

National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/60493	Date: January 31, 2024
Circular Ref. No: 278/2024	

To All NSE Members,

Sub: SEBI Order in the matter of unregistered investment advisory by Mr. Saurabh Verma

SEBI vide its order no. QJA/GR/NRO/NRO/30010/2023-24 dated January 31, 2024, has debarred Mr. Saurabh Verma (PAN - ANBPV8218R) 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, for a period of two years from the date of the order or till the date of filing of report, as directed in para 28 (e) of the order, whichever is later.

This Order shall come into force with immediate effect.

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

Further, the consolidated list of such entities is available on the Exchange website <http://www.nseindia.com> home page at the below mentioned link:

<https://www.nseindia.com/regulations/member-sebi-debarred-entities>

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

In case of any further queries, members are requested to email us at dl-invsg-all@nse.co.in

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

National Stock Exchange of India

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

**Souradeep Ghosh
Manager**

**ANNEXURE: SEBI Order in the matter of unregistered investment advisory
by Mr. Saurabh Verma**

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Section 11(1), 11(4), 11(4A), 11B (1) and 11B (2) of the Securities and Exchange Board of India Act, 1992 read with Rule 4 of the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995.

In respect of:

Noticee No.	Name of the Noticee	PAN
1.	Mr. Saurabh Verma	ANBPV8218R

In the matter of Unregistered Investment Advisory by Mr. Saurabh Verma

BACKGROUND

1. Securities and Exchange Board of India (“hereinafter referred to as **SEBI**”) conducted an examination based on the receipt of a complaint against Mr. Saurabh Verma (hereinafter referred to as “**Noticee**”). It was prima facie found that the Noticee was engaged in investment advisory activities without obtaining a certificate of registration from SEBI in violation of the provisions of Securities and Exchange Board of India, 1992 (“hereinafter referred to as **SEBI Act**”) and Securities and Exchange Board of India (Investment Advisors) Regulations, 2013 (“hereinafter referred to as **IA Regulations**”) and any other Rules and Regulations made thereunder.
2. On examination, it was observed and alleged the followings:

- a. SEBI was in receipt of complaint against the Noticee, inter alia, alleging that he had taken monies from the complainant for providing tips relating to stock trading and offering different types of plans to the complainant.
- b. Additionally, the complainant mentioned that a total amount of Rs.2,45,000/- was paid by him to the Noticee on different dates in return for stock market related services offered by the Noticee.
- c. The complainant stated that the said amount of Rs.2,45,000/- was paid into the Noticees' HDFC bank account No.50100051150022 in 4 tranches. The details of which are as under;

S. No.	Date	Narration	Chq./ Ref. No.	Withdrawal Amount
1	08/7/21	IMPS-118917376120-HANEET KAUR MUNJAL-HDFC-XXXXXXXXXX4811-REGISTRATION FOR CONSULTATION	0000118917376120	10,000.00
2	18/07/21	00342434811-TPT-CONSULTATION AND TRAINING-HANEET KAUR MUNJAL	0000000175740090	1,00,000.00
3	22/07/21	CASH DEP RANCHI, JHAR	0000000000000000	85,000.00
4	16/08/21	CASH DEP RANCHI, JHAR	0000000000000000	50,000.00
Grand Total				2,45,000.00

- d. Pursuant to examination of the bank accounts mentioned in the complaint, the investigation observed the following details.

Sr. No	Bank Name & A/C No	Account Name	Date of Account Opening	Date of last transaction	Account Status	Amount credited in the A/c in Rs.
1.	HDFC Bank A/c No.- 501000511500 22	Mr. Saurabh Verma	June 20, 2014 (date of first transaction – August 01, 2014)	November 14, 2022	closed on November 14, 2022	1,67,24,995 /-

- e. Further, during the investigation it was observed that the aforesaid HDFC bank account was opened on June 20, 2014, wherein the first and last

credit transaction happened in the bank account on August 01, 2014 and November 14, 2022, respectively. Thereafter, the account was closed on November 14, 2022.

- f. It was further observed that the said HDFC bank account statement had 2678 credit entries amounting to Rs.1,67,24,995/- from August 01, 2014 to November 11, 2022.
- g. From the AOF & KYC documents received from HDFC Bank, it was observed that the Noticee residence was in Varanasi. The email address and Mobile number of the Noticee were also provided in the AOF & KYC documents.
- h. From the extracts of WhatsApp chats provided by the complainant, it is noted that the Noticee was communicating with the complainant to provide stock tips for which the complainant had made payments in the bank account of the Noticee.
- i. From the Bank account statement of the Noticee and WhatsApp Chats between complainant and Noticee, it was noted that the Noticee received monies from the complainant for the investment advisory services provided to him and there were several transactions in the bank account statement of the Noticee, which shows that Noticee was carrying out the activities of Investment Adviser.
- j. Many credit entries in the HDFC Bank account of the Noticee had narrations such as "Monthly Intraday Tips", "Tips Fees", "Equity- Intraday", "Trading", "Premium Stock Future Tips", "Tips Payment", "Equity Payment", "Intrady", "Advisory", "Higher Plan 1", "Trade Pay", "Options", "Barter Research", "Trading Fee", "TPT-HNI", "Service", "Trading Amount", "Trade Amount", "Share Advisor", "Educational Fees", "Entry Fee", "Tip Money",

“Option STCK”, “Trade”, “Consultation”, “Consultation & Training”, “Financial Service”, Service Charges For Stock Advise” etc.

- k. From the above, prima facie, it was found that the Noticee was involved in unregistered investment advisory activities without obtaining SEBI Registration.
 - l. In this regard, SEBI had sought information from the Noticee on several occasions vide emails dated January 13, 2022, February 07, 2023 and April 18, 2023. However, the Noticee did not reply to SEBI and consequently has failed to provide information to SEBI.
3. Based on the aforesaid facts, it was alleged in the Show Cause Notice (hereinafter referred to as “**the SCN**”) that the Noticee has violated the provision of Section 12(1) of the SEBI Act read with Regulation 3(1) of IA Regulations for engaging in Investment Advisory activities without obtaining the requisite registration from SEBI. Thereafter, a SCN dated October 17, 2023 was issued, calling upon the Noticee to show cause as to why suitable directions including direction of refund of fees/monies collected from the investors should not be issued against the Noticee under Sections 11 (1), 11 (4) and 11 B (1), of the SEBI Act and why suitable directions for imposing penalty under Sections 11B(2) and 11(4A) read with Sections 15EB and 15HB of SEBI Act under SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, should not be issued against the Noticee for the aforesaid alleged violations.
4. The aforesaid SCN dated October 17, 2023 was issued to the Noticee through SPAD, at the last known address of the Noticee, as well as via email dated October 18, 2023, as obtained from KYC details. Subsequently, the SCN issued through SPAD returned undelivered, while the SCN issued through e-mail was duly delivered. While acknowledging the receipt of the same, vide e-mail dated November 28, 2023, the Authorized Representative of the Noticee sought two weeks’ time for submitting the reply in the matter. The request for extension was

acceded to and 10 days' time was granted to the Noticee to file his response in the matter. Subsequently, vide e-mail dated December 10, 2023, the Noticee submitted his reply in the matter.

5. Consequently, vide e-mail dated January 05, 2024, the Noticee was granted an opportunity of personal hearing before the undersigned on January 17, 2024. On the day of the scheduled hearing, the AR, appeared on behalf of the Noticee and reiterated the submissions made vide the reply dated December 10, 2023. Accordingly, the personal hearing in the matter was concluded. The summary of the Noticee's reply dated December 10, 2023 are as under;

- The Noticee submitted that he never introduced himself as an investment advisor and interacted through phone or WhatsApp with the complainant. He further stated that the only person who interacted with the complainant was Shri. Rohid Gupta his employer under whom he was working.
- Further, the Noticee submitted that the complainant deposited money in his account after talking to Mr. Rohid Gupta and therefore he did not have the knowledge regarding the conversation between them.
- It was stated by the Noticee that by way of the complainant's own statement, it is clear that the Noticee never gave any tip or introduced himself as an investment adviser and also that there is no complaint against the Noticee which is punishable under SEBI Act.
- Besides above, the Noticee claimed that based on the findings of SEBI appointed STF Indore, Mrs. Mamta Kamle as the investigating officer, who had requested for a freeze on the Noticee's HDFC bank account No. 50100051150022, the Noticee had refunded the amount in cash which he received in his account, in turn the complainant had withdrawn his complaint dated 06.10.2021 to Mrs. Mamta Kamle vide another letter dated 09.02.2022. Accordingly, the final report was filed with SEBI, with a request to defreeze the Noticee's account.
- Further the Noticee submitted that he was the client of Mr. Rohid Gupta to whom the notice was not issued.

- The Noticee also submitted that Money was received by him from the complainant was not for any stock investment advice rented by him.
- The Noticee never gave any stock tip so there could not have been entries like "Tips Fees, "Equity Intraday, etc...as specified in para 4 (iii) of the SCN.
- As regards the Noticee not being registered with SEBI, the Noticee submitted that as he is not doing any type of work related to SEBI, there is no need for registration under SEBI Act.
- As regards the information sought from the Noticee on 2022 and 2023 by SEBI, the Noticee submitted that he did not receive any other communication prior to the SCN to provide the same.
- Finally, the Noticee stated that he did not fall within the definition of Investment adviser.

CONSIDERATION OF ISSUES AND FINDINGS

6. I have considered the material available on record including the complaint, the SCN, the reply, etc. and note that following issue arises for consideration: -

Whether the acts of the Noticee as imputed in the SCN, have resulted in the violation of the provisions of Section 12(1) of the SEBI Act and Regulation 3 (1) of the IA Regulations, while providing the services related to Investment Advisory without having proper registration?

7. Before proceeding further, it is pertinent to refer to the relevant provisions of the SEBI Act and the IA Regulations alleged to have been violated by the Noticee, as per the SCN. The relevant provisions of law are reproduced hereunder: -

SEBI Act

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.”

IA Regulations

Regulation 2(1)(g) – Definition of Consideration

“consideration” means any form of economic benefit including non-cash benefit, received or receivable for providing investment advice;

Regulation 2(1)(l) – Definition of Investment Advice

“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 Provided that investment advice given 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;”

Regulation 2(1)(m) – Definition of Investment Adviser

“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;”

Regulation 3(1) – Requirement of Registration from SEBI to act as Investment Adviser

“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:”

8. I now proceed to consider the matter on merits.
9. As regards the submission of Noticee that he never interacted through phone or WhatsApp with the complainant, nor introduced himself as an investment advisor and the only person who interacted with the complainant was Shri. Rohid Gupta under whom the Noticee was working and also he did not have any knowledge

about the conversation of the complainant with Mr. Rohid Gupta after the money was deposited in his account, I note that the Noticee neither specified who Mr. Rohid Gupta was and in what capacity the Noticee was working under him nor is any entity in the name of Rohid Gupta registered as an intermediary with SEBI. Further, I note that from the bank statement of Noticee and extracts of WhatsApp Chats between complainant and Noticee that the Noticee was communicating with the complainant and was providing stock tips to the complainant for which the complainant had made payments in the bank account of the Noticee. These activities clearly suggest that the Noticee was carrying out Investment Adviser services. Additionally, I also note that the Noticee has not provided any documents in support of his claims to prove that these funds were earned from other source of income.

10. Further I note that the Noticee contented that the money was received by him from the complainant not in exchange for any stock investment advice and he also never gave any stock tip to have entries like "Tips Fees, "Equity Intraday, etc., in the bank account statement as specified in para 4 (iii) of the SCN. Further, he stated that since he was not doing any type of work related to SEBI which falls within the definition of investment adviser, there was no need to have registration under SEBI Act at that point of time. However, though he was claiming that he was not doing any investment advisory service, he could not furnish the valid reason for receiving money in the nature of "Tips fees, "Equity Intraday etc., in his account and more particularly the reason for receiving money to the amount of Rs.2,45,000/- from the complainant. Therefore, there is no merit in the submission of the Noticee. This apart, narrations in the bank statement of the Noticee for receiving money as "Monthly Intraday Tips", "Tips Fees", "Equity-Intraday", "Trading", "Premium Stock Future Tips", "Tips Payment", "Equity Payment", "Intraday", "Advisory", "Higher Plan 1", "Trade Pay", "Options", "Barter Research", "Trading Fee", "TPT-HNI", "Service", "Trading Amount", "Trade Amount", "Share Advisor", "Educational Fees", "Entry Fee", "Tip Money", "Option STCK", "Trade", "Consultation", "Consultation & Training", "Financial Service", Service Charges For Stock Advise" also clearly shows that the Noticee was doing

investment advisory related activities. Similarly, I note on the observation made on the whatsapp chats between the Noticee and the complainant extracted, that the Noticee was providing stock tips to the complainant and received payments in the bank account of the Noticee, which suggests that the Noticee was carrying out the activities as an Investment Adviser. Therefore, the Noticee's aforesaid submissions are baseless and without any merit. In view of the same, I find that since the Noticee was engaged in the activities of an investment adviser, as per Section 12(1) of the SEBI Act, it was necessary for him to have obtained a registration from SEBI.

11. Further, as regards to the observation on the information sought from the Noticee on 2022 and 2023 by SEBI, I note that the Noticee submitted that he did not receive any other communication prior to the SCN. However, in this regard, I note that an e-mails dated January 13, 2022, February 07, 2023 and April 18, 2023 were sent to the Noticee on the e-mail id 'saurabh7376@gmail.com', i.e. the same e-mail id on which the SCN was served on the Noticee and was duly acknowledged by the authorized representative of the Noticee. Therefore, the submission of the Noticee in this regard is also without any merit and cannot be accepted.
12. As regards the Noticee's contention that from the complainant's own statement that that the Noticee has not provided any service makes it clear that the Noticee never gave any tip or introduced himself as an investment adviser and also stated that there was no complaint against him which is punishable under the SEBI Act, upon perusal of the text of the complainant's letter, I note that the Noticee has misunderstood the complainant's intent where it is stated that the fees was collected from him with an assurance for investment advisory service but the required investment advisory service was not provided to the complainant by the Noticee. Thus, the complainant meant that the Noticee failed in his duty as an investment adviser despite taking fees for the same, which most definitely is not a statement in favour of the Noticee. Therefore, I do not find any merit in the contention of the Noticee in this regard.

13. As regards the Noticee's claim that he had refunded the amount in cash which he received in his account, in turn the complainant had withdrawn his complaint dated 06.10.2021 to Mrs. Mamta Kamle vide another letter dated 09.02.2022 I note that the Noticee has neither provided any details as to when the money was returned to the complainant nor has given any documents as proof in support of his abovementioned claims. Therefore, considering the claims of the Noticee is not supported by any evidence, I find that the said submission of the Noticee cannot be accepted as it does not contain any merit.
14. Thereafter, I note that Regulation 2(1)(m) of the IA Regulations defines the term 'investment adviser'. As per Regulation 2(1)(m) of the IA Regulations, investment adviser means any person, who is engaged in the business of providing investment advice to clients or other person or group of persons for consideration. Further, it includes any person who holds himself out as an 'investment adviser'. Regulation 2(1)(m) of the IA Regulations refer to terms 'consideration' and 'Investment advice'. As per Regulation 2(1)(g) of the IA Regulations, consideration means any form of economic benefit including non-cash benefit, received or receivable for providing investment advice. As per Regulation 2(1)(l) of the IA Regulations, '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. However, advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public, shall not be an investment advice within the meaning of Regulation 2(1)(l) of the IA Regulations.
15. From the facts mentioned in the SCN such as shared stock market related tips and related trading calls etc. through WhatsApp chats to the complainant to lure the complainant to pay monies to Noticee in lieu of the services provided by the Noticee to the complainant, and also sharing the bank account details for

collecting the fees for service rendering as well as the narration of the bank statement i.e. "Monthly Intraday Tips", "Tips Fees", "Equity- Intraday", "Trading", "Premium Stock Future Tips", "Tips Payment", "Equity Payment", "Intraday", "Advisory", "Higher Plan 1", "Trade Pay", "Options", "Barter Research", "Trading Fee", "TPT-HNI", "Service", "Trading Amount", "Trade Amount", "Share Advisor", "Educational Fees", "Entry Fee", "Tip Money", "Option STCK", "Trade", "Consultation", "Consultation & Training", "Financial Service", "Service Charges For Stock Advise" clearly indicates that the Noticee was engaged in investment advisory service relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, through WhatsApp chats in lieu of consideration. I note that, if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including entities which are holding themselves out as investment advisers, will be covered by the definition of 'Investment Adviser' as given in Regulation 2(1)(m) of the IA Regulations, 2013. I find that in terms of Regulation 2(1)(l) of IA Regulations, 2013, the Noticee was doing Investment advisory services through WhatsApp chats as stated by the complainant in lieu of consideration of Rs.2,45,000/- and admitted by the Noticee that it was received by him in his account at the HDFC Bank, I find that the Noticee was engaged in the business of providing investment advice to their clients, for consideration, and thus, acting as an investment adviser, as defined under Regulation 2(1)(m) of the IA Regulations, 2013. From the discussion above, I further find that the Noticee was holding himself out to be 'Investment Adviser' as given in Regulation 2(1)(m) of the IA Regulations, 2013.

16. Further, I note that the Noticee has not made any submissions to prove that these funds were earned from other source of income. Hence, I find that these services were being offered by the Noticee for the consideration, as noted above. Therefore, I find that the Noticee was engaged in the business of providing

investment advice to his clients, for consideration, and thus acted as an investment adviser, as defined under regulation 2(1)(m) of the IA Regulations.

17. I also note that, in terms of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations, 2013, 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”*.

18. It is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct their activities in accordance with the provisions of the SEBI Act and Regulations framed thereunder. Section 12(1) of SEBI Act, 1992 reads as under:

“No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act.”

19. 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 the IA Regulations:

- i. An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 along with requisite nonrefundable application fee;

- ii. The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
 - a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a 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;
 - b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
 - c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.
- iii. Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

20. Further, the IA Regulations provides for the minimum professional qualification and prescribes mandatory net-worth requirement. Further, it inter-alia provides for disclosures of any conflict of interest, risk profiling of clients, maintenance of records related to client assessments and the suitability of advice. The prescriptions in the IA Regulations are intended to safeguard the interest of investors and curb the perpetration of unregistered entities entering the field of investment advisory services and indulging in unscrupulous market practices.

21. It is noted that the Noticee was not registered with SEBI in the capacity of Investment Adviser during the period under examination. It is further noted that the Noticee received amounts to the tune of Rs.1,67,24,995/- in the said bank account of HDFC Bank which is in the nature of Investment Advisory fees.

22. In view of the above, I find that aforesaid total credit of Rs.1,67,24,995/- in the bank account of HDFC Bank of the Noticee was received by the Noticee as fee for investment advisory services provided by the Noticee while acting as an investment adviser without obtaining certificate of registration from SEBI. In view of the above, I find that the Noticee by acting as an investment adviser within the meaning of the IA Regulations and without obtaining certificate of registration from SEBI has acted in total disregard to the requirements of law and has violated Regulation 3(1) of the IA Regulations and Section 12(1) of the SEBI Act.

23. Thereafter, I note that the SCN has called upon the Noticee to show cause as to why appropriate penalty be not imposed upon him under Section 15EB and 15HB of SEBI Act for the violations alleged in the SCN. Sections 15 EB and 15HB of the SEBI Act are reproduced hereunder: -

Section 15 EB - Penalty for default in case of investment adviser and research analyst

"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."

Section 15HB - Penalty for contravention where no separate penalty has been provided

"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."

24. I note that Section 15EB of the SEBI Act was inserted in the SEBI Act by the Finance Act, 2018 with effect from March 08, 2019. As noted above, the Noticee

continuously received investment advisory fees in their bank accounts from date of opening of such bank accounts, i.e, June 20, 2014 to the date of last transaction, i.e. November 14, 2022. It is noted that Noticee has carried out unregistered investment advisory activities before Section 15EB was came into effect and continued even after Section 15EB came into effect. Therefore penalties are attracted under Section 15 HB for carrying out unregistered investment advisory activities till March 08, 2009 and under Section 15 EB for carrying out unregistered investment advisory activities from March 08, 2009 onwards. In view of the above, I find that the Noticee has acted in violation of Regulation 3(1) of the IA Regulations and Section 12(1) of the SEBI Act. Therefore, I find that the Noticee is liable to be imposed with penalty under both Sections 15EB and 15HB of the SEBI Act.

25. I note that Section 15J of the SEBI Act provide for factors which are required to be considered for adjudging quantum of penalty. Section 15J of the SEBI Act reads 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.”

26. The activities of the Noticee, as brought out above, seen in the backdrop of the aforesaid provisions show that he was acting as an investment adviser without holding the certificate of registration as investment adviser. I find that the Noticee has violated the provisions of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations.

27. As observed above, I note that the Noticee received total credit of amounts to the tune of Rs. 1,67,24,995 / - in the said bank account of HDFC Bank (Rupees One Crore, Sixty-Seven Lakhs, Twenty-Four Thousand, Nine Hundred and Ninety-Five) as advisory fees. These being the proceeds of an illegal activity, are liable to be refunded to the respective clients of the Noticee.

DIRECTIONS

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

- (a) The Noticee shall refund all the money collected/received from any investors / complainants, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities immediately, and in any case, within a period of three months from the date of this order.
- (b) The Noticee shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in in one newspaper in vernacular language with wide circulation, detailing the modalities for refund, including the details of contact person such as name(s), address(es) and contact detail(s) of person(s) to be approached for refund, within 15 days from the date of receipt of this order;
- (c) The repayments to the investors shall be effected only through bank transfers electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- (d) The Noticee is prohibited from selling their assets, properties including mutual funds/shares/securities held by it in demat and physical form except for the purpose of effecting refunds as directed above. Further, the banks are directed to allow debit from the bank accounts of the Noticee, only for the

purpose of making refunds to the clients who were availing the investment advisory services from the Noticee;

- (e) 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 expiry of four months from the date of public notice, as directed above, duly certified by an independent Chartered Accountant and the direction at para 28 (a) above shall cease to operate upon filing of such report;
- (f) 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;
- (g) In case of failure of the Noticee to comply with the aforesaid directions in sub-paragraph (a) and (f), SEBI, on the expiry of the stipulated time period therein from the date of coming into force of this order, may recover such amounts, from the Noticee, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws,
- (h) The Noticee is debarred 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, for a period of two years from the date of this order or till the date of filing of report, as directed in para 28 (e) above, whichever is later;
- (i) The Noticee shall not undertake, either during or after the expiry of the period of restraint and prohibition, as mentioned in para 28 (d) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws;

- (j) The Noticee is hereby imposed with penalty of Rs.1,00,000/-(Rupees One Lakh Only) under Section 15HB of the SEBI Act and Rs.1,00,000/- (Rupees One Lakh Only) under Section 15EB of the SEBI Act;
- (k) The Noticee shall remit / pay the said amount of penalty, within a period of forty-five (45) days from the date of receipt of this order, 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 EDs/CGMs -> PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.

29. For any non-compliance of this order, the Noticee shall be subject to strict action under the applicable provisions of the law, including prosecution.

30. It is clarified that the direction for refund as given in Para 28 (a) above, does not preclude the complainant/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.

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

32. A copy of this order shall be sent to the Noticee, all the recognized Stock Exchanges, the relevant Banks, Depositories and Registrar, Transfer Agents of Mutual Funds, BSE Administration and Supervision Ltd., to ensure that the directions given above are strictly complied with.

Date: January 31, 2024

Place: Mumbai

G RAMAR
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA