National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/55732	**Date: February 22, 2023**
Circular Ref. No: 47/2023	

To All NSE Members,

Sub: SEBI Order in the matter of www.wisdomcapitalgroup.com operators Shubham Rai and Rajesh Nath

SEBI vide its order no. WTM/ASB/WRO/WRO/23943/2022-23 dated February 22, 2023, has hereby debarred following entities from accessing the securities market, directly or indirectly and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, till the expiry of 3 (three) years from the date of completion of refund to clients/ investors and depositing of balance amount, if any, with SEBI, as directed in paragraph 13 (a) and 13 (e) of the SEBI Order.

Sr. No.	Name of the Entity	PAN
1	Shri Shubham Rai	DXSPR9776L
2	Shri Rajesh Nath	EDRPR4810K

This Order shall come into force with immediate effect.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page under "Home-Regulation-Members-Action against Members-Regulatory Actions".

Members are advised to take note of the above and ensure compliance.

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

Mr. Akshit Sachdeva (Extension: 23346), Mr. Sandesh Sawant (Extension: 22385)
Direct No: 022-26598417/18 Fax: 022-26598195

For and on behalf of

National Stock Exchange of India Limited

Sandesh Sawant
Senior Manager

ANNEXURE: Order in the matter of www.wisdomcapitalgroup.com (Operators-Shubham Rai and Rajesh Nath)

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11 (4) and 11B (1) of the Securities and Exchange Board of India Act, 1992.

In respect of:

Noticee(s)	PAN
Shri Shubham Rai*	**DXSPR9776L**
Shri Rajesh Nath*	**EDRPR4810K**
*** Operators of the website www.wisdomcapitalgroup.com**	

In the matter of Unregistered Investment Advisory

Background:

1. Pursuant to receipt of a complaint dated June 29, 2020 from one Shri SP Sivalingam which *inter alia* alleged that Wisdom Capital Group had cheated the said complainant in the name of investment in securities market, Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") examined the matter. Consequent to completion of the examination, a Show Cause Notice dated October 08, 2021 (hereinafter referred to as "**the SCN**"), was issued to Wisdom Capital Group, Shri Shubham Rai and Shri Rajesh Nath. The SCN alleged *inter alia* the following:
   (a) It was observed from the archived web pages of the website www.wisdomcapitalgroup.com that various packages for investment advisory were offered through the said website. As on the date of SCN, the said website was not functional.

(b) The website www.wisdomcapitalgroup.com mentioned PAYTM Bank Account number 918966851648 (IFSC No. PYTM0123456) in which the payments could be made by the clients / investors for the services availed. The website also mentioned that payments could be made through Paytm, PhonePe and GPay. From the examination of the KYC Details, Account Opening Form and Bank Account Statements of aforesaid bank account mentioned on the website, it was observed that the abovementioned bank account belonged to Mr. Rajesh Nath. The account was opened on December 22, 2019 and the total amount credited in the said account during the period December 22, 2019 to June 29, 2020 was Rs.54,27,341. It was also observed that funds received in the said account were further transferred to other accounts, viz. Paytm Account No. 918269082790, IndusInd Bank Account No. 158269082790 and Axis Bank Account No. 919010071915728, which belonged to Mr. Shubham Rai.

(c) From the examination of the KYC Details, Account Opening Form and Bank Account Statements of the Paytm Account No. 918269082790, it was observed that the said account was opened on March 26, 2019. The total amount credited in the said account during the period from March 26, 2019 to June 30, 2020 was Rs.41,29,151.03. It was observed that all the funds received in the said Paytm Account were further transferred to other accounts, viz. SBI Account No. 38349759324, IndusInd Account No. 158878426642 and Axis Bank Account No. 918010097724866, which belonged to Mr. Shubham Rai.

(d) A summary of the total funds transferred from Paytm Accounts of Mr. Rajesh Nath and Mr. Shubham Rai to 5 bank accounts of Mr. Shubham Rai is provided below:

Bank	Account No	Account holder Name	Credits (approx.) (in Rs)
IndusInd Bank	158269082790	Shubham Rai	39,90,005.00
	158878426642	Shubham Rai	9,17,508.00
Axis Bank	918010097724866	Shubham Rai	16,14,714.00
	919010071915728	Shubham Rai	21,22,290.53
SBI Bank	38349759324	Shubham Rai	13,42,183.25
Total			**99,86,700.78**

(e) It *prima facie* appeared that the credits received in the Paytm Bank Account mentioned on the website www.wisdomcapitalgroup.com were for providing investment advice and the amount transferred to 5 bank accounts of Mr. Shubham Rai, i.e. Rs.99,86,700.78 could be treated as fees received by the Noticees for providing investment advisory services, offered through the abovementioned website.

(f) Based on the above mentioned observations, it was alleged that the Mr. Shubham Rai and Mr. Rajesh Nath (hereinafter referred to as "**the Noticees**") acted as an 'Investment Adviser' by collecting fees from investors for advisory services without having certificate of Registration from SEBI, and thus had violated the provisions of Section 12(1) of SEBI Act, 1992 read with Regulation 3 (1) of the SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as "**IA Regulations**").

2. In view of the above, the Noticees were called upon to show cause as to why suitable directions should not be issued against them under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, 1992.

Service of SCN, Reply and Personal Hearing:

3. The SCN along with annexures sent to the Noticees through Speed Post returned undelivered. Subsequently, an intimation about the SCN was published in the newspapers on February 18, 2022. However, there was no response from the

Noticees. Subsequently, an opportunity of personal hearing was granted to the Noticee by scheduling the hearing on July 22, 2022 for which the notices were sent through Speed Post. While the notice of hearing sent to Mr. Rajesh Nath was delivered (as per the delivery report from India Post website), the notice of hearing sent to Mr. Shubham Rai returned undelivered. Thereafter, an intimation about the scheduled hearing was published in the newspapers on July 16, 2022 for all the Noticees. I note that the Noticee failed to appear before me on the date of hearing. Since the Noticees have failed to respond to the SCN in any manner, I take that the Noticees have nothing to submit in this matter. I, thus, proceed to decide the matter *ex-parte,* based on material available on record.

Consideration and findings –

4. At the outset, I note from records that an entity, Wisdom Capital Advisors Private Limited, had made complaints dated May 20, 2020 and September 14, 2020 to DCP, Crime Branch, Gauham Budh Nagar, UP, alleging *inter alia* that certain unscrupulous persons had created a website, viz. www.wisdomcapitalgroup.com, which was strikingly similar to the domain name of 'Wisdom Capital', which is a stock broking company, having its office at Noida, UP. The complaints further alleged that the said website was using the name and SEBI Registration Number of Wisdom Capital to fraudulently induce clients to invest through imposters for making investments in the stock market. Payments for the services were being collected in the individual accounts of imposters. It was alleged that clients were being cheated through the said website.

5. I note that the above complaint pertains to allegations of a criminal offence and the investigation and resultant enforcement action in respect of the same fall within the domain of law enforcement agencies. Since the complaint received in this matter prima facie reveals running of unregistered investment advisory services by the Noticees in violation of SEBI laws, I proceed to decide the matter from that perspective.

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

> ***SEBI Act, 1992 —***
>
> ***Section 12 (1)***
>
> ***Registration of stock brokers, sub-brokers, share transfer agents, etc.***
>
> *"No stock broker, sub -broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act*
>
> *Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:*
>
> *Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration."*
>
> **IA Regulations:**
>
> **Regulation 3(1)**
>
> *"**Application for grant of certificate** - On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an*

investment adviser unless he has obtained a certificate of registration from the Board under these regulations".

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

- *"Wisdom capital is an investment advisory company basically providing recommendations for stock cash and F&O traded in NSE & BSE, commodities including bullions, metals and agro commodities traded in MCX, NCDEX."*
- *"We offer diversified range of services as per the investments of an investor, trader or a broker. We assure more than 90% assurance in our recommendations and provide a second to none customer support. We believe in giving each and every member a special treatment by providing online and telephonic assistance round the clock for 12 hours in a day."*
- *"Our team consists of highly qualified & experienced analysts who are skilled and impeccable in their analysis. These analysts, using the experience, skills and latest software tools, are able to predict the movements in world market on time and with high accuracy. As a result, using our tips, our members can increase their portfolio."*
- *The packages offered on the website - Basic stock cash, Basic stock future, Basic stock option, HNI stock cash, HNI stock future, HNI stock option, Index Option, Index future, BTST, Premium Stock Cash, Premium Stock Future, Premium Stock Option.*
- *Payment modes accepted – Paytm, PhonePe, GPay*
- *Bank Account details mentioned on the website–*

Account Name	***M/s. Wisdom Capital***
Bank Name	*Paytm Payment Bank Limited*
Account No.	*918966851648*
NEFT / IFSC Code	*PYTM0123456*

- *Address- Mansarovar Complex, Office No. 35, Ground Floor, C Block, Arera Colony, Bhopal – 462016.*

8. I note from the said web pages that the services being offered pertained to Equity, Commodity, Derivatives and Forex. Further the pricing details of various packages mentioned on the website indicate that the services were offered in lieu of fees / consideration. The pricing details of some of the packages, on sample basis, are mentioned below:

Name of Package	*Monthly*	*Quarterly*	*Half-yearly*	*Yearly*
Basic Stock Cash	*8500*	*18000*	*28000*	*46000*
Basic Stock Future	*8500*	*18000*	*28000*	*46000*

9. The website also mentioned Paytm Bank Account No. 918966851648. I note from the documents (KYC Documents, Account Opening Forms and Bank Statements) provided by the banks, which are enclosed as Annexures-C, D & E to the SCN, that Paytm Account No. 918966851648 mentioned on the website belonged to Mr. Rajesh Nath. I note from the bank statement of Paytm Account No. 918966851648 that the total credit received in the said account during December 22, 2019 to June 21, 2020 was Rs.54,27,341. I note that the various credits received in the said account *prima facie* appear to have been received from different investors. I further note from records that funds received in the said account were directly /indirectly transferred to 5 bank accounts belonging to Mr. Shubham Rai. As the Noticees have failed to respond to the allegations in the SCN that the credit transactions in the bank account mentioned on the website were payment of consideration for availing advisory services and have failed to provide explanation in respect of the same, I am constrained to conclude that the credits amounting to Rs.54,27,341 in the bank account mentioned on the website pertained to receipt of fees / consideration from clients / investors in lieu of investment advisory services. Since the website www.wisdomcapitalgroup.com mentioned the bank account details of Mr. Rajesh Nath and the money received therein had been transferred to the bank accounts of Mr. Shubham Rai, it is

apparent that the said website was being operated by both the Noticeess (i.e. Shubham Rai and Rajesh Nath). Though the SCN has alleged that the Noticees had collected a total of Rs. 99,86,700.78 through unregistered investment advisory services, considering that the details of only one bank account were mentioned on the abovementioned website, only the total credits received in the said account have been taken as the money received by the Noticees as advisory fees from investors. However, since it has been found that money received in the bank account mentioned on the website were routed to five different bank accounts of Mr. Shubham Rai, the possibility of the Noticees having received additional money from investors (i.e. in addition to the money received in the Paytm Account mentioned on the website) in other accounts cannot be ruled out.

10. The definition as given in Regulation 2(m) of the IA Regulations states that *'Investment Adviser'* shall mean *"any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called".* Further, Regulation 2(l) of the IA Regulations defines *'Investment Advice'* as "*advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning."* The aforementioned definitions when viewed in light of the observations contained in the preceding paragraphs lead me to conclude that the Noticees had indeed held themselves out as *'Investment Adviser'* by offering to give *'Investment Advice'* related to investing in, purchasing and selling of securities in lieu of consideration received from investors /clients.

11. Section 12(1) of the SEBI Act, 1992 *inter alia* provides that no investment adviser shall buy, sell or deal in securities except under, and in accordance with, the conditions of a Certificate of Registration obtained from SEBI. Further,

Regulation 3(1) of the IA Regulations provides that no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a Certificate of Registration from SEBI. It is pertinent to mention that the Noticees were never registered with SEBI, in any capacity as an intermediary. By operating as an *'Investment Adviser'* as defined under Regulation 2(m) of the IA Regulations, without obtaining registration from SEBI, I find that the Noticees have violated Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations.

12. The SCN had *inter alia* called upon the Noticees to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, 1992 should not be issued against them. In the instant proceedings, the amount of fees /consideration collected by the Noticees in the bank account mentioned on the website www.wisdomcapitalgroup.com as a result of providing unregistered *'Investment Advice'* to investors, was at least Rs.54,27,341 (as there is possibility of the Noticees having received more money). In light of the findings made above, I am of the considered view that the Noticees are liable to refund the entire amount collected as fees in lieu of unregistered *'Investment Advice'* offered to their clients /investors in various bank accounts or otherwise, and accordingly, a direction to the Noticees to refund such amount will be in the interest of investors in the securities market.

Directions –

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

(a) The Noticees (Shubham Rai and Rajesh Nath, who are the operators of the website www.wisdomcapitalgroup.com) shall within a period of three (3) months from the date of this Order, refund the money received from any investors/clients, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities. The liability of the Noticees in this regard shall be joint and several.

(b) The Noticees shall, within 15 days from the date of this Order, issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details. A period of two (2) months from the date of the publication of the public notice shall be provided to the investors/clients for submitting their claims.

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

(d) Within a period of 15 days after completing the refund as directed in paragraph 13(a) above, the Noticees shall file a report with SEBI detailing the amount refunded to investors / clients, which should be addressed to the "*Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051*". The above mentioned report should be duly certified by an independent Chartered Accountant and should indicate the amount of refund, mode of payment by bank transactions, name of the parties, communication address, mobile / telephone numbers, etc.

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

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

(g) The Noticees are debarred from accessing the securities market, directly or indirectly and are prohibited from buying, selling or otherwise dealing in securities, directly or indirectly in any manner whatsoever, till the expiry of 3 (three) years from the date of completion of refund to clients / investors and depositing of balance amount, if any, with SEBI, as directed in paragraph 13(a) and 13(e) above.

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

(i) The Noticees shall not undertake, either during or after the expiry of the period of debarment /restraint as mentioned in paragraph 13(g), either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a Certificate of Registration from SEBI, as required under the securities laws.

14. The direction for refund to clients / investors and depositing the balance amount with SEBI, as given in paragraph 13(a) and 13(e) above, shall not preclude the

clients / investors to pursue any other legal remedy available to them under any other law, against the Noticees for refund of money or deficiency in service, before any appropriate forum of competent jurisdiction.

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

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

PLACE: MUMBAI | **ASHWANI BHATIA**
DATE: FEBRUARY 22, 2023 | **WHOLE TIME MEMBER**
SECURITIES AND EXCHANGE BOARD OF INDIA