them under any other law, against Anoop Singh Tomar/Gainer Street for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

6.4. The above directions shall come into force with immediate effect.

6.5. A copy of this Order shall be forwarded to :

i. all the recognised Stock Exchanges, registered Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions; and

ii. the Government of Madhya Pradesh for information.

**Place: Mumbai** **ASHWANI BHATIA**

**Date: August 04, 2022** **WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**