National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/53875	Date: September 28, 2022
Circular Ref. No: 132/2022	

To All NSE Members,

Sub: **SEBI Order in the matter of the Apex Global and its Proprietor, Yadunath Singh Thakur**

SEBI vide its Order No. WTM/ASB/WRO/WRO/19764/2022-23 dated September 28, 2022, has hereby debarred the below mentioned entity 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 4 (four) years from the date of this Order or till the expiry of 4 (four) years from the date of completion of refunds to complainants /investors/clients as directed in paragraph 9(a) of SEBI order, whichever is later.

Sr. no.	Name of the entity	PAN
1	Yadunath Singh Thakur – Proprietor of Apex Global	ECLPS1036K

The order comes into force with 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.

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

Mr. Apurv Garg (Extension: 24546), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

National Stock Exchange of India

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

ANNEXURE: SEBI order in the matter of the Apex Global and its Proprietor, Yadunath Singh Thakur

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

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

IN RESPECT OF –

SR. NO.	NOTICEE	PAN
1.	YADUNATH SINGH THAKUR – PROPRIETOR OF APEX GLOBAL	ECLPS1036K

IN THE MATTER OF THE APEX GLOBAL.

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1. Securities and Exchange Board of India ("**SEBI**") had received a complaint on August 25, 2017, against The Apex Global and its Sole Proprietor, Yadunath Singh Thakur (hereinafter referred to as "**Noticee**") from one Ms. S. Renuka ("**Complainant**") wherein it was *inter alia* alleged that the Noticee offered financial investment plans with assured returns to the complainant. As a result, the complainant paid an amount of ₹38,000 to the Noticee but thereafter, on account of having failed to receive any intimation /communication from the Noticee, the complainant suffered a loss of ₹30,000.

2. Pursuant to receipt of the above mentioned complaint, SEBI conducted an examination in the matter and thereafter, issued a *Show Cause Notice dated August 5, 2021* ("**SCN**"), against the Noticee on the basis of findings contained in the examination report, *inter alia* alleging that:

   i. The Noticee had carried out investment advisory activities and held himself out as *'investment adviser'* without obtaining a Certificate of registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act, 1992 ("**SEBI Act**") read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 ("**Investment Advisers Regulations**").

3. Vide the SCN, the Noticee was also called upon to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B (1) of the SEBI Act, should not be issued against him for the violations alleged in the SCN.

4. The details with regard to service of SCN are provided as under:

Sr. No.	Noticee	Address	SCN No. and Date	Delivery Status
1.	The Apex Global Prop. Yadunath Singh Thakur	4–A Shraddha Shri Colony, MR–09 Road, Indore–452010, Madhya Pradesh	Letter No. SEBI/WRO/ILO/NM/OW/P/04872/1/2022 dated 7.02.2022	Undelivered
2.		1003/9, Nehru Nagar, Road 09, Indore–452003, Madhya Pradesh	Letter No. SEBI/WRO/ILO/NM/OW/P/04872/1/2022 dated 7.02.2022	Undelivered
3.		Plot No. 662, Flat No. 301, Amira Casal, Block D, Scheme No. 114, Indore–452010, Madhya Pradesh	Letter No. SEBI/WRO/ILO/NM/OW/P/04872/1/2022 dated 7.02.2022	Served through Speed Post
4.		No. 202, Classic Square 86, Shrinagar, Anand Market, Indore–452001, Madhya Pradesh	Letter No. SEBI/WRO/ILO/NM/OW/P/04872/1/2022 dated 7.02.2022	Undelivered
5.		101–105 Shrinagar Sakat Anand Market, Indore–452001 Madhya Pradesh	SEBI/WRO/18297/1 dated 05.08.2021	Undelivered

5. Pursuant to service of SCN, an opportunity of hearing was granted to the Noticee on July 15, 2022; however, the Noticee did not appear for the hearing. Thereafter, another opportunity of hearing was granted to the Noticee on August 30, 2022. The Noticee did not appear for the hearing nor was any request for adjournment received from him.

FINDINGS:

6. I have considered the SCN along with all the material available on record. I note that the Noticee has not filed any reply to the SCN or made any submission for consideration during the course of these proceedings despite the opportunities granted to it. Accordingly, in this context, I rely upon the observations of the Hon'ble SAT in ***Sanjay Kumar Tayal & Ors. vs. SEBI (Order dated February 11, 2014 in Appeal no. 68 of 2013)***, wherein it had observed: *"… Appellants have neither filed reply to Show Cause Notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices."* Even though the Noticee has remained *ex-parte*, I nonetheless find it relevant that I should be guided by the

documents available on record as laid down by the Hon'ble SAT in ***Shri B. Ramalinga Raju vs. SEBI (Order dated May 12, 2017 in Appeal No. 286 of 2014)***.

7. The SCN has alleged that the Noticee had held himelf out as *'investment adviser'* without obtaining registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations. The aforementioned provisions of law read as under:

Provisions of the SEBI Act:

*"**Section 12 of the SEBI Act – 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:

Provided that a person buying or selling securities or otherwise dealing with the securities market as a 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 immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration."

Provisions of the Investment Advisers Regulations:

*"**Regulation 3 of the Investment Advisers Regulations – 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:"

7.1 From the material available on record, the following is observed:

i. The Noticee through its website *www.theapexglobal.co.in (the website is no longer active; however, archive pages of the website were downloaded from web.archive.org),* had stated that: *"The Apex Global is a financial advisory company which is specialized in providing **equity tips** and **commodities tips** covering almost all the major segments of equity market such as **stock cash, nifty futures, stock futures, F&O**. The calls are given on intraday and positional basis. We also provide tips in commodity market including base metals, precious metals and energies along with **agri tips**."*

ii. Through its website, the Noticee had offered prospective clients, various subscription packages relating to recommendations for stock cash, stock future, nifty future, option, precious metal, base metal, future premium, option premium, MCX premium, etc. details of which are reproduced below:

Subscription Package	***Subscription Amount in ₹***			
	Monthly	***Quarterly***	***Half – Yearly***	***Yearly***
Stock Cash *– "In this service we provide you with stock cash tips of NSE and BSE with accuracy more than 90%"*	*6000*	*15000*	*25000*	*43000*
Stock Future	*9000*	*22500*	*38000*	*64500*
Nifty Future	*5000*	*12500*	*21000*	*35500*
Option	*7000*	*17500*	*30000*	*51000*
Precious Metal	*9000*	*22500*	*38000*	*64500*
Base Metal	*7000*	*17500*	*30000*	*51000*
Future Premium	*20000*	*51000*	*86500*	*147000*
Option Premium	*15000*	*38000*	*64500*	*11000*
MCX Premium	*25000*	*63500*	*108000*	*183000*

iii. In addition to the above, the Noticee had also offered Commodity tips, Agri Tips, HNI Pack, BTST/STBT Pack etc.

iv. The Noticee's website mentioned three bank account nos. for payment of consideration towards subscription for the above mentioned packages i.e. (i) ICICI Bank account no. 144104400268, (ii) HDFC Bank account no. 50200005745826 and (iii) Axis Bank account no. 914020041585184. As noted from the material available on record, the total credits received in the aforesaid bank accounts for the period from June 26, 2013 till December 06, 2019, amounted to ₹1,23,06,758, as detailed below:

BANK		A/C OPERATED BY	PERIOD	AMOUNT IN ₹
ICICI BANK A/C NO.	*144104400268*	*YADUNATH SINGH THAKUR FOR THE APEX GLOBAL*	*29.06.2013-16.06.2014*	*55,620*
HDFC BANK A/C NO.	*50200005745826*		*07.08.2014-29.12.2017*	*51,58,895*
AXIS BANK A/C NO.	*914020041585184*		*30.09.2014-06.12.2019*	*70,92,243*
TOTAL				***1,23,06,758***

7.2 In the instant proceedings, it is reiterated that the Noticee has not submitted any reply nor appeared for the hearing in response to the allegations contained in the SCN. It is pertinent to note that the bank accounts mentioned on the website *www.theapexglobal.co.in* for the purpose of receiving consideration in lieu of subscription to the services advertised therein, were held in the name of the Noticee, thereby indicating that the beneficiary of such website, was indeed Yadunath Singh Thakur. Considering the aforesaid, I find that all such sums were nothing but consideration received by the Noticee from investors /clients, in lieu of *'Investment Advice'* offered through subscription to its investment advisory services.

7.3 The definition as given in Regulation 2(m) of the Investment Advisers Regulations states that *'Investment Adviser'* shall mean *"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, Regulation 2(l) of the Investment Advisers Regulations 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."* The aforementioned definitions when viewed in light of the observations contained in the preceding paragraphs lead me to conclude that the Noticee had indeed held himself out as *'Investment Adviser'* by offering to give *'Investment Advice'* related to investing in, purchasing and selling of securities in lieu of consideration received through various investment packages offered for subscription on its website, to prospective investors /clients.

7.4 Section 12(1) of the SEBI Act *inter alia* provides that no investment adviser shall buy, sell or deal in securities except under, and in accordance with, the conditions of a Certificate of registration obtained from the Board. Further, Regulation 3(1) of the Investment Advisers Regulations provides that no person shall act as an investment adviser or hold himself out as an investment adviser unless he has obtained a Certificate of Registration from the Board. It is pertinent to mention that the Noticee was never registered with SEBI, in any capacity as an intermediary. By operating as *'Investment Adviser'* as defined under Regulation 2(m) of the Investment Advisers Regulations, without obtaining registration from SEBI, I find that the Noticee violated Section 12(1) of SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations.

8. The SCN had *inter alia* called upon the Noticee to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B (1) of the SEBI Act, should not be issued against it. In the instant proceedings, the amount of fees /consideration collected by the Noticee as a result of providing unregistered *'Investment Advice'* to investors, amounted to ₹1,23,06,758. In light of the findings in the preceding paragraphs, I am of the considered view that the Noticee is liable to refund the aforementioned amount collected as fees in lieu of unregistered *'Investment Advice'* offered to its clients /investors, and accordingly, a direction to the Noticee to refund such amount will be in the interest of investors in the securities market. I however, note that the SCN does not identity any particular investor or any specific group of investors who have suffered losses due to unauthorized activity carried out by the Noticee.

ORDER:

9. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4) and 11B(1) read with of Section 19 of the SEBI Act, hereby direct that:

(a) The Noticee, Yadunath Singh Thakur (Proprietor of Apex Global), shall within a period of three months from the date of coming into force of this Order, refund the money received from any complainants /investors /clients, as fees /consideration or in any other form, in respect of its unregistered investment advisory activities;

(b) The Noticee 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 from complainants /investors /clients 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 the contact persons 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 complainants /investors /clients for submitting their claims;

(c) The repayments to the complainants /investors /clients 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;

(d) The Noticee is prevented from selling its 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 complainants /investors /clients who were availing the unregistered investment advisory services from the Noticee, as directed in this Order, from the bank accounts of the Noticee;

(e) After completing the aforesaid repayments, the Noticee 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 Department, 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 this Order, duly certified by an independent Chartered Accountant and the direction at paragraph 9(d) shall cease to operate upon filing of such report on completion of refunds to complainants /investors /clients;

(f) 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 **4 (four) years** from the date of this Order or till the expiry of **4 (four) years** from the date of completion of refunds to complainants /investors /clients as directed in paragraph 9(a) above, whichever is later;

(g) The Noticee shall not undertake, either during or after the expiry of the period of debarment /restraint as mentioned in paragraph 9(f), either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.

10. The above direction for refunds /repayment to clients /investors as given in paragraph 9(a) above, does not preclude such complainants /investors /clients to pursue other legal remedies available to them under any other law against the Noticee for refund of money or deficiency in service.

11. This Order shall come into force with immediate effect.

12. A copy of this Order shall be served upon the Noticee. A copy of this Order shall also be forwarded to the recognised Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions and also the Government of Madhya Pradesh for its information.

Place: Mumbai
Date: September 28, 2022

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA