

National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/55083	Date: December 30, 2022
Circular Ref. No: 222/2022	

To All NSE Members,

Sub: Order in the matter of unregistered investment advisory services by Mehul Pravinbhai Jiyani (Proprietor – Rocket Tips)

SEBI vide its Order No. QJA/AA/WRO/WRO/22665/2022-23 dated December 30, 2022, has hereby debarred following 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 one (1) year from the date of this order or till the date of filing of report, as directed in sub-para 37.6 of the Order, whichever is later.

Sr. no.	Name of Entity	PAN
1.	Mehul Pravinbhai Jiyani (Proprietor- Rocket Tips)	AGPPJ1611H

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. Rohit Swami (Extension: 23023), Mr. Anand Jangir (Extension: 22385)



National Stock Exchange of India

Direct No: 022-26598417/18 Fax: 022-26598195

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

**Anand Jangir
Manager**

**ANNEXURE: Order in the matter of unregistered investment advisory services by Mehul Pravinbhai
Jiyani (Proprietor – Rocket Tips)**

QJA/AA/WRO/WRO/22665/2022-23

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11(B) (1), 11(B) (2) AND 11D OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 3(1) SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013

In respect of

Sr. No.	Name of Noticee	PAN
1.	MEHUL PRAVINBHAI JIYANI (Proprietor- Rocket Tips)	AGPPJ1611H

In the matter of Unregistered Investment Advisory Services

BRIEF BACKGROUND

1. Securities and Exchange Board of India (“**SEBI**”), pursuant to receipt of a complaint dated August 05, 2020, had conducted an examination in the matter of unregistered investment activities by Mr. Mehul Pravinbhai Jiyani (hereinafter referred to as “**the Noticee**”), sole proprietor of Rocket Tips, to ascertain the veracity of the said complaint and to determine whether there has been any violation of the provisions of Securities and Exchange Board of India, 1992 (“**SEBI Act, 1992**”), the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trading Practices in Securities Market) Regulations, 2013 (“**PFUTP Regulations**”), the Securities and Exchange Board of India (Investment Advisors) Regulations, 2013 (“**IA Regulations**”) and any other Rules or Regulations made thereunder by the Noticee.
2. From the examination of the aforesaid complaint, screenshots of the website www.rockettips.com available on record and other material, it was, *prima facie*, found

that the Noticee engaged in investment advisory services without obtaining any certificate of registration.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice dated September 29, 2022 (“**SCN**”) was issued to the Noticee calling upon him to show cause as to why suitable directions under Sections 11(1), 11(4), 11(4A), 11B (1), 11B (2) and 11D of the SEBI Act be not issued and penalty be not imposed under Section 15HB and 15EB of the SEBI Act for the alleged violations against the Noticee. The following documents were enclosed as annexures to the SCN:

Annexures to SCN	
Annexure Nos.	Particulars
1	Copy of the complaint against the Noticee dated August 05, 2020
2	The Screenshot of the Website www.rockettips.com
3	Screenshot of the website with an option to pay through PAYU
4	Copy of HDFC Bank Account Statement (in C.D.)
5	Copy of Declaration submitted with the application seeking registration as a Research Analyst
6	Copy of printout of <i>whois.com</i>

4. The SCN was duly delivered to the Noticee by speed post, acknowledgement of which is available on record and by email. I note that the SCN has alleged the following: -

- 4.1. SEBI had received one complaint dated August 05, 2020 against the Noticee (sole proprietor of Rocket Tips) in which, the complainant had, stated following:
“Subject: Please do any enquiry against this types company

Please sebi do best for investors because such tipes of company deceived us. We are so boards such farji company see. Rokat tips company call and trade my account loss 3 lk in that time”

- 4.2. Upon examination into the activities of the Noticee, it was noted that a website with the domain name www.rockettips.com was being operated by the Noticee. On perusal of the screenshots of the said website, the following was observed:

“Why to Join Rocket Tips

Rocket Tips is the global Indian research company provides consultancy for commodity & equity markets i.e. MCX, NCDEX, BSE, NSE (Cash & F&O). We provide 90% to 95% accurate results with no false promises. Our live SMS, Email and Website support ensures you of above prompt services. We provide various commodity consultancy services according to the needs of traders, with a very experienced research team of commodity analyst having an experience of more than 5 years in this field. We give personal attention to each and every client.

We are operating here since 2010 and successfully giving services to more than 3500 clients from all over India. Providing mobile and email support will help you overall to get the result.”

- 4.3. It was also observed from the contents of the website that claims were made in relation to providing investment advisory services in equity, derivatives and commodities markets and in segments such as Stock Cash, Futures, etc. The pricing for the various packages advertised on website is given below: -

Pricing

Stock Cash	Future (Stock/Nifty)	Options	Equity Combo
• Rs. 9888/month • Rs. 23888/3 month • Rs. 40888/6 month • Rs. 70888/1 Year • 2% to 5% return on every call • Only one call active at a time	• Rs. 10888/month • Rs. 24888/3 month • Rs. 42888/6 month • Rs. 72888/1 Year • Upto 5000 return per lot • Only one call active at a time	• Rs. 7888/month • Rs. 16888/3 month • Rs. 28888/6 month • Rs. 41888/1 Year • This includes stock or index option (Call/Put) • Only one call active at a time	• Rs. 20888/month • Rs. 44888/3 month • Rs. 80888/6 month • Rs. 118888/1 Year • This includes stock cash, stock future, nifty future, options (Call/Put) • Only one call active at a time

Bullions	Energy	Base Metal	Commodity Combo
• Rs. 12888/month • Rs. 25888/3 month • Rs. 45888/6 month • Rs. 80888/1 Year • 10% to 12% return on every call • Only one call active at a time	• Rs. 8888/month • Rs. 21888/3 month • Rs. 36888/6 month • Rs. 60888/1 Year • Upto 60 points gain in each call • Only one call active at a time	• Rs. 9888/month • Rs. 22888/3 month • Rs. 42888/6 month • Rs. 72888/1 Year • Rs 3000 to Rs 5000 gain in each call • Only one call active at a time	• Rs. 54888/month • Rs. 85888/3 month • Rs. 120888/6 month • Rs. 118888/1 Year • This includes stock Bullions, Energy, Base metal Services • Only one call active at a time

4.4. It was observed that the website of the Noticee (www.rockettips.com) had an option to pay through PAYU. From the information obtained from PAYU, *inter-alia*, the following is noted: -

Name of the person who had availed the services from PAYU	Mehul Pravinbhai Jiyani
Address	2 nd Floor, BJ Towers, Huskur Gate, Electronic City, Bangalore
PAN	AGPPJ1611H
Bank account No.	05331530010709 (HDFC Bank Surat)

Transaction details at PAYU

First Transaction date	28/05/2015
Last transaction date	16/11/2020
Total Credit entries	2250
Total Amount credited	Rs. 2,02,42,443

- 4.5.** As HDFC Bank Account No.5331530010709 was mentioned in the merchant account held by the Noticee with PAYU, the details of bank account statement and Account Opening Form were sought from HDFC Bank. On perusal of those documents, the following was noted: -

Name of the account holder	Mehul Pravinbhai Jiyani
Address	178, Rachana Society, Kapodra, Varachha Road, Nr.Rachana Circle, Surat - 395006
Account opening date	June 25, 2011
First transaction	June 28, 2011
Last transaction	March 31, 2021
Total credit entries	1761
Total amount credited	Rs. 2,61,99,592

- 4.6.** It was also noted from the bank account statement that there were narrations, such as tips, trading fees, share market, trade calls, service charges, investment advice, advisory fee, share market, trade calls, fee for tips, subscription, charges etc, which appear to be in the nature of fees collected for investment advisory activities.

Registration details of the Noticee.

- 4.7.** It was further noted from the perusal of records that the Noticee viz. Mehul Pravinbhai Jiyani is registered with SEBI as Research Analyst (R.A.) w. e. f. May 25, 2021, and prior to that the Noticee was not registered with SEBI in any capacity.

- 4.8.** Further, it was also observed that along with the application seeking registration as an R.A, the Noticee had submitted a declaration which, inter-alia, stated the following:

“I (Mehul Pravin Bhai Jiyani – AGPPJ1611H) do hereby declare that

- a. I have never applied to SEBI for any intermediary registration before*
- b. I am not associated with any SEBI registered intermediary*
- c. I have never been involved in share market as advisor/research analyst.”*

- 4.9.** Further, while submitting application for registration as R.A., the Noticee had not informed SEBI about the queries raised by SEBI, vide its letter dated October 28, 2020, with regard to his unregistered investment advisory activities.

Date of initiation of investment advisory services and amount collected by the Noticee

- 4.10.** From the website, ‘www.whois.com’, it was gathered that the website of the Noticee namely, www.rockettips.com was registered on April 27, 2014. Accordingly, all credit entries after April 27, 2014 in the HDFC Bank account and

PAYU account were considered as monies received for unregistered investment advisory services, as given below: -

Bank Name/ Payment gateway name	No. of Credit entries from 27/04/2014	Total Amount of credits w e f 27/04/2014
HDFC Bank	1671	Rs. 2,49,05,389.55
PAYU	2250	Rs. 2,02,42,443.00
Total		Rs 4,51,47,832.55

4.11. SEBI, vide letter dated October 28, 2020, had advised the Noticee to provide the details of its investment advisory related activities such as the list of clients, fee charged for various products / services offered, copies of audited financial statements, etc. However, no reply was received from the Noticee in this regard till date.

4.12. In view of the above, it was alleged in the SCN that the Noticee had engaged in providing investment advisory services without obtaining a certificate of registration from SEBI, in violation with the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the IA Regulations, 2013.

4.13. Further, on perusal of the website, it was also observed that the Noticee had mentioned about 90-95% accuracy with respect to his consultancy for commodity and equity markets which allegedly tantamount to fraud and mis-selling as per the definitions of these terms under the PFUTP Regulations. It was, therefore, alleged in the SCN that the Noticee has violated the provisions of Regulation 3(a),(b),(c),4 (2) (k) and (s) of SEBI PFUTP Regulations read with Section 12A (a), (b), (c) of the SEBI Act.

5. On perusal of the records, I note that the Noticee has not submitted any reply/ written submissions to the aforesaid SCN within twenty-one (21) days. In order to meet the requirement of principles of natural justice, an opportunity of personal hearing was

granted to the Noticee on November 17, 2022. I note that the hearing notice was duly delivered to the Noticee. Vide email dated November 14, 2022, M/s Joby Mathew Associates, Authorized Representative (hereinafter referred to as “AR”) of the Noticee sought for inspection of documents and four weeks’ time (after inspection of documents) to submit its reply and also to adjourn the hearing scheduled on November 17, 2022. Based on the request of the AR on behalf of the Noticee, an opportunity of inspection of the records/ documents (which were relied upon by SEBI for the purpose of the SCN) was provided to the Noticee on November 23, 2022, and also the Noticee was granted last and final opportunity of hearing vide notice dated November 15, 2022 for personal hearing on December 14, 2022 at 11:30 AM. The AR of the Noticee submitted a detailed reply dated December 08, 2022 to the SCN. On December 08, 2022, the AR requested to reschedule the hearing any time after 3 PM on December 14, 2022. The same has been acceded to. The hearing was conducted on December 14, 2022 at 4 PM wherein the AR appeared for the Noticee and made his submissions. The AR also requested time for filing additional written submission till December 22, 2022. The AR vide email dated December 22, 2022 filed additional written submission with respect to the SCN dated September 29, 2022.

- 6.** The Noticee, vide its letter dated December 08, 2022, submitted the following reply to the SCN:

6.1. The Noticee denied all the allegations made against him in the SCN.

6.2. SEBI appears to have acted on a complaint received by email on August 5, 2020. While the complainant does not set out the details of period relating to the purported “tips” or the alleged loss suffered by him (or even the details of the said alleged loss or the stock tips which caused the same), SEBI has considered 11 years i.e. from 2011 as the period during which the Noticee acted as an unregistered intermediary.

- 6.3.** The Noticee has not retained (and is not required to retain under any existing law) documents and records relating to such a long period; as a result, he is now unable to provide documents and records relating to the transactions that took place in his account during the said 11 years. Thus, the delay in the proceedings has prejudiced the Noticee and for this reason, the present proceedings ought to be terminated.
- 6.4.** The Noticee has completed his Master's in Business Administration ("MBA") in Finance in 2010 and since then has been working in the stock market. Rocket tips is the sole proprietorship firm of the Noticee; the said firm was set up in 2010 and since then, the firm has been offering services relating to stock market data and research on listed companies. The Noticee denies that he or his firm offered Investment Advice to clients as falsely alleged or otherwise. Needless to say, the Noticee's opinion on the possible price behaviour of particular scrips or contracts which is published on his website, which is available to all subscribers to the website cannot be construed as constituting investment advice. In and around May 2021, with the intention of offering bespoke research facility for clients, the Noticee applied for registration as a Research Analyst and the same was granted to him on May 25, 2021. The Noticee correctly mentioned in his application for registration as Research Analyst that he had not previously offered any investment advice or research analysis.
- 6.5.** In the 12 years that the Noticee's firm has been offering services relating to stock market data and research on listed companies, SEBI has received 1 complaint regarding alleged loss of 3 lakhs suffered; however, no details or particulars of the loss suffered or the relevant period are set out in the complaint. Allegations have been made in the SCN based on such a complaint. SEBI has failed to consider that investors who trade in securities rely on multiple sources of information including news websites, stock exchange websites, news feeds, social media applications such as twitter, telegram, WhatsApp and also opinions put out by various persons and entities on blogs, websites etc. When such

traders suffer losses in the securities market, they seek to blame others for the loss rather than themselves; sometimes, they focus the blame on a single person or entity whose opinion they may have seen. A regulator is expected to apply its mind and appreciate the merits of each complaint rather than mindlessly initiate action.

- 6.6.** The Noticee denies that he has provided any investment advisory services to the Complainant or any other person as falsely alleged or otherwise.
- 6.7.** The Noticee further denies that he was engaged in providing alleged unregistered investment advisory services to the investors through website as falsely alleged or otherwise.
- 6.8.** The Noticee further submitted that the website, www.rockettips.com which was run by him till 2020 merely provided stock alerts and market data and did not offer investment advisory services. Market data and the Noticee's opinions regarding stock prices etc., were provided only to subscribers, but the same were not tailored to any particular subscriber. The prices set out in paragraph 3 to the SCN were for subscription and NOT for availing any investment advice as falsely alleged or otherwise.
- 6.9.** The Noticee had opened a bank account with HDFC Bank, Surat in June 2011 and that he entered into an arrangement with PayU, a payment gateway services provider for receiving subscription money relating to the website www.rockettips.com. The Noticee closed the said arrangement in November 2020.
- 6.10.** SEBI has not set out the details of the 2,250 credit entries or of the sum of Rs.2,02,42,443/- alleged to have been received in the Noticee's HDFC Bank account bearing number 05331530010709 through PayU or mentioned the source for the data or provided such source data to him. Since the Noticee

closed his account with PayU in 2020, he does not have access to any statement or detail regarding the said PayU account.

- 6.11.** There is discrepancy in the number of credits received through PayU and the number of credits in the HDFC bank account of the Noticee and therefore, the SCN not only lacks in material particulars, but is also erroneous. This is also evident from the table set out in paragraph 10 of the SCN; it is SEBI's case that funds were received from subscribers by the Noticee through the PayU gateway into his HDFC Bank Account. Therefore, the totaling of credit entries in PayU and HDFC Bank and the funds received is evidently erroneous.
- 6.12.** Similarly, from a comparison of paragraphs 5 and 10 of the SCN, it is not clear why 90 credits (1761 – 1671) for Rs.12,94,202.45 (Rs.2,61,99,592 – Rs.2,49,05,398.55) have been excluded.
- 6.13.** While it is mentioned in paragraph 10 of the SCN that all credits after April 27, 2014 will be considered as received towards unregistered investment advisory services, SEBI appears to have ignored the fact that the PayU account was started only in May 2015 i.e. a year after the website was registered.
- 6.14.** Thus, the SCN not only lacks in material particulars, it also discloses clear non application of mind while setting out facts and making allegations. The SCN ought to be withdrawn and the present proceedings terminated on this ground alone.
- 6.15.** Furthermore, mere receipt of credits in the Noticee's bank account cannot be the basis to allege that the Noticee was providing investment advisory or other services that required registration with SEBI. It is also pertinent to note that out of the clients from whom subscriptions were received, only 1 person made a vague and baseless complaint against the Noticee.

- 6.16.** The Noticee submitted that in and around May 2021, with the intention of offering bespoke research facility for clients, the Noticee applied for registration as a Research Analyst and the same was granted to him on May 25, 2021.
- 6.17.** The Noticee correctly mentioned in his application for registration as Research Analyst that he had not previously offered any investment advice or research analysis.
- 6.18.** The Noticee denies he was engaged in providing any alleged unregistered investment advisory services to the investors and was only a RA providing his opinion based on his research report.
- 6.19.** Since the Noticee had not been providing investment advisory services, the letter dated October, 28, 2020 issued by SEBI was the result of a misunderstanding; in order to avoid any further misunderstanding, the Noticee closed the website and terminated the arrangement with PayU.
- 6.20.** As per the advice given to the Noticee by certain persons at that time, his actions were sufficient in respect of the queries raised by SEBI vide letter dated October 28, 2020. The Noticee further submitted that it is erroneous to allege that all funds received in his HDFC Bank account after April 17, 2014 related to payments for providing investment advisory services solely because he failed to reply to SEBI's letter dated October 28, 2020. Such an inference is not only unjustified, the same is illogical and unsustainable.
- 6.21.** With reference to paragraph 12 & 13 of the SCN, the Noticee denies that the services offered by him through the website www.rockettips.com i.e. providing stock alerts, market data and the Noticee's opinion regarding stocks or contracts constitutes investment advice. Therefore, the Noticee denies that he has violated regulation 3(1) of the Securities and Exchange Board of India (Investment Adviser) Regulations, 2013 or section 12(1) of the SEBI Act as

falsely and erroneously alleged or otherwise. The Noticee repeated, reiterated and submitted that the business carried on by him did not require him to obtain a certificate of registration from SEBI.

6.22. SEBI has misunderstood the statement regarding accuracy made on the website www.rockettips.com. The statement of accuracy related to the stock and market data being provided and not accuracy relating to alleged returns promised.

6.23. The data made available by the Noticee on his website was publicly available and could be verified independently; his opinion regarding the movement of prices of securities including scrips and futures & options contracts were based on his analysis and understanding and not made in a careless or reckless manner as falsely alleged or otherwise. Furthermore, the Noticee had no reason to believe that the data or opinions provided by him through his website were false or misleading; it is pertinent to note that SEBI has not brought on record any such information or shown that the Noticee concealed or omitted material facts or risks or that the Noticee provided services to clients without taking reasonable care to ensure the suitability thereof.

6.24. The allegations made against the Noticee do not relate to trading in securities; in fact, there is nothing on record to suggest or show that the Noticee dealt in securities on behalf of investors or others.

6.25. In the light of the above submissions, the Noticee prays that he may be discharged from the present proceedings and that an order may be passed accordingly.

7. Further, the AR of the noticee vide its letter dated December 22, 2022 filed its additional submissions and reiterated the following submissions made by him vide his earlier reply dated December 08, 2022:

- 7.1.** The Noticee registered the internet domain and website www.rockettips.com on April 27, 2014; however, the record does not indicate that the Noticee provided services (whether investment advisory, as alleged, or otherwise) from that date. It is pertinent to note that even as per the record, the first credit received by the Noticee through the PayU payment gateway (which was mentioned in the said website as a method of payment) was on May 28, 2015. Therefore, the basis for considering all credits in the account of the Noticee with HDFC Bank, Surat from April 27, 2014 as being monies received for unregistered investment advisory services (para 10, pg. 5 of SCN) is erroneous, baseless and unsustainable.
- 7.2.** Payments received by the Noticee through the PayU payment gateway were credited to the Noticee's HDFC Bank account and therefore, the totaling of credits received in the HDFC Bank account from April 27, 2014 through the said payment gateway and otherwise (para 10, pg. 5 of SCN) is erroneous, baseless and unsustainable.
- 7.3.** The SCN leaves the period during which the Noticee provided services (whether investment advisory, as alleged, or otherwise) as open ended. However, the record shows that the Noticee terminated the arrangement with PayU in November 2020 and no credits were received through the said payment gateway into his HDFC Bank account after November 16, 2020. The Noticee stopped offering services through the website w.e.f November 5, 2020 and the website has been inactive since November 6, 2020. He closed the HDFC bank account on March 31, 2021. Thus, the SCN has failed to consider the relevant material on record.
- 7.4.** An examination of the statement of account provided by HDFC Bank to SEBI for the period June 25, 2011 to October 6, 2021 and thousands of narrations in respect of credit entries during the said period, will show that there were only 6 narrations which mentioned the word "Advisory" or "Advisor". These narrations

were made by persons who subscribed to the information services provided by the Noticee; these were not based on any pre-determined narrations in the website. Therefore, the conjecture in para 6 of the SCN that the fees collected through the website were towards investment advisory services rendered by the Noticee are erroneous, false and unsustainable.

7.5. The examination by SEBI was based on a complaint dated August 5, 2020 preferred by one Sharad Bajirao Patil. The said complaint does not allege that the Noticee provided any investment advisory services to him or the details or particulars thereof; the complaint also does not disclose the details or particulars of the loss suffered by the complainant. No other complaint has been cited by SEBI in the SCN; thus, the record indicates that no person other than Mr. Patil had any grievance against the Noticee regarding the information services provided by the Noticee.

7.6. It is evident from the portions of the web pages quoted by SEBI in paras 2 & 3 of the SCN, that nowhere is the word ‘investment advisory’ mentioned. The Noticee only provided information regarding equity shares, futures & options traded on stock exchanges and commodities or commodity contracts traded on commodity exchanges on a subscription bases to traders (and not investors). Traders do not require investment advice, rather, they only need information regarding securities; at worst, the Noticee may have provided his opinion regarding the said securities. The aforesaid does not constitute “investment advice” as defined in Regulation 2 (1) (I) of the Securities and Exchange Board of India (Investment Advisors) Regulations, 2013; the SCN correctly does not state otherwise. The Noticee correctly believed that the services offered by him did not constitute investment advisory services and therefore, correctly declared in his application for registration as Research Analyst that he had not been involved in the share market as advisor/research analyst.

- 7.7.** In view of the above, the Noticee denied that he was required to register with SEBI as an Investment Advisor under Section 12 of the SEBI Act or Regulation 3 of the Securities and Exchange Board of India (Investment Advisors) Regulations, 2013 as falsely and erroneously alleged or otherwise.
- 7.8.** The SCN and the records relied on by SEBI do not show that the words “90-95% accuracy” related to investment advice offered by the Noticee; in fact, a plain reading of the contents of the website extracted in para 2 of the SCN shows that the same related to accuracy of the information provided to traders. Therefore, the allegation that the said one phrase in the website consisting of several pages amounted to fraud or mis-selling and violated Section 12A of the SEBI Act and/or Regulations 3 and/or 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to the Securities Market) Regulations, 2003 is false, erroneous, baseless and unsustainable.
- 7.9.** The Noticee submitted that the conjecture by SEBI that *“As no reply has been received from the Noticee in response letter dated October 28, 2020, seeking clarification on the nature of transactions reflected in the bank account of the Noticee, it is being alleged that the entire amount reflected in the above mentioned bank account after April 27, 2014, relates to payments received for providing investment advisory services.”* is illogical, erroneous and unsustainable. The SCN does not indicate that any further communication was addressed in this regard to the Noticee or any summons issued to the Noticee or any other person including the complainant. In fact, the Noticee obtained registration as Research Analyst from SEBI on May 25, 2021, a few months after the said letter was issued by SEBI. The said conjecture is therefore, nothing but an afterthought and an attempt to draw inference of guilt from a lack of reply to a letter from SEBI.

7.10. The Noticee submitted that the record relied on by SEBI shows that the allegations made against him in the SCN are based on conjecture and surmises and at best on circumstantial evidence. In this regard, the Noticee has placed reliance on the order passed by the Hon'ble Supreme Court in *Hanumant v. State of Madhya Pradesh AIR 1952 SC 343*.

7.11. The Noticee submitted that the present proceedings are also vitiated by delay and laches since the proceedings relate to transactions that took place from April 27, 2014 i.e. 8 years ago. In the meanwhile, the Noticee stopped offering information services, the website became non-operational and the Noticee also closed his bank account and payment gateway.

7.12. As requested by the Designated Authority, the Noticee produced copies of the Income Tax Returns filed by him for the Financial Years 2014-15 to 2019-20.

7.13. The Designated Authority has also directed the Noticee to provide a breakup and details of the credit received through PayU and HDFC Bank or any other bank linked through PayU. The Noticee stated that he is unable to provide the said details as the details of transactions through the PayU account are no longer available with him; nor can they be obtained from PayU in view of the closure of the account in November 2020.

7.14. In the light of the above, the Noticee prays that he may be discharged from the present proceedings and an order may be passed accordingly.

CONSIDERATION OF ISSUES AND FINDINGS

- 8.** I have carefully considered the allegations made in the SCN along with the findings of examination by SEBI stated therein, submissions made by the Noticee in its replies to the SCN, those made during oral hearing and all the documents available on record.

9. The SCN alleges the violation of the following provisions of law by the Noticee:

Section 12A of the SEBI Act

12A. No person shall directly or indirectly

- (a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*
- (b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;*
- (c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder*

SEBI (INVESTMENT ADVISER) REGULATIONS, 2013

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:*

Provided that a person acting as an investment adviser immediately before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate under sub-regulation (2) within the said period of six months, till the disposal of such application.

PFUTP Regulations:

Regulation 2 (1) of PFUTP Regulations:

(c) “fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also, inter-alia, include—

(1) to

(4)

(5) A representation made in a reckless and careless manner whether it be true or false

(6) to

(9) ...

Prohibition of certain dealings in securities

3. No person shall directly or indirectly-

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

Prohibition of manipulative, fraudulent and unfair trade practices

4(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following: —

...

(k) Disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities;

..

(s) mis-selling of securities or services relating to securities market;

Explanation-For the purpose of this clause, “mis-selling” means sale of securities or services relating to securities market by any person, directly or indirectly, by—

(i) knowingly making a false or misleading statement, or

(ii) knowingly concealing or omitting material facts, or

(iii) knowingly concealing the associated risk, or

(iv) not taking reasonable care to ensure suitability of the securities or service to the buyer.

10. SEBI received a complaint by email on August 5, 2020 alleging loss of Rs. 3 lakhs suffered by the complainant. Based on the said complaint, an examination was conducted by SEBI into the activities of the Noticee. The Noticee has submitted that the said complaint received by SEBI does not set out the details of the period relating to the purported tips or alleged loss suffered by him and on the basis of such a complaint SEBI has made the allegations against the Noticee. It is pertinent to mention here that the complaint/(s) received by SEBI are basically only alerts based on which SEBI suo moto conducts examination / investigations and takes action against the entities, if found to be in violation of any of the provisions of the securities laws. In the instant case, I note that the allegations levelled against the Noticee in the SCN are not based on the complaint received by SEBI but after conducting an examination into the activities of the Noticee and various material / documents obtained from PAYU, HDFC Bank, screenshots of the website of the Noticee, etc. Therefore, I do not find any merit in the said submissions of the Noticee.

11. Furthermore, in order to examine if there are other complaints against the Noticee or Rocket Tips, a general search on internet was done through the search engine, Google and it is seen that certain investors/ clients of the Noticee have made complaints on websites such as www.compliantboard.in and www.consumercompliants.in complaining of fake tips and fraud by way of fake promises against the Noticee.

- 12.** The Noticee in his submissions has stated that the present proceedings are tainted by delay and laches and ought to be terminated on the said ground alone. I note that the said submission is totally misplaced and without any merit as SEBI, vide its letter dated October 28, 2020, i.e. after receipt of the complaint dated August 05, 2020, had advised the Noticee to provide the details of its investment advisory activities such as the list of the clients, fees charged for the various products / services offered, audited financial statements, etc. However, the Noticee has, till date, not provided any of the said details. The details of the arrangement with PayU to make payments for the services offered / subscriptions and the bank account statements were obtained from PayU and HDFC Bank upon requests being made by SEBI. Further, it is noted from the data provided by PayU that the arrangement with PayU as a mode of making payment for various subscriptions as provided on the website of the Noticee started only from May 28, 2015 i.e. the first date of transaction which has not been disputed by the Noticee. The said date is approximately 5 years before the date on which details were sought by SEBI from the Noticee i.e., October 28, 2020. It is noted that after receipt of the complaint in August 2020, an examination was conducted into the activities of the Noticee wherein it was observed that the Noticee was providing investment advisory services to investors at large from 2014 onwards for consideration. Based on the said prima facie observations, further proceedings have been initiated in the case. Therefore, I note that the present proceedings cannot be said to be tainted with any delay and do not deserve to be terminated on this ground.
- 13.** The Noticee has even stated that it does not have the details of the records requested by SEBI as the same pertained to the period from 2011 onwards. I note that the details pertaining to the fees collected towards products / services offered could have been obtained by the Noticee from PayU and HDFC Bank, as has been done by SEBI in order to examine the activities undertaken by the Noticee. Even after receiving SEBI's letter dated October 28, 2020 seeking information, the Noticee did not respond to the said letter. As a general practice, all the business records such as tax returns, employee files, accounting services records, operational records, etc. are to be

maintained for a period of seven years. Therefore, even if the submission of the Noticee is taken to be correct, I note that the Noticee could have managed to produce records as requested by SEBI from F.Y. 2013-14 onwards till the date of the SEBI letter. Considering that no efforts have been taken by the Noticee to produce any documents to SEBI and the fact that the data sought for was for a period which was not very old, I do not find merit in the said submission of the Noticee. Information was sought from him vide letter dated October 28, 2020 and the same has not been provided by the noticee. I do not hesitate to note that the noticee has not co-operated during the examination by SEBI.

14. I further note that the Noticee has submitted that Rocket tips is the sole proprietorship firm of the Noticee; the said firm was set up in 2010 and since then, the firm has been offering services relating to stock market data and research on listed companies. The website, www.rockettips.com which was run by him till 2020 merely provided stock alerts and market data and did not offer investment advisory services. Market data and the Noticee's opinions regarding stock prices etc., were provided only to subscribers, but the same were not tailored to any particular subscriber. In this regard, I note from the screenshots of the website of the Noticee, that the Noticee was charging different amount of subscription fees for different products / services such as for Equity Pricing alerts with respect to stock cash, future (Stock Nifty) Options and Equity Combo. The Noticee was charging different monthly, quarterly, half yearly and yearly subscription fees. Similarly, for Commodity Pricing alerts with respect to Bullions, Energy, Base Metal and Commodity Combo, the Noticee was charging different amounts of subscription fees similar on the lines of Equity Pricing alerts. I further place reliance on the following information displayed on the website of the Noticee:

*".... We provide 90% to 95% accurate results with no false promises. **Our live SMS, Email and Website support ensures you of above prompt services.** We provide various commodity consultancy services according to the needs of traders. With a very experienced research team of commodity analyst having an experience of more*

than 5 years in this field. **We give personal attention to each and every client.** We are operating here Since 2010 and successfully giving services to more than 3500 clients from all over India. **Providing mobile and Email support will help you overall to get the result.** Note: Many traders just shift their attention or change their consultant every month or two and they can't get desired satisfaction from anyone of those. We just advice you that please be patient and trust your consultant for at least 7 to 8 months or an year to get better results.”

From the aforesaid, it is clear that the Noticee was, in fact, providing investment advice including the Noticee's analysis of stock prices **to each of its clients/ investors** through dedicated SMS/ Email/ Website support. Even assuming that the Noticee was providing tips to its subscribers, I note that the definition of “investment adviser” under the IA Regulation states that an investment adviser means any person, who for consideration, is engaged in the business of providing investment advice to group of persons. I note that the Noticee offered various packages, the details of which are given at para 4.3 above. The Noticee is also inviting clients on its website to subscribe to their services to get the assured results. The very act of offering any 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 would constitute ‘investment advice’ within the scope of SEBI (IA) Regulation, 2013. In view of the above, I am unable to accept the Noticee's contention that it was providing investment related advice to its subscribers and not hand tailored for a specific subscriber.

15. Upon perusal of the website, I note that certain customer reviews on the services of the Noticee also appeared which read as “I earned 1-year subscription in just 1st week of trading. I have never seen so much accuracy till date. Keep going god bless you all”. Such reviews / comments from investors clearly shows that the Noticee was providing investment advisory services to its subscribers for consideration, the same

being collected under the guise of subscription fees without obtaining a Certificate of registration from SEBI.

- 16.** I also note that the Noticee had applied for registration as a Research Analyst and the same was granted to him on May 25, 2021. The Noticee had mentioned in his application for registration as Research Analyst that he had not previously offered any investment advice or research analysis. The Noticee had submitted a declaration which inter-alia stated as follows: -

“I (Mehul Pravin Bhai Jiyani – AGPPJ1611H) do hereby declare that

- a. I have never applied to SEBI for any intermediary registration before*
- b. I am not associated with any SEBI registered intermediary*
- c. I have never been involved in share market as advisor/research analyst.”*

Thus, I note that the Noticee, in order to get registration with SEBI as a Research Analyst, had not disclosed about the existence of the letter dated October 28, 2020 received from SEBI enquiring about the alleged unregistered investment advisory activities undertaken by SEBI.

- 17.** With respect to the alleged amount collected by the Noticee by way of providing the investment advisory services in the HDFC Bank Account, the Noticee has submitted that there is discrepancy in the number of credits received through PayU and the number of credits in the HDFC bank account of the Noticee. Further, the Noticee also states that from a comparison of para nos. 5 and 10 of the SCN, it is not clear as to why 90 credits i.e. 1761-1671 for Rs. 12,94,202.45 have been excluded. It has also been highlighted by the Noticee that the PayU account had started only from May 2015 i.e. a year after the website was registered. In this regard, I find that the SCN at para 10 has clearly mentioned that all credit entries after April 27, 2014 in the HDFC Bank account and PAYU account are considered as monies received for unregistered investment advisory services as the website www.rockettips.com got registered only on April 27, 2014. Therefore, the figure mentioned at para 5 of the SCN, being the

total amount of credit entries in HDFC Bank A/c from the date of first transaction i.e. June 28, 2011, has been mentioned whereas in para 10 of the SCN, the credits mentioned are those which have been considered only after the period of registration of the website i.e. April 27, 2014 and therefore, a difference of Rs. 12,94,202.52 in the amount of fees collected appears in the said paras of the SCN. In other word, the correct amount, as per the bank account statement is given below:

Total Credit Amount (From the date of account opening (i.e. 25/06/2011) to last transaction (i.e. 31/03/2021)___I	Rs. 2,61,99,592.07
Credit amount prior to the IA Date (i.e. from 25/06/2011 to 26/04/2014)___II	Rs. 12,94,202.52
Total amount collected towards IA Activity in HDFC Bank Account___ (I-II)	Rs. 2,49,05,389.55

- 18.** Further, with respect to the submission of the Noticee that the PayU account had started only from May 2015 i.e. a year after the website was registered, I find that even though the arrangement with PayU started only from May 2015, the fact that the Noticee has been having credits in the HDFC Bank A/c from the date of registration of the website with the narrations such as *subscription fees, fee, trade tips, tips, share adviser, subscription to tips, commission, share market tips, service, service charges, inventive, share purchase, tips for market, trading, stock agent payment, PAYU Payments, etc.*, cannot be ignored. Furthermore, I find that the amounts received through PayU being a subset of the total amounts received by the Noticee in his HDFC Bank A/c, the total amount of credits considered by me to be amounts collected by way of providing unregistered investment advisory services is the amount appearing in the HDFC Bank A/c from April 27, 2014 i.e. Rs. 2,49,05,389.55 and not Rs. 4,51,47,832.55. Thus, all credit entries from April 27, 2014 (i.e. the date on which the website www.rockettips.com got registered) to March 31, 2021 (i.e. last credit entry in the HDFC Bank A/c) is considered as collected towards fees for giving investment advice without any registration. Thus, I note that a total amount of Rs.

2,49,05,389.55 /- has been received by the Noticee in the HDFC bank account for the unregistered investment advisory services provided by it.

- 19.** It is noted that the definition of 'Investment advisor' as given in Regulation 2(1)(m) of the IA regulations is 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;"

- 20.** Further, Regulation 2(1)(l) of the IA Regulations states 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;"

- 21.** The definition of 'investment adviser' states 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 those entities which are holding themselves out as investment advisers, such entity will be covered by the definition of "Investment Adviser" as given in Regulation 2(1)(m) of the IA Regulations. Hence, I find that these services were being offered by the Noticee in lieu of certain consideration.

- 22.** Moreover, from the narration column of transactions in HDFC Bank, it is observed that money has been received from individuals wherein words like “*subscription fees, fee, trade tips, tips, share adviser, subscription to tips, commission, share market tips, service, service charges, inventive, share purchase, tips for market, trading, stock agent payment, PAYU Payments, etc.*”, appeared to be in the nature of fees collected for investment advisory activities. Therefore, I find that the Noticee, Proprietor – Rocket Tips, was engaged in the business of providing investment advice to its clients, for consideration, and thus, is acting as an investment adviser, as defined under Regulation 2(1) (m) of the IA Regulations, without having a registration.
- 23.** 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:
- 23.1.** 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 along with requisite non-refundable application fee;
- 23.2.** 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:
- 23.2.1.** 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 recognized 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;

23.2.2. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;

23.2.3. 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.

23.3. 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.

24. I note that the safeguards provided under IA Regulations, 2013 requires continued minimum professional qualification and net-worth requirement for investment adviser, including disclosure of all conflict of interest, prohibition on entering into transactions which are contrary to advice given for 15 days, risk profiling of investors, maintaining documented process for selecting investment for client based on client's objective and risk profile, understanding the nature and risks of products or assets selected for clients, etc. These requirements are aimed at protection of investor interest.

25. As per Regulation 3(1) of IA Regulations, the registration of the investment advisers is mandatory. It provides that, *"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"*.

26. With respect to the allegation of fraud, I note that the Noticee has submitted that the statement of accuracy was related to the stock and market data being provided and not the accuracy relating to alleged returns promised. I am of the considered view that 90-95% accuracy related to the advice provided by the Noticee on the securities disseminated on the website which would in turn be with an intention of displaying that the investments made on the basis of such accurate advice will ultimately result in profits. Therefore, the claim of 90-95% accuracy with respect to the advice provided by the Noticee definitely was intended to impact the returns on investment based on such advice and therefore, does tantamount to fraud and mis-selling as per the definitions of these terms under the PFUTP Regulations. I find that the Noticee, by claiming 90-95% accuracy in the advice provided by him, has violated the fundamental canon of the securities market i.e. investments are subject to market risks and therefore, has knowingly misled the investors at large by engaging in acts, practices, course of businesses which operated as 'fraud' as defined under Regulation 2(1)(c) of the PFUTP Regulations.
27. Regulation 4(2)(k) provides that dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities. Also, Regulation 4(2)(s) of the PFUTP Regulations prohibits mis-selling of securities or services related to securities market. Mis-selling has further been explained in the said Regulations to mean knowingly making false or misleading statements or not taking reasonable care to ensure suitability of the securities or services to the buyer. Therefore, I note that the Noticee was indeed involved in mis-selling of services to its clients by making false and misleading statements of high accuracy.
28. I note that in the case of **SEBI Vs. Kishore Ajmera (2016) 6 SCC 368**, the Hon'ble Supreme Court observed that,

“the SEBI Act and the Regulations framed there under are intended to protect the interests of investors in the Securities Market which has seen substantial growth in tune with the parallel developments in the economy. Investors' confidence in the Capital/Securities Market is a reflection of the effectiveness of the regulatory mechanism in force. All such measures are intended to preempt manipulative trading and check all kinds of impermissible conduct in order to boost the investors' confidence in the Capital market. The primary purpose of the statutory enactments is to provide enactment is to provide an environment conducive to increased participation and investment in the securities market which is vital to the growth and development of the economy. The provisions of the SEBI Act and the Regulations will, therefore, have to be understood and interpreted in the above light”.

29. It is also pertinent to refer to the observations of the Hon'ble Supreme Court in the case of **SEBI Vs. Kanaiyalal Baldevbhai Patel (2017) 15 SCC 1**, which are as under-

“The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word “induce”

.....to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient.”

30. Thus, I note that the Noticee by disseminating on its website about 90-95% accuracy with respect to his consultancy for commodity and equity markets has knowingly published false and misleading information through its website thereby defrauding the investors at large by inducing them to execute trades in the market based on the advice promising 90-95% accuracy and therefore, I find that the Noticee has violated the provisions of Regulation 3(a), (b), (c), 4 (2) (k) and (s) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act.
31. In view of above, I am convinced and would like to conclude that the activities of the Noticee (Prop. Rocket Tips), show that it was acting as an investment adviser. Also, neither the Noticee nor its firm viz. Rocket Tips were registered with SEBI in the capacity of Investment Advisor during the period under examination. Hence, I find that these activities were being carried out by the Noticee without obtaining the necessary certificate of registration as an investment adviser and therefore, the Noticee has violated the provisions of Section 12(1) of the SEBI Act read with Regulation 3 of the IA Regulations. Further, as concluded above, the Noticee, by making fraudulent and misleading dissemination on the website with respect to assurance of 90-95% accuracy in the advice provided has violated the provisions of Regulation 3(a), (b), (c), 4 (2) (k) and (s) of the PFUTP Regulations read with Section 12A(a), (b), (c) of the SEBI Act.
32. The SCN referred above, also calls upon the Noticee to explain as to why appropriate penalty be not imposed under Section 15EB and 15HB of the SEBI Act, 1992 on him for the violations as alleged in the said SCN. The relevant extract of the penalty provisions, as existing at the time of violations, is reproduced, hereunder:

“Penalty for default in case of investment adviser and research analyst.

15EB. Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one

lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.”

“Penalty for contravention where no separate penalty has been provided.

15HB. *Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board thereunder for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees”*

33. Upon consideration of the above penalty provisions, I find that Section 15EB and Section 15HB of the SEBI Act have been invoked in the present case against the Noticee for providing investment advisory services through its website without obtaining certificate of registration as provided under the SEBI Act read with the IA Regulations from the period from April 27, 2014 and for misleading and in turn inducing the investors at large to invest in the securities market based on such advice claimed to be 90-95% accurate. It is also relevant to mention that the noticee has not given the information sought for by SEBI, during its examination as noted at para 13 above. In view of the same, I am of the considered view that penalties under Sections 15EB and Section 15HB of the SEBI Act are attracted in the instant case.

34. For imposition of penalties under the provisions of the SEBI Act, 1992, factors mentioned under Section 15J of the SEBI Act, 1992 are to be considered which provides as follows:

“Factors to be taken into account while adjudging quantum of penalty.

15J. *While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —*

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*

(c) the repetitive nature of the default.”

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”

- 35.** As discussed in the aforesaid paras, I note that a total of Rs. 2,49,05,389.55 has been received by the Noticee in the HDFC bank account for the unregistered investment advisory services provided by it. Thus, in the light of the findings in the preceding paras, I am of the considered view that the Noticee is liable for refund of the aforementioned amount collected as an unregistered investment adviser in addition to monetary penalties which are attracted for the said violations under Sections 15EB and 15HB of the SEBI Act.
- 36.** Having established the violations in the preceding paragraphs, I note the following factors relevant to decide upon the nature of directions and quantum of penalty. The noticee has not furnished the information sought from him by SEBI vide its letter dated October 28, 2020, during the examination of its activities as an unregistered investment adviser, as discussed earlier in this order. The Noticee, by now, is a registered Research Analyst, for which the registration was granted by SEBI on May 25, 2021. However, while filing his application, he has not informed SEBI about his past activities as noted at para 16 above. As noted at paragraphs 26 to 31 above, the charge of fraud has also been established against the noticee.

ORDER AND DIRECTIONS

- 37.** In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) read with Section 19 of the SEBI Act, 1992 and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, do hereby issue the following directions:

- 37.1.** The Noticee shall refund the money received as consideration from investors/clients, in respect of their unauthorized investment advisory activities, as detailed hereinafter;
- 37.2.** The Noticee 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;
- 37.3.** The Noticee shall, within a period of three months from the date coming into force of this direction, 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;
- 37.4.** 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;
- 37.5.** The Noticee is prevented from selling his assets, properties and holding of mutual funds/shares/securities held by him in demat and physical form except for the sole purpose of making the refunds as directed above. Further, 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 Noticee, as directed in this order, from the bank accounts of the Noticee;
- 37.6.** 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 the directions as directed above, duly certified by an independent Chartered Accountant and the direction at para 37.5 above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;

37.7. 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 Noticee. Thereafter, remaining amount if any will be deposited in the ‘Investors Protection and Education Fund’ maintained by SEBI;

37.8. 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 one (1) year from the date of this order or till the date of filing of report, as directed in sub-para 37.6 above, whichever is later.

37.9. The Noticee shall, with immediate effect, cease and desist from carrying on unauthorized advisory activity;

37.10. The Noticee is hereby imposed with, the monetary penalties, as provided hereunder:

Provisions under which penalty imposed	Amount of Penalty (INR)
Section 15 EB of the SEBI Act	One (1) lakh
Section 15 HB of the SEBI Act	Five (5) lakhs
Total	Six (6) lakhs

37.11. The Noticee shall remit / pay the said amount of penalties within forty- five (45) days from the date of receipt of this order. The Noticee shall remit / pay the said amount of penalties through either by way of Demand Draft in favour of “SEBI -Penalties Remittable to Government of India”, payable at Mumbai, or through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of Chairman/ Members -> PAY NOW. In case of any difficulties in online payment of penalties, the said Noticee may contact support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to “The Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, Securities and Exchange Board of India, SEBI Bhavan II, Plot no. C-7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051” and also to e-mail id:-tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for : (like penalties /disgorgement /recovery/settlement amount/legal charges along with order details)	

38. The direction for refund, as given in para 37.2 above, does not preclude the clients/investors to pursue the other legal remedies 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.

39. This order shall come into force with immediate effect.

- 40.** A copy of this order shall be sent to the Noticee, 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.

Date: December 30, 2022

Place: Mumbai

Dr. ANITHA ANOOP
QUASI-JUDICIAL AUTHORITY
SECURITIES AND EXCHANGE BOARD OF INDIA