National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/54361	Date: November 10, 2022
Circular Ref. No: 165/2022	

To All NSE Members

Sub: **Final Order in the matter of Pankaj Kumar Shukla, Proprietor: Market Anand**

SEBI vide its Order no. WTM/AB/SRO/SRO/21090/2022-23 dated November 10, 2022, has hereby debarred the entity Shri Pankaj Kumar Shukla Proprietor: Market Anand (PAN: FNRPS5641L) 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 6 (six) months from the date of this Order or till the expiry of 6 (six) months from the date of completion of refunds to investors/clients along with depositing the balance amounts, if any, as directed in paragraph 22(a) and 22(e) of SEBI Order, whichever is later.

This Order shall come 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. Rohit Swami (Extension: 23023), 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: - Final Order in the matter of Pankaj Kumar Shukla, Proprietor: Market Anand

WTM/AB/SRO/SRO/21090/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

In respect of:

Sr. No.	**Noticee**	**PAN**
1.	Shri Pankaj Kumar Shukla Proprietor: Market Anand	FNRPS5641L

In the matter of Unregistered Investment Adviser

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1. The present proceedings emanate from a show cause notice dated June 29, 2021 (hereinafter referred to as "**SCN**") issued by Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") against Shri Pankaj Shukla, in his capacity as the sole proprietor of 'Market Anand' (Shri Pankaj Shukla and Market Anand are hereinafter collectively referred to as "**the Noticees**") wherein it was *prima facie* found that the Noticees were engaged in investment advisory services without obtaining a certificate of registration from SEBI in violation of the provisions of Section 12(1) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act, 1992**") and Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations, 2013**"). The SCN called upon the Noticees 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 the Noticees under Sections 11(4) and 11B (1) of the SEBI Act, 1992.

2. I note that following allegations were made in the SCN:

(i) SEBI received a complaint against M/s. Market Anand. Complainant alleged that that he lost money based on the trading advice provided by M/s. Market Anand. As per the intermediary database on SEBI website, M/s. Market Anand was not registered with SEBI as an investment advisor.

(ii) As per the KYC documents of ICICI Bank, Shri Pankaj Kumar Shukla (PAN: FNRPS5641L) is the Proprietor of M/s. Market Anand and the authorized signatory for the bank account. M/s. Market Anand is registered with Government of Karnataka as Commercial Establishment under Karnataka Shops and Establishments Act, 1961.

(iii) As per the complainant, Noticees had provided investment advice through the website www.marketresearchanand.com. The website was not functional at the time of issue of SCN. The archived pages of the website were also not available.

(iv) As per the complainant, Market Anand is having an account with Easebuzz. As per Easebuzz's email dated 03.03.2020, M/s. Market Anand's ICICI bank account is the beneficiary of the payments received through the said payment gateway. The statement of transactions received from ICICI Bank**,** Easebuzz, KYC documents received from ICICI Bank and Easebuzz were enclosed as Annexures to the SCN. The account details are given below:

Account Number & Bank	**Account details**	**Address and contact number**	**Email id**
029705004934 ICICI Bank	Market Anand - FNRPS5641L	No. 286, 3rd floor, 7th cross 14th main, BTM 2nd stage Bengaluru – 560033. 7483466956	marketgainer2016@gmail.com
Easebuzz			anandshukla.4321@gmail.com

(v) The complainant has stated that he had paid Rs. 50,000/- to M/s. Market Anand through Easebuzz payment gateway and received the investment advice subsequent to the payment. It is observed that the said transactions are reflecting in the statement provided by Easebuzz viz., transaction Ids, 3I3GTNI5 and 35LFMUXJ. The transaction details are given below:

TransactionId (Link or Easepay Id)	Transactional Date	Transaction Mode	Payout Amount (Rs)	Customer Name
35LFMUXJ	23 Oct 2019 03:13PM	Credit Card	24410	Santhosh
3I3GTNI5	17 Oct 2019 07:03PM	Credit Card	24410	Santhosh

(vi) ICICI bank statement had the narration of the transactions terms viz., Trading, Investment, for share market, stock fee, package charges, Nifty, Balance reg fee, etc. indicating that the said bank account is used to receive fees towards advisory services. An illustrative list of transactions with such narrations in the ICICI Bank account of M/s. Market Anand, is given below:

Date	Narration	Credit Amount (Rs.)
22-01-2019	UPI/902209353907/For Trading/tradezone677@ok/Centr	25000.00
09-04-2019	MMT/IMPS/909916481298/for trading/USER /CANAR	30000.00
23-04-2019	BIL/INFT/001692083341/Investment/	50000.00
22-05-2019	UPI/914217021267/For share marke/sulai1310@okhdf/H	10000.00
28-05-2019	MMT/IMPS/914812347928/For trading reg/SEBASTIAN /H	5000.00
07-06-2019	BIL/INFT/001726000432/Stock fee/	25000.00
24-06-2019	MMT/IMPS/917516188603/package charge/K RAVICHAN/IN	15000.00
14-10-2019	UPI/928709328196/For VS Trading/manojbhatlia@ok/HD	5000.00
18-10-2019	BIL/INFT/001825971437/Service charge /	5000.00
29-10-2019	MMT/IMPS/930213168570/Nifty/RAVI RAMAN/HDFC BANK L	3000.00
30-10-2019	MMT/IMPS/930313173727/Nifty/RAVI RAMAN/HDFC BANK L	3000.00
31-10-2019	UPI/930410565586/Balance reg fee/8970271392@ybl/HD	5000.00

(vii) A total of 459 credits were made from different sources into the said accounts since 01.01.2019 and the total credit received in the ICICI bank account and Easebuzz are Rs. 55,39,040/-. The summary of transactions observed in the aforesaid ICICI account and Easebuzz account are tabulated as under:

Account details	Statement Period	Total Credits (Rs.)	No. of Credit Transactions	Last Credit Transaction date	Closing Balance	Remarks
004705011504 - ICICI Bank	01-01-2019 to 29-11-2019	17,16,255	148	29/11/2019	0.00	***Annexure-9 to the SCN***
Easebuzz	17-01-2019 to 28-11-2019	38,22,785	311	28/11/2019	NA	***Annexure-10 to the SCN***
	Total	55,39,040	459			

(viii) It is observed from the numerous credit transactions that the large number of investors are affected.

(ix) Easebuzz stated that they had blocked Ms. Market Anand on their platform on November 30, 2019 since M/s. Market Anand did not have SEBI license.

(x) M/s. Market Anand was asked vide SEBI's letter dated February 13, 2020 to submit the details of activities and the same was returned as undelivered.

(xi) It is observed from the above information available viz., Complaint, complainant payment details, bank transaction Statement, Easebuzz transaction statement and KYC submitted by ICICI bank that the Noticees had acted as Investment Adviser by collecting fees from investors for advisory services without having certificate of Registration from SEBI.

3. In view of the above, SEBI *prima facie* found that the Noticees had provided "investment advice" as defined under regulation 2(1)(l) of IA Regulations, 2013. SCN alleged that on account of the above activities, Noticees had engaged in the activities of an 'investment adviser' as defined under regulation 2(m) of IA Regulations, 2013. SCN alleged that as per Regulation 3(1) of IA Regulations, 2013 read with Section 12(1) of SEBI Act, 1992, registration is mandatory for a person carrying out the activities of an investment adviser. SCN alleged that Noticees carried out investment advisory activities without obtaining registration of SEBI and allegedly violated the provisions of Section 12(1) of SEBI Act, 1992 read with Regulation 3 (1) of IA Regulations, 2013.

4. In view of the alleged violations of provisions of Securities Laws, Noticees were 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 them under Sections 11B / 11(4) of the SEBI Act, 1992.

5. SCN gave 21 days' time, from the receipt of the SCN, to the Noticees to file their reply to the SCN. SCN further informed the Noticees that if they wish to avail opportunity of personal, the same may be communicated to SEBI alongwith the reply.

6. The SCN was sent on two addresses of the Noticees i.e. one at Bengaluru and other at Gorakhpur through speed post. The SCN sent on Bengaluru address returned undelivered, however, the SCN sent on Gorakhpur address was delivered to the Noticees on July 07, 2021. It is noted that despite service of SCN, no reply to SCN was received from the Noticees. Also, no request for personal hearing or for extension of time to file reply, was received from the Noticees. Subsequently, vide email dated October 27, 2021, a reminder was also sent to the Noticees asking them to file their reply by November 05, 2021 and to also communicate if they wish to avail an opportunity of personal hearing. It is noted even after this reminder, the Noticees neither filed any reply nor did they inform about their willingness to avail opportunity of personal hearing. Vide email dated November 02, 2022, the Noticees were once again advised to file their reply in the matter, however, no response was received from the Noticees.

7. Thereafter, in order to ensure compliance with natural justice, the file was placed before me on February 09, 2022 for grant a date for personal hearing to the Noticees. Accordingly, the matter was fixed for hearing on April 26, 2022. In this regard, a hearing notice dated February 22, 2022 was sent to the Noticees. The hearing notice was delivered to the Noticees at their Gorakhpur address, through speed post on March 02, 2022. On the date fixed for hearing none of the Noticees attended hearing. Further, no request for adjournment of hearing was received from the Noticees.

Consideration of submissions and findings:

8. I have considered the allegations made in the SCN and other material available on record.

9. I note that the definition of Investment Adviser as given in Regulation 2(1)(m) of the IA Regulations, 2013 provides as follows:

> "investment adviser means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;"

Further, Regulation 2(1)(l) of IA Regulations, 2013 provides as follows:

> "investment advice means 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;"

10. SEBI received a complaint against M/s. Market Anand wherein it was alleged that that complainant lost money based on the trading advice provided by M/s. Market Anand. The complainant has stated that he had paid Rs. 50,000/- to M/s. Market Anand through Easebuzz payment gateway and received the investment advice subsequent to the payment. As per the complainant, Market Anand was having an account with Easebuzz. As per Easebuzz's email dated March 03, 2022, ICICI Bank account no. 029705004934 held in the name of M/s. Market Anand was the beneficiary of the payments received through the said payment gateway. The account details are given below:

Account Number & Bank	**Account details**	**Address and contact number**	**Email id**
029705004934 ICICI Bank	Market Anand - FNRPS5641L	No. 286, 3rd floor, 7th cross 14th main, BTM 2nd stage Bengaluru – 560033. 7483466956	marketgainer2016@gmail.com
Easebuzz			anandshukla.4321@gmail.com

11. As per the KYC documents pertaining to the aforesaid ICICI Bank account, Shri Pankaj Kumar Shukla (PAN: FNRPS5641L) is the Proprietor of M/s. Market Anand and is the authorized signatory for the bank account. M/s. Market Anand is registered with Government of Karnataka as Commercial Establishment under Karnataka Shops and Establishments Act, 1961.

12. As per the complainant, Noticees had provided investment advice through the website www.marketresearchanand.com. The website was not functional at the time of issue of SCN. The archived pages of the website were also not available. The complainant stated that he had paid Rs. 50,000 to the Noticees through Easebuzz payment gateway and received the investment advice subsequent to the payment. Payments made by the complainant were reflecting in the statement provided by Easebuzz viz., transaction Ids, 3I3GTNI5 and 35LFMUXJ. The transaction details are given below:

TransactionId (Link or Easepay Id)	**Transactional Date**	**Transaction Mode**	**Payout Amount (Rs)**	**Customer Name**
35LFMUXJ	23 Oct 2019 03:13PM	Credit Card	24410	Santhosh
3I3GTNI5	17 Oct 2019 07:03PM	Credit Card	24410	Santhosh

13. I note that bank statement of the aforesaid ICICI bank account have the narration of the transactions terms viz., Trading, Investment, for share market, stock fee, package charges, Nifty, Balance reg fee, etc. An illustrative list of transactions with such narrations in the ICICI Bank account of M/s. Market Anand, as given in the SCN, is as under:

Date	**Narration**	**Credit Amount (Rs.)**

22-01-2019	UPI/902209353907/For Trading/tradezone677@ok/Centr	25000.00
09-04-2019	MMT/IMPS/909916481298/for trading/USER /CANAR	30000.00
23-04-2019	BIL/INFT/001692083341/Investment/	50000.00
22-05-2019	UPI/914217021267/For share marke/sulai1310@okhdf/H	10000.00
28-05-2019	MMT/IMPS/914812347928/For trading reg/SEBASTIAN /H	5000.00
07-06-2019	BIL/INFT/001726000432/Stock fee/	25000.00
24-06-2019	MMT/IMPS/917516188603/package charge/K RAVICHAN/IN	15000.00
14-10-2019	UPI/928709328196/For VS Trading/manojbhatlia@ok/HD	5000.00
18-10-2019	BIL/INFT/001825971437/Service charge /	5000.00
29-10-2019	MMT/IMPS/930213168570/Nifty/RAVI RAMAN/HDFC BANK L	3000.00
30-10-2019	MMT/IMPS/930313173727/Nifty/RAVI RAMAN/HDFC BANK L	3000.00
31-10-2019	UPI/930410565586/Balance reg fee/8970271392@ybl/HD	5000.00

A perusal of the aforesaid gives rise to a reasonable inference that the said bank account was used to receive fees towards advisory services.

14. I note that a total of 459 credits were received from different sources into the said bank account since January 01, 2019 and the total credit received in the ICICI bank account directly and through Easebuzz payment gateway are Rs. 55,39,040/-. The summary of transactions observed in the aforesaid ICICI Bank account are tabulated as under:

Mode of payment	**Statement Period**	**Total Credits (Rs.)**	**No. of Credit Transactions**	**Last Credit Transaction date**	**Closing Balance**	**Remarks**
004705011504 - ICICI Bank (direct credits)	01-01-2019 to 29-11-2019	17,16,255	148	29/11/2019	0.00	***Annexure-9 to the SCN***
Credits through Easebuzz payment gateway	17-01-2019 to 28-11-2019	38,22,785	311	28/11/2019	NA	***Annexure-10 to the SCN***
	Total	55,39,040	459			

15. From the aforesaid, I find that Noticees were providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, *in lieu* of consideration. Thus, I find that the Noticees were giving investment advise, as defined in Regulation 2(1)(l) of IA Regulations, 2013 and were acting as

investment adviser/s, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.

16. I note that, it is imperative that any person carrying out investment advisory activities must necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Act, 1992 and Regulations framed thereunder. Section 12(1) of SEBI Act, 1992 reads as under:

> *"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:"*

17. It is relevant to note that in order to protect the interest of investors and to preserve the integrity of the securities market, IA Regulations, 2013 has been framed by SEBI which provide various safeguards to ensure that the interest of the investors who receive investment advice are protected. One such safeguard provided under the said Regulations is that any person carrying out investment advisory activities has to first obtain a certificate of registration from SEBI as mandated under regulation 3(1) of the IA Regulations, 2013, which, *inter alia*, provides that, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from SEBI and it has to conduct its activities in accordance with the provisions of IA Regulations, 2013. Further safeguards provided under IA Regulations, 2013 include continued minimum professional qualification and compliance with net-worth requirement for acting as an investment adviser, prior disclosure of all conflicts of interest, prohibition on entering into transactions which are contrary to advice given to the clients at least for 15 days from the date of giving advice to the clients, mandatory risk profiling of investors, maintaining documented process for selecting investment products for clients based on client's investment objective and risk profile and understanding of the nature and risks of products or assets selected for such client, etc.

18. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy *inter alia* the following requirements, as provided under IA Regulations, 2013:

(i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 alongwith requisite non-refundable application fee;

(ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:

a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognised foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;
b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

(iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

19. The activities engaged in by the Noticees, as brought out from the various materials described above, seen in the backdrop of the aforesaid regulatory provisions show that although the Noticees were acting as an Investment Adviser, however, the Noticees were not registered with SEBI in the capacity of Investment Adviser. Hence, I find that these activities/ representations, were being carried out by the Noticees without holding the mandatory certificate of registration as investment adviser, thus, Noticees are in violation of Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations, 2013.

20. I note that the Noticees in their bank accounts, as mentioned in paragraph 14 above, had received a total amount of Rs. 55,39,040/-. through unregistered investment advisory activities. Further, I note that the complainant had paid Rs. 48,820/- as fees to the Noticees for the investment advice received from the Noticees.

21. I note that in the case of Shri C. Paranitharan and Others and Trend Market Advisory Services, SEBI had passed orders dated July 05, 2022 and July 07, 2022, respectively, *inter alia* directing the Noticees therein to refund the fees or consideration received from investors in respect of their unregistered investment advisory activities. In the respective appeals filed against these orders by the respective Noticees, Hon'ble SAT vide common order dated September 21, 2022 *inter alia* directed the appellants therein to deposit the balance amount after making refunds to investors, with SEBI. It was also directed that the balance amount deposited with SEBI shall be kept in escrow account for a period of one year and be distributed to any claimants and thereafter, the remaining amount, if any, will be deposited in the Investor Protection and Education Fund.

DIRECTIONS:

22. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4) and 11(B) read with of Section 19 of the SEBI Act, 1992, hereby direct that:

    a. The Noticees shall jointly and severally, within a period of three months from the date of this order, refund the money received from any complainants/ investors, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;

    b. The Noticees shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this order;

    c. The repayments to the complainants/ investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;

    d. After completing the refund as directed in para 22(a) above, within a period of 15 days, the Noticees shall file a report detailing the amount refunded to SEBI addressed to the Division Chief, Market Intermediaries Regulation and Supervision Department (MIRSD), Division of Registration-2, SEBI Bhavan II, Plot No. C7 G Block, Bandra Kurla Complex, Bandra (East) Mumbai – 400051. The report should be duly certified by an independent Chartered Accountant and indicate the amount, mode of payment by banking transactions, name of the parties, communication address, mobile numbers and telephone numbers etc.

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

f. The Noticees are restrained from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds/ depositing balance amount with SEBI, as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the clients/ investors/ complainants who were availing the investment advisory services from the Noticees and depositing balance amount with SEBI, as directed in this order, from the bank accounts of the Noticees;

g. The Noticees are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of 6 months from the date of this order or till the expiry of 6 months from the date of completion of refunds to complainants/ investors along with depositing of balance amounts, if any, with SEBI as directed in para 22(a) and 22(e) above, whichever is later.

h. Upon submission of report on completion of refunds to complainants/ investors to SEBI and deposit of the balance money with SEBI, if any, the direction at para 22(f) above shall cease to operate within 15 days thereafter.

i. The Noticees shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in para 22(g) above, 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.

23. The direction for refund and depositing the balance amount with SEBI, as given in para 22(a) and 22(e) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticees for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

24. This order comes into force with immediate effect.

25. A copy of this order shall be sent to the Noticees, recognized Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of Mutual Funds to ensure that the directions given above are strictly complied with.

Sd-

Date: November 10, 2022 **ANANTA BARUA**

Place: Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA