National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/54846	Date: December 15, 2022
Circular Ref. No: 198/2022	

To All NSE Members

Sub: **Final Order in the matter of M/s. India Global Research**

SEBI vide its order no. WTM/AB/WRO/WRO/22041/2022-23 dated December 15, 2022, has directed that the below mentioned entities 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 six (6)months from the date of this order or till the expiry of six (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 19(a) and 19(e) of the SEBI Order, whichever is later.

Sr. No.	Name of Entity	PAN
1	Shri Kamal Prasad Patel	BJUPP8708C
2	Shri Devi Deen Patel	EEWPP5100Q

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.

National Stock Exchange of India

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

Mr. Joshua Mendes (Extension: 24549), 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

WTM/AB/WRO/WRO/22041/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

In respect of:

Noticee no.	**Noticee Name**	**PAN**
1	Shri Kamal Prasad Patel	BJUPP8708C
2	Shri Devi Deen Patel	EEWPP5100Q

(The aforesaid entities are hereinafter referred to by their respective names / noticee numbers or collectively as "the Noticees")

In the matter of Unregistered Investment Advisory by M/s. India Global Research

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1. On the basis of complaint received against M/s. India Global Research, SEBI conducted an examination into the affairs of India Global Research, in relation to the activities of unregistered investment advisory being carried out by it. A show cause notice dated July 14, 2021 (**'SCN'**) was issued to the Noticees, wherein the Noticees have been alleged to have been offering unregistered investment advisory services, without seeking registration from SEBI, thereby violating the provisions of Section 12 (1) of Securities and Exchange Board of India Act, 1992 ("**SEBI Act, 1992**") and Regulation 3(1) of SEBI (Investment Advisors) Regulations, 2013 ('**IA Regulations, 2013**'). In view of the aforesaid allegations, SCN called upon the Noticees to show cause as to why suitable directions under Section 11(1). 11(4) and 11B(1) of the SEBI Act, 1992 should not be issued against them.

2. Noticee no. 1 has filed his reply dated February 24, 2022 and Noticee no. 2 has filed his reply dated October 10, 2021. An opportunity of personal hearing was granted to the Noticees on March 31, 2022. On the scheduled date of hearing, the

authorized representative appointed by the Noticees was heard. An email dated November 2, 2022 was sent to the authorized representative of the Noticees, to file additional submissions, if any. However, no reply has been received from them.

3. SCN alleges that the Noticees used to operate the website http://indiaglobalresearch.com and solicit clients through the said website. The status of the website at the time of issuance of SCN was inactive. SEBI examined the contents of the website through the archived webpages available at web.archive.org. On the basis of SEBI's examination, the SCN records the following observations about the contents of the website:

    a. The advisory business of India Global Research was based on 'subscription model' wherein investor paid for various services/ products for getting daily stock calls/tips/ messages/ advices.

    b. India Global Research offered a total of 31 investment advisory services were offered in Equity, commodity and currency segment of the securities market.

    c. The amount of fees charged was based on the services / packages subscribed and the subscription period for the product was on a monthly, quarterly, half-yearly and yearly basis. The charges/ advisory fees for the aforesaid packages/ advisory services was ranging from Rs. 10,000/- per month to Rs. 12, 55, 000/- per annum.

    d. It was stated that calls/ tips were to be provided on SMS and direct mobile number would be provided for complete support.

    e. The website also had displayed sample calls which is reproduced below:
       "buy auropharma above 375 tg1-380, tg2-386, sl- 370
       sell tech mahindra ltd below 1840 tg1-1830, tg2-1820, sl- 1850"

    f. India Global Research accepted payment through payment gateway PAYU MONEY.

    g. The head office address was stated as Indira Gandhi Road, New Raipur, Chhattisgarh, PIN- 492001.

4. On perusal of the screenshot of the webpages of the website http://indiaglobalresearch.com, as available on record, I note that India Global Research was indeed involved into offering investment advisory services to prospective clients for consideration. Further, from the copy of the complaint of the complainant, I find that payment of Rs. 3,77,500/- was made by him through Easebuzz payment gateway. SEBI's examination has revealed that the following two bank accounts were beneficiaries of payments received from Easebuzz:

Beneficiary A/C Holder Name and Address	**Bank Details**
Mr. Devi Deen Patel S/o Bheekhu Patel, Ward No.03 The: Barhi Paraswara Kalan Pipariya Kalan, Katni – 483 370 (MP)	HDFC A/c No. 50100187368090 HDFC Bank Limited, Rahul Sadan, Heeraganj, Bhagwati Chowk, Katni – 483 501 (MP)
Mr. Kamal Prasad Patel, S/o. Mr. Devi Deen Patel	Punjab National Bank, A/c. No. 0263001500013526 Branch Name: Katni, Dist: Jabalpur, Madhya Pradesh

5. The KYC records and bank account statements of the aforesaid bank account were examined by SEBI. On perusal of bank statements, the SCN observes that,

   a) A sum of Rs.17,02,481.68/- has been credited in HDFC Bank Account No. 50100187368090 of Shri Devi Deen Patel during April 01, 2018 to December 17, 2019.

   b) During the period April 01, 2018 to December 17, 2019, a total sum of Rs.40,29,132.16/- have been credited to the Punjab National Bank Account No. 0263001500013526 of Shri Kamal Prasad Patel wherein large number of payments received different dates through IMPS and UPI from another account of Shri Kamal Prasad Patel.

6. On perusal of the bank statements of the aforesaid bank A/cs., I find that in the HDFC Bank A/c. No. 50100187368090 of Noticee no. 2, there are several credit entries from various individuals through UPI/ IMPS/ NEFT. There are also credit entries from Payu Payments Pvt. Ltd, the same payment gateway which was mentioned on the website of India Global Research. Similarly, on perusal of PNB Bank A/c. statement of A/c. No. 0263001500013526 belonging to Noticee no. 1, I find that there are several credit entries where money has been credited from different individuals including from the other account of Noticee no. 2 itself through NEFT/ UPI/ IMPS. I also find that in the said A/c. money was also received from Easebuzz, the payment gateway mentioned on the website of India Global Research. The Noticees have contended that they have not linked their bank account with Easebuzz / Payu Money payment gateways and that somebody has fraudulently linked their bank A/c. with these payment gateways. I do not find any merit in this contention of the Noticees, for the reason that the Noticees seem to play the tune of 'fraud' only when an enforcement action in the form of these proceedings have been initiated against them. Strangely enough, there was apparently no claim of 'fraud' by these Noticees when lakhs of rupees were

deposited into their bank account from these payment gateways and the Noticees used to enjoy the usufructs. Assuming for the sake of argument that a fraud has been committed upon them, I do not find any action being taken by these Noticees, against the purported fraudsters, after the discovery of the purported fraud. In view of the above, I find that such claims are being made by these Noticees, only to escape from the consequences of the present proceedings.

7. Noticee no. 1 has contended that he is not the proprietor of India Global Research and has never set up any proprietorship concern by the name of 'India Global Research'. I find some merit in this argument. I note that the SCN alleges that both the Noticees are proprietors of India Global Research, whereas, a sole proprietorship concern cannot have two proprietors. To this extent, I find that the SCN is not sensible. However, I note that this error does not *ipso dixit* vitiate the charge in the SCN, which is that Noticee no. 1 and 2 were offering investment afvisory services to their clients for consideration, without obtaining registration from SEBI, using the website http://indiaglobalresearch.com. As has been observed in the previous paras of this order, the contents of the website undoubtedly show that it was offering investment advisory services. The bank account of both the Noticees were linked to the payment gateways mentioned on the aforesaid website. There are multiple unexplained credit entries in the bank accounts of these Noticees, from different individuals. Thus, it is amply clear that Noticee no. 1 and 2 were involved into offering unregistered investment advisory services using the website http://indiaglobalresearch.com. Therefore, the question whether the Noticees were proprietors of India Global Research or partners of India Global Research, is no more relevant.

8. Noticee no. 1 claims that since 2014 he has been working with various investment advisors and research analyst firms and in the routine course of employment, the employer demands the PAN Card, Aaadhar Card, qualification documents and routinely gets signature on blank bank opening forms for the purpose of opening salary accounts. I note that no proofs have been furnished by Noticee no. 1 in support of these claims. There is no shred of evidence to hold that Noticee no. 1 was working with various investment advisory firms. Assuming that he was indeed working with an investment advisor, this fact alone is of no relevance because the

Noticee himself has submitted to have signed upon the account opening form. Thus, his claim that he was not aware about the existence of such an account is false.

9. Noticee no. 2 has submitted that he is a farmer by profession. However, I note that this is merely a bald claim without any shred of evidence. Noticee no. 1 has claimed that during the course of his employment with various companies, number of times his colleagues used to ask the account number of himself and his father to receive payments from their relatives/ parents for their daily need and expenses. He claims that somebody might have misused these account numbers to link it with payment gateways mentioned on the website. It is hard to fathom the claim that somebody misused the bank account of the Noticees to receive money. It is stranger than fiction as to why would anybody mention the Noticees bank account to receive funds which rightly/ wrongly is earned by others. Further, assuming that somebody may have maliciously linked the bank account of the Noticees with the payment gateway, even in such a scenario, I do not merit in the claim of the Noticees that they were not aware of transactions in their bank accounts. Funds aggregating to lakhs of rupees were deposited into the bank account of the Noticees and the Noticees did not even bother to raise any alarms? I note that the claims of the Noticees are nothing but an after-thought merely canvassed to escape from the consequences of the present proceedings.

10. I note that during examination, SEBI had conducted a physical verification of the address of India Global Research (i.e. "Indira Gandhi Road, New Raipur, Chattisgarh – 492001") as mentioned on its website. It was found that no such address existed in and around New Raipur or in Raipur.

11. From the contents of the website http://indiaglobalresearch.com, it is clear that the website was engaged in offering investment advisory services. Further, from the payment gateway links of Easebuzz and PayU Money, as mentioned on the website and the linked bank account of Noticee no. 1 and 2 to these payment gateways and the consequent credit of money into these bank accounts, it is evident that the Noticees were engaged into offering investment advisory services through the said website for consideration. Further, from the various credit entries

in the aforesaid bank accounts of the Noticees (for the period from April 1, 2018 to December 17, 2019, it is observed that there are large number of unexplained credit entries from several individuals. In view of the above, I find that the Noticees were engaged in offering investment advisory services to clients/ investors for a consideration, without obtaining registration from SEBI. I also note that despite being asked to show cause, the Noticee has been unable to explain the source of the credit entries in the aforesaid bank accounts. Thus, I am inclined to hold that the credit entries in the said bank account aggregating to an amount of Rs. 57,31,613.84, were funds received by the Noticees from clients/ investors while offering the unregistered investment advisory services.

12. I note that if an entity is engaged in providing 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 *in lieu* of consideration, including entities which are holding themselves out as investment advisers, are covered by the definition of "Investment Adviser" as given in Regulation 2(1)(m) of the IA Regulations, 2013. As noted above, Rs. 57,31,613.84 were received in the aforesaid bank accounts whose beneficiary were either of the Noticees. As noted in the previous paragraph, the payments received in the bank accounts of the Noticees, were in lieu of the investment advisory services provided by them. Hence, I find that Noticee no. 1 and 2 were engaged in the business of providing investment advice to its clients, for consideration, and thus, acting as investment advisers, as defined under Regulation 2(1)(m) of the IA Regulations, 2013.

13. I also 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:"

14. 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.

15. 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.

16. 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 the Noticees were acting as an Investment Adviser, although the Noticees were not registered with SEBI in the capacity of Investment Adviser. Hence, I find that these activities/ representations as were being made by the Noticees without holding the mandatory certificate of registration as investment adviser, are in violation of Section 12(1) of SEBI Act, 1992 read with regulation 3(1) of the IA Regulations, 2013.

17. 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 there into 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.

18. From the material available on record, I note that the examination in the matter was initiated on the basis of a complaint. I also note that an aggregate amount of Rs. 57,31,613.84 has been collected by the Noticees in the bank accounts, by providing unregistered investment advisory services, still needs to be refunded to the investors/ clients.

DIRECTIONS

19. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections11(1), 11(4) and 11B(1) 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 clients/ 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 direction;

c) The repayments to the clients/ complainants/ investors shall be effected only through banking channels (and not cash transfers), which ensures audit trails to identify the beneficiaries of repayments;

d) After completing the refund as directed in para 19 (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, Division of Registration-2, Market Intermediaries Regulation and Supervision Department (MIRSD), 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, name of the parties refunded, 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 Investors Protection and Education Fund maintained by SEBI;

f) The Noticee 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 not to allow any debits, except 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 six (6) months from the date of this order or till the expiry of six (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 19(a) and 19(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 19(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 19(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.

20. The direction for refund and depositing the balance amount with SEBI, as given in para 19 (a) and 19(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/ authority of competent jurisdiction.

21. This order comes into force with immediate effect.

22. 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: December 15, 2022
Place: Mumbai

ANANTA BARUA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA