National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/54195	Date: October 25, 2022
Circular Ref. No: 153/2022	

To All NSE Members,

Sub: **SEBI Order in the matter of Momentum Tips (Proprietor - Ajay Kumar Mukhiya)**

SEBI vide Order No. WTM/ASB/SRO/SRO/20714/2022-23 dated October 25, 2022, has hereby debarred the below entity 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 (three) years from the date of the Order or till the expiry of 3 (three) years from the date of completion of refund to clients / investors along with depositing of balance amount, if any, with SEBI, as directed in paragraph 13(a) and 13(e) of the Order, whichever is later.

Sr. no.	Name of the entity	PAN
1.	Ajay Kumar Mukhiya (Proprietor of M/s. Momentum Tips)	EQCPM6774F

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:

National Stock Exchange of India

Mr. Souradeep Ghosh (Extension: 23345), Mr. Anand Jangir (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of
National Stock Exchange of India Limited

Anand Jangir
Manager

ANNEXURE: SEBI Order in the matter of Momentum Tips (Proprietor - Ajay Kumar Mukhiya)

WTM/ASB/SRO/SRO/20714/2022-23

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 respect of:

Noticee	PAN
Ajay Kumar Mukhiya **(Proprietor of M/s. Momentum Tips)**	**EQCPM6774F**

In the matter of Unregistered Investment Adviser

Background:

1. Pursuant to receipt of a complaint which *inter alia* alleged that multiple calls were received from "Momentum Tips" from Bangalore, for investing in the stock market, through the website www.momentumtips.com, Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") examined the matter. Consequent to completion of the examination, a Show Cause Notice dated September 9, 2021 (hereinafter referred to as "**the SCN**"), was issued to Ajay Kumar Mukhiya, Proprietor of Momentum Tips (hereinafter referred to as "**the Noticee**"). The SCN alleged *inter alia* the following:

   (a) It was observed from the archived web pages of the website www.momentumtips.com that the Noticee offered various packages for investment advisory and payments for services were received from clients through Easebuzz, a payment gateway. As on December 01, 2020, the said website was not functional.

(b) Easebuzz stated that the payments received through the aforesaid website were credited to the HDFC bank account (A/c. No. 50100262456976). As per the KYC documents submitted by HDFC bank, the Noticee was the beneficiary and authorized signatory of the said bank account no. 50100262456976. The details of the said bank account are as under:

Account Number & Bank	Account details	Address
50100262456976 HDFC Bank	Momentum Tips – Ajay Kumar Mukhiya – EQCPM6774F	No. 250/12 7th Block, Ullal Main Road, Sir M Vishweshwaraiah Layout Viswaneedam, Bengaluru – 560091 **Mobile:** 8660777585; 9632540432; 7676261016 **Email:** momentumtips@gmail.com **Aadhar:** 509562272797
Easebuzz Payment Gateway		

(c) From the statement of account received from HDFC Bank and Easebuzz, it was observed that there were multiple credits to the aforesaid HDFC bank account other than the credits from Easebuzz with description like trade, advisory charges, towards registration, option premium trade, NSE advisory etc. A sample of such credits into the HDFC Bank account is given below:

Sl. no.	Date of Transaction	Description	Credited Amount in Rs.
1	14/02/2019	UPI-622631644-LOGAN.CUMAR@OKSBI-904517512288-TRADE	2,000.00
2	25/02/2019	01111000124417-TPT-ADVISORY CHARGES	10,000.00
3	26/02/2019	UPI-5712500100709401-NARESHKAVIRATHNA87@OKICICI-905716795717-TOWARDS REGISTRATION	5,000.00
4	02/03/2019	REV-UPI-50100262456976-OPTIONPREMIUMTRADE@OKHDFCBANK-PAY-906112496843-UPI	60,000.00
5	08/03/2019	UPI-1828155000003574-SOLOMONR1976@OKHDFCBANK-PAY-906721754852-NSE ADVISORY	25,000.00
6	14/03/2019	UPI-45511027959-PILLAIA2007@OKICICI-907319328083-SHARE TRADING	25,000.00
7	20/03/2019	UPI-03531140025260-WHENKAT.N@OKHDFCBANK-PAY-907907957082-TRADING	9,501.00
8	28/03/2019	UPI-05451610528586-RAJANBTECHITY@OKHDFCBANK-PAY-908711270309-FOR OPTIONTRADING	5,000.00
9	15/04/2019	UPI-ARJUN AB-9731272886@YBL-SBIN0004163-910536687693-TRADINGPAYMENT	5,000.00
10	15/04/2019	UPI-KARAMALA MAHESH-KMAHESH05071990-2@OKICICI-ANDB0001817-910512390869-TRADINGREGISTATIO	10,000.00
11	08/05/2019	UPI-ASHUTOSH RUPAK-ASHUTOSHRUPAK1502@OKHDFCBANK-HDFC0000885-912815410431-SHARE MARKET ADVIS	10,000.00
12	03/06/2019	IMPS-915410033945-NANTHINI MADHESH.-HDFC-XXXXXXXXXXX2578-TRADE CALL	10,300.00

Sl. no.	Date of Transaction	Description	Credited Amount in Rs.
13	03/06/2019	UPI-RACHA SATISH KUMAR-RACHASATISH@OKHDFCBANK-HDFC0002398-915417545446-MOMENTUM TIPS TRAD	50,000.00
14	15/06/2019	50100024027695-TPT-TRADING FEE	50,000.00
15	18/06/2019	UPI-J ANIL KUMAR-ANILJONNALAGADDAKUMAR@OKAXIS-UTIB0002788-916909081537-REGISTRATION FEE	5,000.00
16	28/06/2019	01361610019235-TPT-SHARE SERVICE	50,000.00

(d) It is observed from the credit transactions in Easebuzz and HDFC Bank account that the Noicee had collected fees amounting to ₹33,19,784.08 during the period 14.02.2019 to 01.07.2019 for investment advisory activities, through the numerous credit transactions from large number of investors.

(e) As per the intermediary database of SEBI, the Noticee is not registered with SEBI in any capacity.

(f) Vide SEBI letter dated 01.07.2019, the Noticee was asked to submit the details of activities carried out. Vide a reply dated 08.07.2019, the Noticee *inter-alia* informed SEBI that he would submit the documents. Subsequently, vide reminders dated 16.07.2019 and 02.08.2019, the Noticee was once again asked to submit the details of activities carried out. Vide email dated 03.08.2019, the Noticee *inter-alia* submitted that he stopped all activities and was not operating anything at all. However, no relevant information was received from the Noticee subsequently.

(g) Easebuzz has confirmed that all the transactions done through the payment link mentioned on the website of www.momentumtips.com were credited to the Noticee's HDFC Bank account. Further, most of the credit transactions in the aforesaid HDFC Bank account indicated that these were are connected to investment advisory services. The Noticee did not provide the details of the fees collected from the clients. It thus appeared that the credits received in the bank account maintained with HDFC Bank and Easebuzz were for providing stock tips under the guise of investment advice packages and the amount credited in the above bank account i.e. ₹33,19,784.08 could be treated as fees received by the Noticee for providing investment advisory services.

(h) Based on the above mentioned observations, it was alleged that the Noticee acted as an 'Investment Adviser' by collecting fees from investors for advisory services without having certificate of Registration from SEBI, and thus had violated the provisions of

Section 12(1) of SEBI Act, 1992 read with Regulation 3 (1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**").

2. In view of the above, the Noticee was called upon to show cause as to why suitable directions including refund of fees collected, debarment, non-association with listed entities, intermediaries, etc. should not be issued against him under Sections 11B(1) & 11(4) of the SEBI Act, 1992.

Service of SCN, Reply and Personal Hearing:

3. The SCN along with the annexures, sent to the Noticee through Speed Post, was returned undelivered. Thereafter, the SCN was served on the Noticee through email by attaching therewith a digitally signed copy of the SCN. However, no reply whatsoever was received from the Noticee. Subsequently, an opportunity of personal hearing was granted to the Noticee by scheduling the hearing on July 04, 2022. The notice of hearing was served on the Noticee through email by attaching therewith a digitally signed copy of the notice. However, the Noticee failed to appear before me on the date of hearing. In these circumstances, since the Noticee has failed to respond to the SCN as well as attend the personal hearing, I take that the Noticee has nothing to submit in this matter. I, thus, proceed to decide the matter *ex-parte*.

Consideration and findings –

4. Before proceeding further, I deem it important to refer to the provisions of law alleged to have been violated by the Noticee. The same are quoted hereunder

SEBI Act, 1992 —

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

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."

IA Regulations:

Regulation 3(1)

*"**Application for grant of certificate** - 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".*

5. I note from the print-outs of the archived pages of the website www.momentumtips.com, which are enclosed as Annexure 2 to the SCN, that the following was mentioned on the said website:

- *"…..We provide Equity Cash, Commodity, NCDEX tips and Derivative tips."*
- *"Working in the competitive world of advisory companies, we are following the above words and providing our clients the best possible services in the field of equity and commodity market."*
- *"The research analyst panel in the Company is in continuous touch (with) the market to deliver the best trading levels for clients."*
- *"Top Investment Advisor: having the sole motto as 'Sign of Trust', and is meant to be translated into a proposition that is led by capitalism and creativity, sheltered by creditable and validated outcome. Momentum Tips' clients progressively stepping up with the smart recommendation provided*

by one and only 'Momentum Tips Research team' - giving them consistent ideas on investments, that is soaked up as profit and fame into the target market…."

- *Some of the Packages offered: Intraday – Stock Cash: Regular, Premium, HNI; Stock Future: Regular, Premium, HNI; Stock/NIFTY Option: Regular, Premium, HNI; NIFTY/Bank NIFTY Future: Regular, Premium, Normal; Precious Metals: Normal, Regular; MCX(BEP): Regular: NCDEX (Agri): Premium on a monthly, quarterly, half-yearly and yearly basis with prices ranging from Rs. 7,999 to Rs. 6,19,999. Out of the 28 packages offered, 24 were intraday packages and four were positional packages.*
- *"As a leading stock market advisory we offer an extensive range of stock market tips and commodity tips."*
- *"We provide 95% accurate penny stock tips using all advance technologies to provide you profit driven tips 24 x 7 customer support. Providing tips in all segments. Ready to solve every single issue. Dedicated team of industry experts."*
- *The pricing of various investment advice packages:*

S. No.	Package	Monthly Fee in Rs.	Quarterly Fee in Rs.	Half Yearly Fee in Rs.	Yearly Fee in Rs.
Intraday Package					
1	Stock Cash Regular	7999	18999	29999	47999
2	Stock Cash Premium	19999	46999	74999	119999
3	Stock Cash HNI	38999	93999	148999	238999
4	Stock Future Regular	7999	18999	29999	47999
5	Stock Future Premium	19999	46999	46999	119999
6	Stock Future HNI	38999	93999	148999	238999
7	Stock / Nifty Option Regular	6999	15999	24999	39999
8	Stock / Nifty Option Premium	14999	34999	54999	89997
9	Stock / Nifty Option HNI	25999	62999	99999	158999
10	Nifty/Bank Nifty Future Regular	6999	15999	24999	39999
11	Nifty/Bank Nifty Future Premium	14999	34999	54999	89997
12	Precious Metals Normal	9999	23999	37999	59999
13	MCX (BEP) Regular	14999	35999	57999	91999
14	NCDEX (Agri) Normal	10999	24999	39999	63999
15	Commodity (BEP + Agri)	19999	46999	74999	119999
16	MCX (BEP) Premium	36999	88999	141999	226999
17	Commodity (MCX + NCDEX) HNI	100999	241999	389997	619999
18	NCDEX (Agri) Premium	25999	62999	99999	158999
19	Base and Energy Normal	9999	23999	39997	59999
20	Domestic Forex Normal	8999	21999	39999	70999
21	Domestic Forex Premium	19999	52999	94999	170999
22	International Forex Normal	16999	43999	78999	140999

S. No.	Package	Monthly Fee in Rs.	Quarterly Fee in Rs.	Half Yearly Fee in Rs.	Yearly Fee in Rs.
Intraday Package					
23	*International Forex Premium*	40999	108999	195999	351999
24	*Comex*	35999	94999	170999	306999
Positional Package					
S.No.	*Package*	*Two Yearly Fee in Rs.*	*Yearly Fee in Rs.*	*Half Yearly Fee in Rs.*	*Quarterly Fee in Rs.*
1	*Stock Cash Positional*	158999	99999	62999	25999
2	*Stock Future Positional*	158999	99999	62999	25999
3	*MCX Positional*	319997	198999	124999	51999
4	*Option Positional*	119999	46999	46999	19999

- *Payment Gateway: Easebuzz*
- *Contact Details: 7676261016; momentumtips@gmail.com*

6. I note from the said web pages that the services being offered pertained to Stock Market, Derivative Market, Commodity Market and Forex Market and the pricing plans for various packages were mentioned on the said website, as tabulated under paragraph 5 above. The said website also contained hyperlinks for making payments of fees through the payment gateway, Easebuzz.

7. I note from the email dated November 21, 2019 received from Easebuzz, which is enclosed as Annexure 3 to the SCN, that the payment link mentioned on the website www.momentumtips.com was linked to the HDFC Bank Account No. 50100262456976, which was held by the Noticee. The KYC documents received from HDFC Bank, which is enclosed as Annexure 4 to the SCN, also shows that the said account belonged to the Noticee.

8. I note that the SCN has identified 26 credit transactions in the bank account statement of the Noticee provided by HDFC Bank (Annexure 5 of the SCN), which appeared to be related to investment advisory services and the same are tabulated in Annexure 7 of the SCN. Further, from the transaction statements provided by Easebuzz (Annexure 6 of the SCN), I note that a total of 178 credits were made from different sources into the HDFC bank account through Easebuzz since 09.04.2019. The total credit received in the Noticee's bank account through 204 credit transactions was ₹33,19,784.08, which appears to have

been received by the Noticee as fees / consideration from clients / investors in lieu of investment advisory services. A summary of the said transactions is tabulated as under:

Account Number & Bank	Statement period	Total Credits (Rs.)	No. of Credit Transactions	Last Credit Transaction date	Closing Balance
50100262456976 – HDFC Bank	14.02.2019 to 28.06.2019	6,09,801.00 *	26	28.06.2019	1,969.48 (as on 01.10.2020)
Easebuzz	09.04.2019 to 01.07.2019	27,09,983.08	178	01.07.2019	NA
Total		**33,19,784.08**	204		

* The credit amount of less than Rs.1000 not included.

9. I further note from the emails dated July 08, 2019 and August 03, 2019, which are enclosed as Annexure 10 and 11 of the SCN, that the Noticee has admitted that he was operating Momentum Tips.

10. The definition as given in Regulation 2(m) of the IA 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 IA 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 from investors /clients.

11. Section 12(1) of the SEBI Act, 1992 *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 SEBI. Further, Regulation 3(1) of the IA Regulations 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. It is pertinent to mention that the Noticee was never registered with SEBI, in any capacity as an intermediary.

By operating as an *'Investment Adviser'* as defined under Regulation 2(m) of the IA Regulations, without obtaining registration from SEBI, I find that the Noticee has violated Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations.

12. 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, 1992 should not be issued against him. 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 ₹33,19,784.08. In light of the findings made above, 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.

Directions –

13. 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, 1992 hereby direct that:

(a) The Noticee (Ajay Kumar Mukhiya, proprietor of Momentum Tips) shall within a period of three (3) months from the date of this Order, refund the money received from any investors/clients, as fees or consideration or in any other form, in respect of his unregistered investment advisory activities.

(b) The Noticee shall, within 15 days from the date of this Order, 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 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.

(c) The repayments to the 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) Within a period of 15 days after completing the refund as directed in paragraph 13(a) above, the Noticee shall file a report with SEBI detailing the amount refunded to investors / clients, which should be 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*". The above mentioned report should be duly certified by an independent Chartered Accountant and should indicate the amount of refund, mode of payment by bank transactions, name of the parties, communication address, mobile / telephone numbers, etc.

(e) The remaining balance amount shall be deposited with SEBI which shall be kept in an escrow account for a period of one year for distribution to clients / investors who were availing the investment advisory services from the Noticee. Thereafter, the remaining amount, if any, shall be deposited in the Investors Protection and Education Fund, maintained by SEBI.

(f) The Noticee is restrained 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 refund / depositing balance amount with SEBI, as directed above. Further, banks are directed to allow debit from the bank accounts of the Noticee, only for the purpose of making refund to the clients/ investors who were availing the investment advisory services from the Noticee and for depositing balance amount with SEBI, as directed in this Order.

(g) The Noticee 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 (three) years from the date of this Order or till the expiry of 3 (three) years from the date of completion of refund to clients / investors along with depositing of balance amount, if any, with SEBI, as directed in paragraph 13(a) and 13(e) above, whichever is later.

(h) Upon submission of report on completion of refund to clients / investors to SEBI and deposit of the balance amount, if any, with SEBI, the direction at paragraph 13(f) above shall cease to operate within 15 days thereafter.

(i) The Noticee shall not undertake, either during or after the expiry of the period of debarment /restraint as mentioned in paragraph 13(g), 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.

14. The direction for refund to clients / investors and depositing the balance amount with SEBI, as given in paragraph 13(a) and 13(e) above, shall not preclude the clients / investors to pursue any other legal remedy available to them under any other law, against the Noticee for refund of money or deficiency in service, before any appropriate forum of competent jurisdiction.

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

16. A copy of this Order shall be served upon the Noticee. A copy of this Order shall also be forwarded to all the recognized Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions; and also to the Government of Karnataka for information.

-Sd-

PLACE: MUMBAI **ASHWANI BHATIA**

DATE: OCTOBER 25, 2022 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA