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National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/61347	Date: March 27, 2024
Circular Ref. No: 302/2024	

To All NSE Members,

Sub: **SEBI Order in the matter of Unregistered Investment Advisory Services and Portfolio Manager Services by Maxx Innovation Growth and Maxx Innovation**

This is with reference to SEBI Order No. QJA/AA/WRO/WRO/30174/2023-24 dated March 27, 2024, wherein SEBI has restrained below Noticees 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 2 years from the date of this order or till the expiry of 2 years from the date of completion of refunds to complainants/ investors as directed in paragraph 69 (a) of SEBI order, whichever is later;

Noticee No.	Name of Entity	PAN
1	Mr. Vishal Lath (Proprietor of Maxx Innovation Growth)	AFDPL6086K
2	Mr. Jitendra Bharbhuja (Proprietor of Maxx Innovation)	EZSPB9777C
3	Mr. Vipin Sharma	GWBPS1865J

Further, SEBI vide above order has directed that if the above Noticees have any open position in any exchange traded derivative contracts, as on the date of SEBI order, they can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. The Noticees are permitted to settle the pay in and pay out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of SEBI order.

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 at the below mentioned link:

National Stock Exchange of India

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

For and on behalf of
National Stock Exchange of India Limited

Sandesh Sawant
Senior Manager

ANNEXURE: SEBI Order in the matter of Unregistered Investment Advisory Services and Portfolio Manager Services by Maxx Innovation Growth and Maxx Innovation

QJA/AA/WRO/WRO/30174/2023-24

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4), 11(4A), 11B (1) AND 11B (2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 3(1) OF THE SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013 AND REGULATION 3 OF THE SEBI (PORTFOLIO MANAGERS) REGULATIONS, 2020

In respect of:

Noticee no.	Name of Noticee	PAN
1	Mr. Vishal Lath (Proprietor of Maxx Innovation Growth)	AFDPL6086K
2	Mr. Jitendra Bharbhuja (Proprietor of Maxx Innovation)	EZSPB9777C
3	Mr. Vipin Sharma	GWBPS1865J

In the matter of Unregistered Investment Advisory Services and Portfolio Manager Services by Maxx Innovation Growth and Maxx Innovation

BACKGROUND OF THE CASE

1. The Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received certain complaints against Maxx Innovation Growth (Proprietor: Mr. Vishal Lath) (hereinafter referred as **"MIG/ Noticee no. 1"**) and Max Innovation (Proprietor: Mr. Jitendra Bharbhuja) (hereinafter referred as **"MI/ Noticee no. 2"**) stating that MIG and MI are running investment advisory and portfolio management services without obtaining registration from SEBI. Details of the complaints are as under:

   (a) **Mr. Gangadhar H** (hereinafter referred to as **"Complainant no. 1**") complained against the activities of MIG, and alleged that it targets people through telephonic marketing and promises huge returns and asks clients to deposit amount in their accounts. MIG creates fake portfolio, fake trades and try to lure money from investors. It provides fake client ID and provides fake trade sheets through its website

<www.maxxinns.com>. He claimed that company has charged Rs. 58,900/- from him and has refused to pay back. The complainant also provided bank account details of MIG for collecting money from its clients to run unregistered investment advisory and portfolio management services and the transaction details of the Rs. 58,900/- paid by the complainant to MIG (Annexure A to the SCN).

(b) **Mr. Satya Prakash Pandey** (hereinafter referred to as **"Complainant no. 2**") stated that he had invested Rs. 2 lakhs with MIG providing invoices issued by MIG dated March 16, 2019 and April 11, 2019. MIG promised him to give 12% monthly return on invested amount. Further, complainant has stated that he had also invested Rs. 70,000/- for trading but MIG is not providing any service and lost all the amount invested by him. It is observed that the company issued agreement on its letter head stating MIG is agreeing to manage his portfolio with 70-30% partnership profit sharing ratio (Annexure B to the SCN).

(c) **Mr. Amarendra Kumar Singh** (hereinafter referred to as **"Complainant no. 3**") *inter alia* stated MI had fraudulently invested his money and when he requested to refund the amount, MI asked to deposit some more amount in order to recover losses. The complainant alleged that he had already deposited Rs. 60,000/- to MI as per their agreement of 50:50 partnership plan whose website was <www.maxxinns.in> and address was at 117, PU4, Vijay Nagar, Indore, Madhya Pradesh. The complainant alleged that he had repeatedly requested them to revoke the agreement and return the amount deposited. The complainant has provided email conversations between him and MI, service agreement and dummy agreement (Annexure C to the SCN).

(d) **Ms. Sangita** (hereinafter referred to as **"Complainant no. 4**") **complained** that MI approached her for providing their advisory services in stock market. The complainant observed that they are committing fraud with their schemes. The complainant provided WhatsApp screenshots and bank account details of MI used for collecting money from its clients to run unregistered investment advisory and portfolio management services (Annexure D to the SCN).

2. Based on the aforesaid complaints, SEBI conducted an examination into the activities of MIG and MI and found that Noticee no. 1, Mr. Vishal Lath, proprietor of MIG and Noticee no. 2, Mr. Jitendra Bharbhuja, Proprietor of MI had launched two websites i.e., <www.maxxinns.com> and <www.maxxinns.in> respectively through which the Noticees were offering investment advisory services. The website of MIG also provided the bank account details of Noticee No. 3, Mr. Vipin Sharma. The examination of the statement of bank accounts used for the advisory services revealed that fees related to investment advice was received in the bank accounts of all three Noticees. An analysis of the complaints received by SEBI and supporting documents attached therewith revealed that MIG and MI were also prima facie providing unregistered portfolio management services.

3. In view of the above, it has been alleged that Noticee nos. 1 to 3 have engaged in the activities of an investment adviser and a portfolio manager without obtaining the requisite registration from SEBI, in violation of Section 12(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**"), read with Regulation 3(1) of the Securities and Exchange Board of India (Investment Advisor) Regulations, 2013 (hereinafter referred to as "**IA Regulations, 2013**") and Regulation 3 of the Securities and Exchange Board of India (Portfolio Managers) Regulations, 2020 (hereinafter referred to as "**PMS Regulations**"). It has also been alleged that the conduct / act / practice of the Noticees is fraudulent in nature, and in violation of Sections 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1) and 4(2) (k) and 4 (2)(s)(i) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**").

SHOW CAUSE NOTICE, REPLY AND HEARING

I. ***<u>Show Cause Notice</u>***

4. In view of the above, a Show Cause Notice (hereinafter referred to as "**SCN**") dated September 21, 2023 was issued to all the Noticees calling upon them to show cause as to

why suitable directions including the direction to refund under Sections 11(1), 11(4), 11B(1) of the SEBI Act, 1992 be not issued against them and/or penalty as deemed fit under Section 11(4A) and 11B(2), read with Sections 15HA, 15HB and 15EB of SEBI Act, 1992 should not be imposed upon the Noticees for the aforesaid violations.

5. The following annexures were enclosed along with the SCN:

Table A

Annexures to SCN	
Annex. No.	**Particulars**
A.	Copy of the complaint and details of bank account provided by Complainant no. 1
B.	Copy of the complaint, service agreement, payment invoices provided by Complainant no. 2
C.	Copy of the complaint, service agreement, dummy agreement and email communication provided by Complainant no. 3
D.	Copy of the complaint, WhatsApp chat provided by Complainant no. 4
E.	Screenshots of website of Noticee No. 1
F.	Screenshots of website of Noticee No. 2
G.	KYC/AOF details of IDFC Bank of Noticee No. 1
H.	KYC/AOF details of HDFC Bank of Noticee No. 2
I.	KYC/AOF details of Axis Bank of Noticee No. 3
J.	Copy of account statement of IDFC Bank account of Noticee No. 1
K.	Copy of account statement of HDFC Bank account of Noticee No. 2
L.	Copy of account statement of Axis Bank account of Noticee No. 3

6. The SCN was served on Noticee no. 1, Mr. Vishal Lath through SPAD on September 23, 2023. The SCN was sent to three last known addresses of Noticee no. 2, Mr. Jitendra Bharbhuja through SPAD but the same returned undelivered with the remark “No Such Person”. The SCN was later served through newspaper publication in the Times of India and Nav Bharat on November 10, 2023. The SCN was served on the email ID of Noticee no. 2 obtained from the Account Opening Form (hereinafter referred to as “**AOF**”) of the Noticee’s bank account gathered during examination. Vide email dated December 7, 2023, the SCN was forwarded to Noticee no. 2, Mr. Jitendra Bharbhuja through a digitally signed email on the official email i.e. <info@maxxinns.in> and his personal email id <nisha.mtelecom@gmail.com> which did not bounce back indicating successful delivery.

As regards Noticee no. 3, Mr. Vipin Sharma, the SCN was attempted to be delivered on his last known address but the same returned undelivered. A new address of the Noticee was obtained from BSE Ltd. vide email dated September 25, 2023. Accordingly, delivery of SCN was attempted on the said new address of Noticee No. 3 through SPAD and the same was served on October 04, 2023.

II. <u>Reply of the Noticee and Opportunity of Hearing</u>

7. Pursuant to receipt of SCN, no reply was received from the Noticees. However, in compliance with the principles of natural justice, an opportunity of hearing was granted to Noticee no. 1 and Noticee no. 3 on December 26, 2023. Noticee no. 1 vide email dated December 09, 2023 sought adjournment of the hearing citing that his Authorized Representative (hereinafter referred to as "**AR**") was unwell. The Noticee's request was accepted and hearing qua the Noticee was scheduled on January 10, 2024. On the said date, the Noticee was represented by his AR who submitted that SEBI has filed an FIR with the Indore Police against the Noticee based on the complaints received. In view thereof, it was requested that the proceedings may be kept in abeyance to avoid giving a finding on the documentary evidence relied in the SCN as it may jeopardize the criminal proceedings. The AR was informed that the proceedings under Section 11B of the SEBI Act are distinct from criminal proceedings, and that both may be proceeded in a parallel manner. Therefore, the AR was advised to file a reply, if any, on behalf of the Noticee within one week and hearing was scheduled on January 23, 2024.

8. During the hearing on January 23, 2024, the AR of Noticee no. 1 informed that the Noticee has filed Writ Petition no. 1307 of 2024 before the Hon'ble Madhya Pradesh High Court seeking stay on the present proceedings in view of the criminal proceedings initiated against the Noticee. The AR made the following submissions:
   (a) According to SEBI's order on Delegation of Powers, the approval for issuance of SCN and approval for initiation of proceedings under section 11(4A) and 11B (2) was not provided to the Noticee.

(b) The agreement between Maxx Innovation and one of the complainants mentioned in the SCN is a screenshot. However, the details of the sender and receiver of the chats is not available. In this context, the AR also relied on the observation of SEBI's QJA in the matter of Star World Research bearing Order no. QJA/GG/WRO/23318/2022-23 at paragraph 54 where in the context of reliance on call data records it was observed that there was no material on record to show that the calls were made by the Noticee.

(c) The AR referred to the bank account statements and stated that Rs. 6 lakhs were cash deposits, Rs. 38 lakhs (approx.) were inter-bank transactions, Rs. 24 lakhs (apprx.) were refunds, and only Rs. 70 lakh is the disputed amount. In this regard, the Noticee was advised to provide a detailed transaction wise break – up of the aforesaid claims.

(d) The AR also informed that the Noticee was an employee of Noticee no. 2, Mr. Jitendra Bharbhuja, and was assigned the task of sale of insurance policies.

(e) When the department of SEBI issuing the SCN sought clarification regarding the Noticee's Writ Petition wherein it is stated that SEBI has frozen the bank accounts based on the present SCN, the AR affirmed the fact. It was informed to the AR that the bank accounts would have been attached in some other proceedings, however, the AR disagreed and undertook to produce a letter from the relevant bank stating that the bank accounts of the Noticee have been frozen in the present proceedings initiated by SEBI.

9. As the AR sought time to file a detailed reply to the SCN including the transaction wise details of his bank account, time of 10 days from the date of hearing has been granted to the Noticee to file his reply. It was observed that the Hon'ble Madhya Pradesh High Court vide order dated January 22, 2024 while noting that no case is made out for granting stay stated as under:

> *"The charge sheet has been filed for the offence punishable under Section 419, 420, 467, 468, 471, 120-B of IPC and Section 6 (1) of M.P. Nikshepko Ke Hito Ka Sanrakshan Adhiniyam, 2000 whereas the show cause notice to the petitioner has been issued under Section 11(1), 11 (4), 11 (4A), 11B (1) and 11B(2) read with Section 15HA, 15HB and 15 EB of the Act, 1992, therefore, scope of trial as well as enquiry under Act, 1992 are different altogether."*

10. In view of the above, Noticee no. 1 was advised vide email dated January 30, 2024 to file his reply on merits within the time granted during the hearing scheduled on January 23, 2024. The Noticee vide email dated February 03, 2024 forwarded his reply to the SCN which has been taken on record.

11. The Noticee no. 3, Mr. Vipin Sharma was granted an opportunity of hearing on December 26, 2023. However, the Noticee did not appear for hearing on the said date. Thereafter, in the interest of justice, a last and final opportunity of hearing was granted to the Noticee on January 19, 2024. The Noticee vide email dated January 15, 2024 sought adjournment on the ground that he needed some time to gather the relevant documents to defend himself. In view of the request, the hearing scheduled qua the Noticee on January 19, 2024 was adjourned to February 13, 2024. The Noticee was also advised to file his reply, if any, on or before February 07, 2024.

12. The Noticee appeared for the hearing on February 13, 2023 virtually, through WebEx, and made the following submissions:
    (a) The Noticee was an employee of Maxx Innovation/ Maxx Innovation Growth.
    (b) Upon informing that SEBI has not received a reply to the SCN issued, the Noticee submitted that he would file a reply. Accordingly, Noticee no. 3 was granted ten days' time to file his reply.

13. Noticee no. 3 vide email dated February 23, 2024 sought additional time to file his reply as he did not agree with the amount stated in the SCN regarding fees collected for the unregistered investment advisory and portfolio management activity, and needed time to gather evidence. In the interest of justice, Noticee no. 3 was informed that his reply, if any, may be filed on or before March 07, 2024. However, as on date, no reply has been received from Noticee no. 3.

14. In compliance with the principles of natural justice, Noticee no. 2, Mr. Jitendra Bharbhuja was granted an opportunity of hearing on February 13, 2024. The notice of hearing dated January 17, 2024 was issued to Noticee no. 2 on his last known address returned

undelivered. The notice of hearing was also served through newspaper publication in the Times of India (English daily) and Nav Bharat (Hindi daily) on January 24, 2024. In the interest, a last and final opportunity of hearing was granted to the Noticee on March 19, 2024 vide notice dated March 1, 2024. The hearing notice dated March 1, 2024 and the SCN issued in the matter were attempted to be delivered by way of affixture on the available addresses on March 1, 2024. However, the same was not successful. Further, the said notice dated March 1, 2024 was published in the languages, Hindi and English daily in Dainika Bhaskar and Times of India circulated in Indore on March 15, 2024. Noticee no. 1, Mr. Vishal Lath was also advised vide email dated February 22, 2024 to provide the contact details, address and any other relevant details of Noticee no. 2, Mr. Jitendra Bharbhuja as in his reply dated February 03, 2024 at paragraph no. 7, Noticee no. 1 has stated that he confirmed from Noticee no. 2, Mr. Jitendra Bharbhuja regarding the amounts related to the unregistered investment advisory activity. The Noticee replied on the same day stating the following:

> *"I met Jitendra Bharbhuja in a pub on MR10, where I informed him of the SEBI matter, He initially denied helping me, however later he agreed to visit my advocate and then he identified the said entries. Despite my repeated requests he refused sharing his contact details and said I don't want to get involved into SEBI matter. This is all I can submit with regards to Jitendra bharbhuja."*

15. So far, no reply has been received from Noticee no. 2, Mr. Jitendra Bharbhuja.

CONSIDERATION OF ISSUES AND FINDINGS

16. Having considered the material available on record including the SCN, the annexures to the SCN, oral and written submissions, and the Noticee no. 1's reply, I frame the following issues for consideration:

Issue I	***Whether the Noticees acted as unregistered Investment Advisor in contravention of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations?***
Issue II	***Whether the Noticees acted as unregistered Portfolio Manager in contravention of Section 12(1) of the SEBI Act and Regulation 3 of the PMS Regulations?***

Issue III	***Whether the acts of the Noticees attract the prohibition under 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1) and 4(2) (k) of PFUTP Regulations?***
Issue IV	***If answer to issue no. I, II and / or III is in the affirmative, what directions should be passed against the Noticee?***

17. Before dealing with the issues stated hereinabove, I find it pertinent to deal with a preliminary issue raised by Noticee no. 1 in his reply. The Noticee has stated that the SCN falls short on the basic principle of law as the DGM issuing the SCN has no authority to issue the said SCN without a prior approval from the WTM as per the delegation of powers, and the SCN does not state whether such approval has been taken. I note that in terms of Section 19 of the Securities and Exchange Board of India Act, 1992, the Board is empowered to delegate such of its powers and functions by general or special Order in writing, to any member, officer of the Board or any other person subject to such conditions, as may be specified in the Order. Accordingly, the Board had issued Securities and Exchange Board of India (Delegation of Statutory and Financial Powers) Order, 2019 (hereinafter referred to as "DOP"). I note that according to Clause 22 of Chapter I of Part A of the DOP, approval for the power to sign and issue a show cause notice can be exercised by a Deputy General Manager of SEBI. It is well-settled that there can be no exercise of power unless such power exists in law. If the power does not exist, then the purported exercise of power would be bad and the action would be illegal and void.[1] In this case, I find that the issuance of SCN by the DGM of SEBI is authorized exercise of power which is delegated to him under the DOP, and therefore the objection raised by Noticee no. 1 is baseless. Furthermore, in compliance with the principles of the natural justice, the Noticee has been provided all the relevant information, and the opportunity to defend himself by filing reply and personal hearing.

18. In view of the above, I do not agree with the submissions made by the Noticee and find that no question can be raised regarding exercise of power to issue the SCN by SEBI.

[1] C. K. Thakker, *Administrative Law* (2nd Edn., Eastern Book Company 2012) 771.

Issue I: Whether the Noticees acted as an unregistered Investment Advisor in contravention of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations?

19. I note from the SCN and copy of the complaint filed by Complainant no. 1, Mr. Gangadhar H (Annexure A of the SCN) with SEBI that it has been alleged that MIG is not a SEBI registered advisory company but involved in the business of investment advisory services. The Complainant also stated that MIG and its associates target people through telephonic marketing and promises huge returns and asks clients to deposit amount in their accounts. MIG also creates a fake portfolio tracking account on its website <www.maxxinns.com>. It provides fake client ID and provides fake trade sheets on a regular basis. He claimed that the firm has charged Rs. 58,900/- from him and has refused to pay back. The details of MIG provided by the Complainant are as under:

Table 1

Name	Maxx Innovation Growth
Name of Bank	IDFC First Bank (hereinafter referred to as "**IDFC Bank**")
Account No	1003511xxxx
Address	Upper Ground Floor, Commerce House, UG – 1A, UG – 2, UG – 3, UG – 3A, UG – 3B, 7 Race Course Road, Indore, Madhya Pradesh - 452001

20. I note from the SCN that the following amounts claimed to have been transferred by Complainant no. 1 to bank account of Noticee no. 1, Mr. Vishal Lath's MIG held with IDFC First Bank (hereinafter referred to as "IDFC Bank") have been traced in the said account.

Table 2

Date of receipt	Amount received from complainant no. 1 in IDFC account of Noticee no. 1 (In Rs)
14.05.2019	10,000/-
14.05.2019	10,000/-
14.05.2019	4,900/-
15.06.2019	9,000/-

21. I note from Annexure G to the SCN which encloses the AOF for MIG's bank account maintained with IDFC Bank and the corresponding KYC documents, that Mr. Vishal Lath has been shown as the sole proprietor and signatory for MIG. At the time of opening the bank account, Noticee no. 1, Mr. Vishal Lath also submitted a Business License (*Vyaysay License*) and Udyog Aadhar memorandum wherein it is shown that Mr. Vishal Lath is the Proprietor of MIG.

22. The SCN states that the website of MIG i.e. <www.maxxinns.com> is non- operational as on date, however, copies of webpages of Maxx Innovation Growth obtained from the website <www.archive.org> were enclosed as Annexure E to SCN. I note that the details with respect to operations of MIG hosted on the website, <www.maxxinns.com> are reproduced as under:

    (a) Under the "About Us" section of the website, the following was mentioned:

    "Maxx Innovation Growth Services in Financial Market with a moto that we will serve best quality of services to our clients by which they can achieve their financial goals…. We provide all calls via sms and live chat. The calls provided by our company is originated by our extremely skilled and well informed analyst…."

    (b) The following services were being offered by Noticee no. 1, Mr. Vishal Lath, Proprietor of MIG on its website:

    "Our Services: We provide a wide array of specialized advisory and strategic services for our clients.
    Stock Cash: *In Stock Cash tips we provide Intraday tips. We provide timely and accurate tips to our clients. Which help to earn profit in volatile market.*
    Stock Future: *Stock Future Tips Whenever you invest in stock Future Market it is important that you know what has to be done with the stocks you hold at one ...*
    Stock Option: *Option Tips Option Tips Star of Market excels in providing the Option Tips to its customers. On the daily basis, that is in intraday this facility is being ...*

Index Future: *There is high volatility in index future which give a lot of chances to earn Now instantly & smoothly. the risk capacity is directly proportional to your desire profit. We also strive hard to achieve our internal targets and to get maximum returns for our clients.*

Commodity*: Commodity Tips covers all the precious metals like gold, silver base metals and energy products. Where the calls are prepared by qualitative analysis.*

HNI*: This is a pack specially designed for our most esteemed HNI clients who are interested in getting the most accurate tips and that also less in number. So, in this pack, we give very few calls and that also sure shot calls in Equity as well as Commodity." (Emphasis Supplied)*

(c) The plans published on the website of MIG are as under:

Table 3

(in Rs.)

Packages & Duration	**Stock Cash**	**Stock Future**	**Stock Option**	**Stock Cash Premium**	**Stock Future Premium**	**Stock Option Premium**	**Stock Cash HNI**	**Stock Future HNI**
Monthly	NA	NA	NA	15,000	15,000	15,000	35,000	50,000
Quarterly	20,000	30,000	15,000	40,000	40,000	35,000	60,000	1,20,000
Half Yearly	34,000	51,000	25,000	65,000	70,000	60,000	1,05,000	2,10,000
Yearly	51,000	90,000	40,000	1,10,000	1,20,000	1,00,000	1,80,000	3,90,000

Packages & Duration	**Stock Option HNI**	**Special Crystal Panel**	**MCX**	**NCDEX**	**MCX HNI**	**NCDEX HNI**	**Equity Combo**	**Commodity Combo**
Monthly	25,000	NA	15,000	15,000	50,000	50,000	20,000	30,000
Quarterly	60,000	7,00,000	40,000	40,000	1,20,000	1,20,000	50,000	75,000
Half Yearly	1,00,000	10,00,000	65,000	65,000	2,10,000	2,10,000	90,000	1,30,000
Yearly	1,75,000	15,00,000	1,10,000	1,10,000	4,00,000	4,00,000	1,60,000	2,30,000

23. The payment section also facilitated payment through PayUmoney. The following payment link could be retrieved from archives of the web pages:

(a) <https://web.archive.org/web/20190222072658/https:/easebuzz.in/pay/NSEMaxxInns>

(b) < https://web.archive.org/web/20190222072658/https:/easebuzz.in/pay/MaxxInns>

24. It is observed that the website of MIG provided the bank account details of Noticee No. 3, Mr. Vipin Sharma under the payment section. The bank account details of Mr. Vipin Sharma mentioned on the website of MIG are as under:

Table 4

Bank Name	Axis Bank
A/ C Name	Vipin Sharma
A/ C Number	916010027xxxx89
RTGS/ NEFT IFSC	UTIB0001xxx
Branch	Lasudiya Mori Indore M.P.
Address	107 PU4, Vijay Nagar, Indore - 452010

25. In addition to the above, I also note that Complainant no. 1, Mr. Gangadhara in his complaint has stated that the associates of MIG were Ms. Ritika Agarwal, Mr. Veer Kumar Sharma and Mr. Vipin Sharma and Mr. Atul which shows that Mr. Vipin Sharma was connected with Noticee no. 1, Mr. Vishal lath, Proprietor of MIG.

26. I note that Noticee no. 1 in his reply has submitted that the SCN has provided as annexures screenshot of website of MIG from <www.archive.org> which is not a government website and therefore, the same cannot be relied upon. The Noticee has also argued that screenshots do not contain any bank accounts and the same cannot be held against the Noticee. In this regard, I note that MIG was operating its website with the domain name of <www.maxxinns.com>. The SCN states that said website was non - operational on the date of issuance of SCN. Therefore, the copies of webpages were obtained from <www.archive.org>. I note that Complainant no. 1 in his complaint had submitted that he was approached by representatives of MIG offering investment advisory services. He also submitted that MIG maintained a website with the domain name of <www.maxxinns.com> and provided details of fees paid to the bank account of Noticee no. 1, Proprietor of MIG. As shown in Table 2 at paragraph no. 20, the said fees paid by the Complainant were traced into the bank account of the Noticee. I also note from the Account Opening Form and KYC submitted by Noticee no. 1 to IDFC Bank wherein the fees were collected in lieu of investment advisory activities that in the “Tell Us About Your Business” section, the Noticee has provided nature of industry as “Consultancy”. I also note that the Noticee has

provided his Udyog Aadhar Memorandum wherein it is clearly stated that Noticee no. 1 is the Proprietor of Maxx Innovation Growth and major activity of Mr. Vishal Lath is *NIC 639999* i.e. "*Other Information services activities n.e.c*". Further, upon examining the bank account statements of Noticee no. 1 (Annexure J to SCN) and Noticee no. 3 (Annexure L to SCN), I note that narrations therein included phrases like "Partnership plan", "deposit for partnership", "trading pay out", "trading profit", "investment return", "weekly trade profit", "for trading", "stock advisor", "tipspaym", "for your tips", "for investment", "investment purpose", etc., which indicate that the fees were charged to provide unregistered investment advisory and portfolio management services. Some of the narrations observed in the bank account statements are captured in the table below.

Table 5 – Account no. 1003511xxxx of Noticee no. 1, Mr. Vishal Lath, Proprietor of MIG

Date	Narration
15/06/2019	IMPS-MOB/Fund Trf/916611354175/GANGADHARAH/GST**AMOUNTFORTRADINGINVEST**
02/08/2019	IMPS-MOB/Fund Trf/921411276404/SRINIVASULUSHAN/**fortradingaccount**
02/08/2019	IMPS-MOB/Fund Trf/921417805560/ABHISHEKAANNAPP/MB**TRADINGPAYMENT**
16/07/2019	UPI/MOB/919710295481/**Deposit for Partnership***
16/02/2019	UPI/MOB/904712318920/**For investment**
10/07/2019	IMPS-MOB/Fund Trf/919118381858/LOVNESHRAHEJA/**TransferAgainstInvestmentPlan**
23/05/2019	UPI/MOB/914308389069/**Share**
23/05/2019	UPI/MOB/914308012901/**for ur tips**
23/05/19	IMPS-MOB/Fund Trf/914309609871/BISWARANJANSENA/**TIPSPAYMENT**

**Related to PMS activity*

Table 6 – Account no. 916010027xxxx89 of Noticee no. 3, Mr. Vipin Sharma

Date	Narration
16/10/2017	IMPS/P2A/728922162949/919728882650/**For Trading t**
23/07/2018	IMPS/P2A/820321427859/919900083200/**Stock advisor**
11/01/2019	IMPS/P2A/901111372578/917081692307/**Investment**
20/05/2019	IMPS/P2A/914016406612/BISWARAN/ICICIBAN/**TIPSPAYM**

27. The SCN states that the website of MI i.e. <www.maxxinns.in> is non- operational as on date, however, copies of webpages of Maxx Innovation obtained from the website <www.archive.org> were enclosed as Annexure F to SCN. I note that the details with respect to operations of MI hosted on the website are reproduced as under:

(a) Under the "About" section of the website, the following was mentioned:

"Maxx Innovation Growth services is a leading financial services provider with presence in Indian and other global capital markets….
Maxx Innovation provides all traders & investors various types of services which is specially make according to their investment & need which helps them to get good profit in volatile market.

We are here to help you to grow your financial position by Short-Term investing or Trading in Indian Financial Market. We are always committed, dedicated to assist our clients with better market analysis. Our flexible packages are so suitable to everybody, so clients can choose our packages as per their requirement."

(b) The following services were being offered by Noticee no. 2, Mr. Jitendra Bharbhuja, Proprietor of MI on its website:

"Our services:

Maxx Innovation is a leading financial services provider with presence in Indian and other global capital markets.

Stock Future: *<u>We provide 3-4 intraday cash call in this service</u> with a accuracy of more than 90% u can judge the accuracy by.*

Stock Cash: *<u>We provide 3-4 intraday cash call in this service</u> with a accuracy of more than 90% in NSE/BSE you will get.*

Positional stock cash: *In this service <u>we will be providing you more than 12-16 positional calls in stock cash</u> with a monthly accuracy.*

BTST/STBT: *In this service we provide more than 15-18 BTST/STBT calls in a month in any of the following Cash, Futures.*

STOCK COMBO (CASH+ FUT): *This is a service where you will get 3-4 cash intraday & stock future calls you will get sufficient time to enter and exit"*

(Emphasis Supplied)

(d) The plans published on the website of MI are as under:

Table 7

(in Rs.)

Packages & Duration	Stock Cash Basic	Stock Cash Premium	Stock Cash Platinum	Stock Future Basic	Stock Future Premium	Stock Future Platinum	Stock Option Basic	Stock Option Premium
Monthly	NA	15,000	30,000	NA	25,000	50,000	NA	20,000
Quarterly	15,000	40,000	80,000	25,000	60,000	1,30,000	20,000	50,000
Half Yearly	25,000	NA	1,50,000	40,000	NA	2,40,000	35,000	NA
Yearly	NA	1,20,000	2,60,000	NA	1,80,000	4,50,000	NA	1,50,000
Packages & Duration	**Stock Option Platinum**	**Index Future Platinum**	**NCDEX Premium**	**MCX Basic**	**MCX Premium**	**MCX Platinum**	**Currency Premium**	**Index Option Special**
Monthly	40,000	20,000	10,000	NA	20,000	40,000	25,000	30,000
Quarterly	1,00,000	50,000	25,000	40,000	50,000	1,00,000	70,000	NA
Half Yearly	1,80,000	85,000	40,000	NA	NA	1,80,000	1,20,000	NA
Yearly	3,20,000	1,50,000	70,000	70,000	1,50,000	3,40,000	2,00,000	NA

In addition to the above, MI also provided a package termed "Inventory Special" wherein a weekly package was valued at Rs. 20,000/- and a monthly package was valued at Rs. 50,000/-.

28. I note from Annexure H to the SCN i.e. the AOF of MI's bank account maintained with HDFC Bank that Noticee no. 2, Mr. Jitendra Bharbhuja is the sole proprietor and signatory of MI. The said annexure also contains Gumasta License submitted by Noticee no. 2, Mr. Jitendra Bharbhuja to the HDFC Bank wherein it shown that he is the sole proprietor of MI.

I also note that in the said AOF, the Nature of Business and Nature of Industry has been filled by the Noticee as "Service Advisory" ad "Stock Broking Services Advisory".

29. Further, upon examining the bank account statements of Noticee no. 2 (Annexure K to SCN), I note that narrations therein included phrases such as "for trading", "for trade", "for investment", "investment purpose" etc., which indicate that the fees were charged to provide unregistered investment advisory services. Some of the narrations observed in the bank account statements are captured in the table below.

Table 8 – Account no. 50200050xxxx92 of Noticee no. 2, Mr. Jitendra Bharbhuja, Proprietor of MI

Date	**Narration**
22/09/2020	59109699697771 -TPT-**FOR TRADING**-ANKURKUMAR SURENDRABHAI PARIKH
25/08/2020	IMPS-023811575181-SAKINA QUAIDZOHER KA-HDFC-XXXXXXXXXXX7856-**FOR TRADE** - FROM SAKINA KACHWALA
28/08/2020	UPI-RAKESH KUMAR RAI-RAKESHRAI50@ OKAXIS-UTIB0003374-024111598630-**INVEST**
12/10/2020	08971460000498 -TPT-MAXX INNOVATION GROWTH **INVESTMENT-** PANCHAL NABHASHAHIB VIJAYBHAI
15/09/2020	IMPS-025917301705-JITENDRA PAL SINGH-HDFC-XXXXXXXX0079-**FOR INVESTMENT**

30. I also note that in paragraph no. 7 of his reply, Noticee no. 1 has submitted that he was employed with Noticee no. 2, Mr. Jitendra Bharbhuja, and that after confirming with the actual owner of the company, the Noticee found out that the transactions related to unregistered advisory business where the entry of share, tips, trading etc. are narrated amounts to Rs. 10, 29,000/-. The Noticee has also stated that there are payouts/ refunds to investors which are reflected in the bank account statements. Therefore, I note that the evidence pertaining to screenshots of websites which shows that Noticee no. 1 was offering investment advisory services is corroborated by the complaints, movement of funds from Complainant no. 1 to Noticee no. 1, and other evidence such as the account opening form, KYC and bank account statements.

31. I note from regulation 2 (1)(l) of the IA Regulations that the term "investment advice" is defined thereunder 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."* Furthermore, regulation 2 (1)(m) of the IA Regulations defines "investment adviser" as "*any person who for consideration, is engaged in the business of providing 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."* Based on the contents of the websites of MIG and MI including the packages offered by Noticee no. 1, Mr. Vishal Lath and Noticee no. 2, Mr. Jitendra Bharbhuja and narrations in the bank account statements of all three Noticees, I note that the Noticees were acting as an investment adviser as per regulations 2(1)(m) of the IA Regulations.

32. I note that according to section 12 (1) of the SEBI Act and Regulation 3 (1) of the IA Regulations, no person shall act as an investment adviser or hold himself out as an investment adviser unless he has obtained a certificate of registration from SEBI. The said provisions are reproduced as under:

<u>SEBI Act, 1992</u>

Registration of stock brokers, sub-brokers, share transfer agents, etc.

"12. (1) "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… … …."

<u>SEBI (INVESTMENT ADVISER) REGULATIONS, 2013</u>

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."

33. 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:
    - (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 non-refundable application fee;
    - (ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
        - (a) A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a 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.

34. 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.

35. I note that the activities of the Noticee no. 1, Mr. Vishal Lath, Proprietor of MIG, Noticee no. 2, Mr. Jitendra Bharbhuja, Proprietor of MI and Noticee no. 3, Mr. Vipin Sharma show that they were acting as investment advisers, however, the Noticees are not registered with SEBI in the capacity of an Investment Adviser. Therefore, I find that investment advisory activities were being carried out by the Noticees without obtaining the necessary certificate of registration as an investment adviser and therefore, Noticee no. 1, Mr. Vishal Lath, Proprietor of MIG, Noticee no. 2, Mr. Jitendra Bharbhuja, Proprietor of MI and Noticee no. 3, Mr. Vipin Sharma have violated Section 12(1) of the SEBI Act along with Regulation 3(1) of the IA Regulations.

Issue II: Whether the Noticees acted as unregistered Portfolio Manager in contravention of Section 12(1) of the SEBI Act and Regulation 3 of the PMS Regulations?

36. The second issue for consideration before me is whether the Noticees acted as unregistered Portfolio Managers in contravention of Section 12(1) of the SEBI Act and Regulation 3 of the PMS Regulations. In this regard, I note that in terms of Section 12(1) of the SEBI Act and Regulation 3 of the PMS Regulations, it is imperative that any person carrying out

portfolio management activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of the SEBI Act and Regulations framed thereunder. Section 12(1) of SEBI Act 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:"*

37. As per Regulation 3 of PMS Regulations, the registration as Portfolio Manager is mandatory. It provides that: *"No person shall act as a portfolio manager unless it has obtained a certificate of registration from the Board under these regulations."* Regulation 2 (o) of the PMS Regulations defines a portfolio manager as follows: "*A portfolio manager is a body corporate who, pursuant to a contract or arrangement with a client, advises or directs or undertakes on behalf of the client (whether as a discretionary portfolio manager or otherwise), the management or administration of a portfolio of securities or the funds of the client."*

38. I note from the complaint of Mr. Satya Prakash Pandey (Complainant no. 2) that he had invested Rs. 2 lakhs with Noticee no. 1, Mr. Vishal Lath's MIG for which he received invoices issued by MIG dated March 18, 2019 (for consideration of Rs. 1,50,000/-), April 11, 2019 (for consideration of Rs. 50,000/-) and June 07, 2019. MIG promised him to give 12% monthly return on invested amount. Further, complainant has stated that he also invested Rs. 70,000/- for trading but MIG was not providing any service in lieu of the payment and that he has lost all the amount invested by him.

39. I note that the agreement between Complainant no. 2 (First Party to the Agreement) and MIG (Second Party to the Agreement) is provided as Annexure B to the SCN. I note that the agreement dated March 18, 2019 carries the following clauses:

> *"Second Party generate Intraday as well as delivery Calls in Stock cash and F & O in NSE & BSE, Commodities including Bullions, Metal & Agro – Commodities traded in MCX and NCDEX.*
>
> *Second Party assures First Party that Second Party is giving you minimum 8% (+4%) (i.e. monthly) return on your actual investment. Second Party/ Company invests First Party's Capital Safely in Following Segments like Equity, Commodity, Currency etc….*
>
> ***Second Party/ Company is ready to manage First Party's Portfolio with minimum investment of Rs. 1,50,000/- in Company's Pull D-mat account with the help of Second Party's Highly Qualified Researchers and Our Management Team****….*
>
> *How often have you wished your wealth was managed for (sic) to grow abundantly while you sat back and enjoyed the benefits? Well, At Our Company wishes do come true.* ***With our capable and trustworthy PORTFOLIO MANAGEMENT SERVICE, you can experience proficiency, latent and expertise all of which allows us to bring out the best in your portfolio of investment****.*
>
> *With an endeavor to give you the best,* ***Our Company provides highly professional fund management service*** *which are flexible to address varying investment preferences and deliver maximum returns to our Clients." (Emphasis Supplied)*

40. The agreement dated June 07, 2019 between Complainant no. 2 (First Party) and MIG (Second Party), the following clauses have been mentioned:

> *"Second Party is a (sic) Maxx Innovation Growth Services and an Investment research group carrying out operations in the Indian Equities and Commodity Market.*
>
> *Second Party generate Intraday as well as delivery calls in stock cash and F & O in NSE & BSE, Commodities including Bullions, Metal & Agro – Commodities traded in MCX and NCDEX.*
>
> ***Partnership should be in ratio of 70-30%. First Party amount is Rs. 70,000/- that is 70% name Satyaprakash Pandey and second party amount is Rs. 30,000/- that is 30% name MAXX INNS. Total trade should be done is Rs. 1,00,000/- and it will share 70-30% of profit and loss both as mentioned above percentage and amount.***
>
> ***Second Party/ Company is ready to manage first party's portfolio.***
>
> ***Second Party/ Company is ready to manage first party's portfolio with minimum investment of Rs. 1,00,000/-*** *in company's pull/ D mate (sic) account with help of second party's highly qualified researchers and our management team." (Emphasis Supplied)*

41. During the hearing, the AR of Noticee no. 1, Mr. Vishal Lath submitted that the agreement between Maxx Innovation Growth and Complainant no. 2, Mr. Satyaprakash Pandey mentioned in the SCN is merely a screenshot. However, the details of the sender and receiver of the chats is not available. The said submission has been reiterated in his reply. In this context, the AR also relied on the observation of SEBI's QJA in the matter of Star World Research bearing Order no. QJA/GG/WRO/23318/2022-23 at paragraph 54 where it was observed that there was no material on record to show that the calls were made by the Noticee.

42. I note that Complainant no. 2, Mr. Satyprakash Pandey (S/o Mr. Brijal Pandey) filed complaint dated February 22, 2020 with SEBI wherein it was stated that he had invested Rs. 2 lakhs with MIG. The Complainant also provided invoices issued by MIG dated March 18, 2019 and June 07, 2019. The invoice dated March 18, 2019 bearing reference no. MI7003372 was issued in favour of the Complainant acknowledging receipt of Rs. 1,50,000/- for "Portfolio Management Service". The duration of the plan stated therein is 6 months. As regards invoice dated June 07, 2019 bearing reference no. MI –SP0026 issued in favour of the Complainant, the same acknowledges receipt of Rs. 70,000/- for "Portfolio Management Service". The duration of the plan stated therein is 6 months.

43. The Noticee has claimed that the SCN has merely included screenshots of the invoice and the agreement and the same cannot be relied upon. In this regard, I have examined the bank account statement of the Noticee for Account no. 1003511xxxx and observe that credit entries corresponding to the amount mentioned in the invoices are reflected in the statement which are reproduced below for clarity. Therefore, I am unable to agree with the said contention of the Noticee.

Table 9

Entries corresponding to invoice dated March 18, 2019 of Rs. 1,50,000/-		
Date	**Narration**	**Amount (In Rs.)**
14/03/2019	IMPS-MOB/Fund Trf/907313444614/BRIJLALPANDEY/investment	50,000

14/03/2019	IMPS-MOB/Fund Trf/907313841585/BRIJLALPANDEY/investment	50,000
15/03/2019	IMPS-MOB/Fund Trf/907414898751/BRIJLALPANDEY/investment	50,000
Entries corresponding to invoice dated June 07, 2019 of Rs. 70,000/-		
Date	**Narration**	**Amount (In Rs.)**
30/05/2019	IMPS-MOB/Fund Trf/915011662451/MrSATYAPARKASHP/MOBUA0170158049	50,000
03/06/2019	IMPS-MOB/Fund Trf/915409705114/MrSATYAPARKASHP/MOBUA0171511452	20,000

44. I note from the SCN and copy of the Complainant no. 3, Mr. Amarendra Kumar Singh's complaint (Annexure C to SCN) that he deposited Rs. 60,000/- with Maxx Innovation i.e. MI as per their agreement of 50:50 partnership plan whose website was <www.maxxinns.in> and address was at 117, PU4, Vijay Nagar, Indore, Madhya Pradesh. I note from the SCN that the following amounts claimed to have been transferred by Complainant no. 1 to bank account of Noticee no. 2, Mr. Jitendra Bharbhuja's MI held with HDFC Bank (hereinafter referred to as "**HDFC Bank**") have been traced in the said account.

Table 10

Date of receipt	**Amount received from complainant no. 3 in HDFC account of Noticee no. 2 (In Rs)**
06/08/2020	10,000
06/08/2020	10,000
06/08/2020	10,000
31/08/2020	30,000

45. I note that the invoice/ agreement bearing reference no. AS1128 issued to Complainant no. 3 (Annexure C to the SCN) by Noticee no. 2, Mr. Jitendra Bharbhuja's MI stated that the Company is ready to manage the portfolio with minimum investment of Rs. 60,000/- in the Company's "pull D-mat account" in 50-50% partnership wherein the client invests 50% and the company i.e. Noticee no. 2 invests 50%. No reply has been received from Noticee no. 2, Jitendra Bharbhuja, Proprietor of Maxx Innovation.

46. I note from the SCN and copy of the Complainant no. 4, Ms. Sangita's complaint (Annexure D to SCN) that one Ms. Ritika Agarwal from Maxx Innovation approached her for providing their advisory services. The complainant provided WhatsApp screenshots and bank account details of MI used for collecting money from its clients to run unregistered investment advisory and portfolio management services. From the Whatsapp Chat, I note that on December 12, 2020, one Mr. Ritika Agarwal messaged on behalf of Maxx Innovation Growth Services offering Portfolio Management Services, and the details mentioned in the chat are reproduced as under:

> *"As per our discussion we have (sic) inform you about our Portfolio service…. As per our telephonic conversation our company is giving you the partnership of 70-30% in company's pull/ d-mate account….*
>
> *Features and Fee of PMS* In this plan you have to invest with 70% amount. In this plan company will invest 30% amount. Whole amount kept in company pool D/mat account. Our researcher will handle this account to make daily profit. Company will share profit and loss amount with Client as percentage mentioned above 70-30% ratio."*

47. In the said chat, the representative of Noticee no. 2 provided bank account details of Noticee no. 2, Mr. Jitendra Bharbhuja, Proprietor of Maxx Innovation. The bank account mentioned therein is held with HDFC Bank bearing account number 5020005068xxxx. I also note that the complainant was provided a dummy agreement which stated that the Noticee is ready to manage the portfolio with minimum investment of Rs. 30,000/- in the Company's "pull D-mat account" in 70-30% partnership.

48. I note that the SCN states that both MIG (Proprietor, Mr. Vishal Lath) and MI (Proprietor, Mr. Jitendra Bharbhuja) are related entities and operated by the same group of people based on the following:

    (a) The same contact no. 7389011093 is hosted on the website of MIG and MI.

    (b) The websites of MIG and MI are identical. MIG was operating its website with the domain name of <www.maxxinns.com> and MI was operating its website with the domain name of <www.maxxinns.in>.

(c) The agreement provided by Complainants no. 2 (agreement with MIG), Complainant no. 3 (agreement with MI) and Complainant no. 4 (Dummy Agreement) carry the same logo/letterhead with the address same as that of MIG i.e. 107, U-4, Vijay Nagar, Indore, Pin Code: 452010. The logo is reproduced as under:

Maxx
Innovation Growth Services

(d) Inter-bank transfers in the accounts of the Noticees were observed, a sample of those transactions is as under:

(i) Transactions observed in the IDFC Account of Noticee No. 1, Mr. Vishal Lath related to Noticee no. 2, Mr. Jitendra Bharbhuja:

Table 11: Amounts transferred from/to Noticee no. 1 to/from Noticee no.2

S. No.	**Date of transaction**	**Transaction amount (Rs)**	**Transactions details with narration**	**Type of transaction**
1	17-09-2019	25000/-	IFT/10047789653/Mr. Jitendra Bharbh/2737296/Ac op	Debit
2	23-09-2019	25000/-	IFT/10047789653/Mr. Jitendra Bharbh/2948133/Refun	Credit

(ii) Transactions observed in the HDFC Account of Noticee No. 2, Mr. Jitendra Bharbhuja related to Noticee no. 1, Mr. Vishal Lath:

Table 12: Amounts transferred from/to Noticee no. 2 to/from Noticee no.1

S. No	**Date of transaction**	**Transaction amount (Rs)**	**Transactions details with narration**	**Type of transaction**
1	25-09-2020	400000/-	50100294738632-TPT-PAYOUT-VISHAL LATH	Debit
2	04-10-2020	180000/-	50100294738632-TPT-REFUND-VISHAL LATH	Debit

(iii)Transactions observed in the Axis Bank Account of Noticee No. 3, Mr. Vipin Sharma related to Noticee no. 1, Mr. Vishal Lath:

Table no. 13: Amounts transferred from/to Noticee no. 3 to/from Noticee no.1

S. No.	Date of transaction	Transaction amount (Rs)	Transactions details with narration	Type of transaction
1	27-08-2018	182000/-	NEFT/SK/AXSK182390010635/1680/VISHAL LATH/SAKN203	Debit
2	20-10-2018	200000/-	RTGS/SK/UTIBR52018102000361577/1680/VISHAL LATH/S	Debit
3	10-01-2019	69000/-	NEFT/SK/AXSK190100003414/1680/VISHAL LATH/SAKN252	Debit

(e) I note that bank account details of Mr. Vipin Sharma were mentioned on the website of MIG. I also note that Complainant no. 1, Mr. Gangadhara in his complaint has stated that the associates of MIG were Ms. Ritika Agarwal, Mr. Veer Kumar Sharma and Mr. Vipin Sharma and Mr. Atul. This shows that Mr. Vipin Sharma was connected with Noticee no. 1, Mr. Vishal lath, Proprietor of MIG. From the Customer Application Form submitted by Mr. Vipin Sharma at the time of opening his bank account, I note that the email ID provided by him was <veerkumarsharma@gmail.com>. I note that even while communicating with SEBI, the Noticee has been using the said email ID. The name "V.K. Sharma" along with the contact number "9755978731" is also mentioned in the agreement between Complainant no. 2 and MIG.

49. I note that there are two types of portfolio management services. In discretionary portfolio management service, the portfolio manager individually and independently manages the funds and securities of each client in accordance with the needs of the client. Under the non-discretionary portfolio management service, the portfolio manager manages the securities or goods or funds in accordance with the directions of the client. I note from agreements between the Noticee no. 1 and 2 and the respective complainants, the invoices issued to the complainants and the Whatsapp chats between the said Noticees and the complainants that the Noticees undertook to manage the portfolio of the complainants. The

Complainant no. 4 was informed that amount invested by the investor will be kept in the company's pool/ demat account, and that a researcher working with the Noticee will handle the account to make daily profit.

50. I note that for seeking a certificate of registration for acting as a Portfolio Manager, the Entity is required to satisfy, *inter alia*, the following requirements, as provided under the PMS Regulations:
   (i) An application for seeking certificate of registration to be made to SEBI, in Form A as specified in the Schedule I to PMS Regulations, along with requisite non-refundable application fee;
   (ii) For considering the grant of certificate of registration to the applicant, Board shall consider the following:
      (a) whether, the applicant is a body corporate;
      (b) the applicant has the necessary infrastructure like adequate office space, equipment and the manpower to effectively discharge the activities of a portfolio manager;
      (c) the applicant has appointed a compliance officer;
      (d) the principal officer of the applicant has–
      - a professional qualification in finance, law, accountancy or business management from a university or an institution recognized by the Central Government or any State Government or a foreign university or a professional qualification by completing a Post Graduate Program in the Securities Market (Portfolio Management) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA charter from the CFA institute;
      - experience of at least five years in related activities in the securities market including in a portfolio manager, stock broker, investment advisor, research analyst or as a fund manager; and
      - the relevant NISM certification as specified by the Board from time to time
      - Provided that at least 2 years of relevant experience is in portfolio management or investment advisory services or in the areas related to fund management

- Provided further that a fresh NISM certification shall be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with the certification requirements.

(e) In addition to the Principal Officer and Compliance Officer, the applicant has in its employment at least one person with the following qualifications:

- Graduation from a university or an institution recognized by the Central Government or any State Government or a foreign university; and
- an experience of at least two years in related activities in the securities market including in a portfolio manager, stock broker, investment advisor or as a fund manager: Provided that any employee of the Portfolio Manager who has decision making authority related to fund management shall have the same minimum qualifications, experience and certification as specified for the Principal Officer in clause (d) of sub-regulation (2) of regulation.

(f) any disciplinary action has been taken by the Board against a person directly or indirectly connected with the applicant under the Act or the rules or the regulations made there under;

(g) Applicant must have net worth of not less than 5 crore rupees.

51. The PMS Regulations provide for the minimum professional qualification and prescribe mandatory net-worth requirement. Further, it *inter-alia* provides for criteria for fit and proper person, Code of Conduct, Contract with clients and disclosures, disclosures of any conflict of interest, maintenance of books of accounts and records. The prescriptions in the PMS Regulations are intended to safeguard the interest of investors and curb the perpetration of unregulated entities entering the field of portfolio management services and indulging in unscrupulous market practices.

52. The narrations in the bank account statements, movement of funds, contents of the websites of MIG and MI, invoices/ agreements between Complainant no. 2 and MIG, Complainant no. 3 and MI and instant messaging chats between Complainant no. 4 and MIG allow me no doubt in holding that the Noticees has been offering Portfolio Management Services

without obtaining the relevant registration from SEBI in violation of Section 12 (1) of the SEBI Act read with Reg. 3 of the SEBI (Portfolio Manager) Regulations, 2020.

Issue III: Whether the acts of the Noticee attract the prohibition under 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a), (b), (c), (d), 4(1) and 4(2) (k) of PFUTP Regulations?

53. Before proceeding further, I find it pertinent to reproduce the relevant provisions:

<u>SEBI Act</u>

*"**Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control**.*

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;"

<u>PFUTP Regulations</u>

<u>"2. In these regulations, unless the context otherwise requires,—</u>

(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 include—
…
…
…
(5) a representation made in a reckless and careless manner whether it be true or false;"

*"3. **Prohibition of certain dealings in securities***

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;
(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices
(1) Without prejudice to the provisions of regulation, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.
Explanation.–For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

(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,

54. The SCN has observed that the Noticees have claimed the following:

(a) Email of MIG to Complainant no. 2, Mr. Satyaprakash Pandey states the following:

> *"Our company assures you that we are <u>giving you 12% monthly return</u> of your actual investment"*

(b) Agreement between MIG to Complainant no. 2, Mr. Satyaprakash Pandey records the following:

> *"Second Party/ Company assures First Party, that Second Party is giving you minimum 8% (+4%) (i.e. monthly) return on your actual investment.*

(c) Through website of MI, under the section "Our Services" for the packages titled "Stock Future" and "Stock Cash" the following has been mentioned:

> <u>*Stock Future:*</u>
>
> *"We provide 3-4 intraday cash call in this service with an <u>accuracy of more than 90%</u> u can judge the accuracy by."*
>
> <u>*Stock Cash:*</u>
>
> *"We provide 3-4 intraday cash call in this service with an <u>accuracy of more than 90%</u> in NSE/ BSE you will get."*
>
> "*Maxx Innovation Growth Services is a leading financial services provider with presence in Indian and <u>other Global markets</u>*"

55. Based on the aforesaid, the SCN has alleged that the Noticees are offering guaranteed returns from the market and making claims that they are operating globally. Such assurance of return is a concealment of the fact that every investment in the securities market is subject to market risk, considering the dynamic nature of the market. In view thereof, it is alleged that the said conduct / act / practice of the Noticees is fraudulent in nature, and in violation of Section 12A(c) of SEBI Act, 1992 and Regulation 3(a), (b), (c) and (d) of PFUTP Regulations. It is also alleged that the said conduct / act / practice of the Noticees is also in violation of Regulations 4(2)(k) and 4(2)(s)(i) of the PFUTP Regulations, which provide 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.

56. I note that the Noticees promised a certain percentage of return to its clients/ investors. I agree that promising returns is an active concealment of the material fact that every investment in the market is subject to market risk. In this regard, I note that the Noticees adopted business tactics to induce the clients into availing the services he offered. I also note that promising returns in securities market amounts to misrepresentation and misleading the investors. Such reckless conduct intended to induce investors to deal in securities constitutes 'fraud' under the PFUTP Regulations.

57. I feel it is pertinent to note the observations of the Hon'ble Supreme Court in ***SEBI* v. *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" … … …*
>
> *A person can be said to have induced another person to act in a particular way or not to act in a particular way if on the basis of facts and statements made by the first person the second person commits an act or omits to perform any particular act. The test to determine whether the second person had been induced to act in the manner he did or not to act in the manner that he proposed, is whether but for the representation of the facts made by the first person, the latter would not have acted in the manner he did. This is also how the word inducement is understood in criminal law. The difference between inducement in criminal law and the wider meaning thereof as in the present case, is that 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."*

58. In view of the above, I note that the Noticees promised returns with respect to their investment advisory/ portfolio management services without obtaining the necessary certificate of registration as an investment adviser and knowingly publishing false and

misleading information, thereby defrauding potential investors by inducing them to invest in the shares based on the advice promising guaranteed returns, which, I find are in violation of the provisions of Regulation 3 (b), (c) & (d) and 4(1), 4 (2)(k) and 4 (2)(s) of the PFUTP Regulations read with Section12A(a), (b), (c) of the SEBI Act.

Issue IV: If answer to issue no. I, II and/ or III is in the affirmative, what directions should be passed against the Noticee?

59. The SCN has alleged that following amounts credited in the bank accounts of noticees is alleged to be received as fees towards the services rendered as investment advisor and portfolio manager. The SCN also calls upon the Noticees to show cause as to why suitable directions including the direction to refund should not be issued under Sections 11(1), 11(4), 11B(1) of the SEBI Act, 1992:

Table 14: Total amount credited in Noticees' accounts

Name	**Bank account**	**From**	**To**	**Credit Amount (Rs.)**
Maxx Innovation Growth (Noticee No. 1)	IDFC First Bank Acc No: 10035110805 IFSC: IDFB004xxxx	February 01, 2019	September 21, 2020	1,35,43,733/-
Maxx Innovation (Noticee No. 2)	AXIS Bank Acc No: 91601002783xxxx IFSC: UTIB0001173	May 20, 2016	July 05, 2020	37,26,769/-
Vipin Sharma (Noticee No. 3)	HDFC Bank Acc No: 5020005068xxxx IFSC: HDFC0003812	August 05, 2020	October 12, 2020	30,24,661/-

60. At this juncture, it will be relevant to quote the Order of the Hon'ble Securities Appellate Tribunal in the matter of ***Vusa Ravi* v. *SEBI*** decided on July 27, 2023, wherein it was argued by the Appellant that the direction to refund is patently erroneous in as much as the entire amount shown in the bank accounts was not towards advisory services but was for other services. Hon'ble Tribunal while upholding the order held as follows:

"...However, with regard to the direction for refund, considering the facts and circumstances that have been brought above, we direct the appellant to move an appropriate representation within three weeks from today giving details of the credit entries of the three bank accounts and indicate with precision as to which amount relates to advisory services and which amount does not relate to advisory services. The authority will consider each and every entry and thereafter crystalize the amount to be refunded within two months thereafter."

61. In this regard, Noticee no. 1 has submitted at paragraph no. 7 of his reply that he was employed with Noticee no. 2, Mr. Jitendra Bharbhuja, and that after confirming with the actual owner of the company, the Noticee found out that the transactions related to unregistered advisory business where the entry of share, tips, trading etc. are narrated amounts to Rs. 10, 29,000/-. Furthermore, there are credit entries of Rs. 2,70,000/- with the narration "Maxx Innovation/ Maxx" and that these are also belonging to advisory activity. However, there are cash deposits, credits reversal entries (for example, 3 cheques worth Rs. 6,00,000/- which bounced were shown as credits), transfers from friends and family and income from other businesses, which according to the Noticee should not be considered as funds received towards investment advisory activity. In this regard, the Noticee has provided the following table:

Table 15

Sr. No.	Particulars	Amount (in Rs.)
1.	Total balance in alleged bank account linked to Vishal Lath (A)	1,35,43,733
2.	Refunds and payouts already made (B)	25,46,017
3.	Cash deposits by Noticee (C)	6,92,000
4.	Reversal entries and cheque bounce (D)	11,93,443
5.	Transfer entries from Noticee's account (E)	15,70,150
6.	Transfers from family and friends (F)	4,60,310
7.	Total after above deductions (G)	70,81,813
8.	Payment received from other businesses (H)	57,82,813
9.	**Total payment received for advisory business [I = A – (B+C+D+E+F+H)**	**12,99,000**

62. I note that the cash deposits made by the Noticee (sr. no. 3 at Table 15) are large amounts and the Noticee has not provided any supporting documents such as ITR as to the source of income for the said cash deposits made by him. The details of cash deposits made by him include (i) deposit of Rs. 32, 000/- on April 08, 2019, (ii) Rs. 40,000/- on June 04,

2019, (iii) Rs. 1,89,000/- on June 28, 2019, (iv) Rs. 31,000/- on August 13, 2019, (v) Rs. 26,5000/- on September 05, 2019, (vi) Rs. 50,000/- on September 06, 2019, (vii) Rs. 18,000/- on September 16, 2019, (viii) Rs. 28,000/- on September 17, 2019, (ix) Rs. 2,46,000/- on November 18, 2019 and (x) Rs. 32,5000/- on November 27, 2019. Similarly, the Noticee has claimed that Rs. 57,82,813/- has been earned from stock market training courses, algo software sales and from commissions from other business that the Noticee sold to its clients. I note that no supporting document has been provided to supplement this claim. Therefore, the submission of the Noticee to take into account the amounts received as cash deposits and from other businesses cannot be accepted.

63. As regards, Rs. 25,46,017/- as refund amount claimed at sr. no. 2 of Table 15, I note that post verification of individual entries from the bank account statement, it is observed that not all entries claimed match with the account statement. I also note that only Rs. 24,23,536/- match with the claim of Noticee no. 1. Further, the reversal amount claimed by Noticee no. 1 at sr. no. 4 of Table 15 i.e. Rs. 11,93,443/- have been verified with the bank account statement. The entries claimed by the Noticee are found to be present in the bank account statement at the corresponding date with the same narration, and the amount claimed by the Noticee matches with the sum of the entries. Therefore, I note that the amount collected by Noticee no. 1, Mr. Vishal Lath towards unregistered investment advisory services and portfolio management services is Rs. 93,43,963/-. This amount is arrived at after excluding amounts received from refunds and payouts made to investors reversal entries and cheque bounce and friends and family.

Table 16

Sr. no.	Particulars	Amount (in Rs.)
1	Total balance in alleged bank account linked to Vishal Lath (A)	1,35,43,733
2	Less refunds and payouts already made (B)	25,46,017
3	Less Reversal entries and cheque bounce (C)	11,93,443
4	Less Transfers from family and friends (D)	4,60,310
	Total payment received for advisory business (E=A – (B+C+D)	93,43,963

64. I note that no response has been received from Noticee nos. 2 and 3. Therefore, I note that the Noticees are liable to refund the following amounts:

Table 17

Name of the Noticee	Amount (in Rs.)
Maxx Innovation Growth (Noticee No. 1)	93,43,963/-
Maxx Innovation (Noticee No. 2)	37,26,769/-
Vipin Sharma (Noticee No. 3)	30,24,661/-

65. I note it has been clearly established in the preceding paragraphs that Noticee nos. 1 to 3 have engaged in the activities of an investment adviser and a portfolio manager without obtaining the requisite registration from SEBI, in violation of Section 12(1) of the SEBI Act, read with Regulation 3(1) of the IA Regulations, 2013 and Regulation 3 of the PMS Regulations. I have also found that the Noticees have acted in violation of Regulation 3 (b), (c) & (d) and 4(1), 4 (2)(k) and 4 (2)(s) of the PFUTP Regulations read with Section12A(a), (b), (c) of the SEBI Act. In view of the same, I find that the penalty under Sections 15EB and 15HA of the SEBI Act, 1992 is clearly attracted.

66. The relevant extract of Sections 15EB and 15HA of the SEBI Act, 1992, 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 fraudulent and unfair trade practices.
15HA.*If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."*

67. For imposition of penalties under the provisions of the SEBI Act, 1992, Section 15J of the SEBI Act, 1992 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."*

68. Thus, in the light of the findings in the preceding paragraphs, I am of the considered view that the Noticees are liable for refund of the aforementioned amount collected as an unregistered investment adviser and portfolio manager in addition to monetary penalties which are attracted for the said violations under Sections 15EB and 15HA of the SEBI Act.

DIRECTIONS

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

(a) The Noticee no. 1, Mr. Vishal Lath and Noticee no. 3, Mr. Vipin Sharma, jointly and severally, and Noticee no. 2, Mr. Jitendra Bharbhuja, shall, within a period of three (3) months from the date of coming into force of this order, refund the money received from any complainants/ investors/ clients, as fees or consideration or in any other form, in respect of their unregistered investment advisory activities;

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

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

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

(e) After completing the aforesaid repayments, the Noticees 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 at paragraph 69 (a) and (b) above, duly certified by an independent Chartered Accountant and the direction at para 69 (d) above shall cease to operate upon filing of such report on completion of refunds to complainants/ investors;

(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 Noticees. Thereafter, remaining amount if any will be deposited in the 'Investors Protection and Education Fund' maintained by SEBI;

(g) The Noticees are restrained 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 2 years from the date of this order or till the expiry of 2 years from the date of completion of refunds to complainants/ investors as directed in paragraph 69 (a) above, whichever is later;

(h) The Noticees are hereby imposed with the following penalties under Sections 15EB and 15HA, and further directed to pay the penalty within a period of forty-five (45) days, from the date of receipt of this order:

Noticee no.	**Name of Noticee**	**Penalty**	
1	Mr. Vishal Lath (Proprietor of Maxx Innovation Growth)	Section 15EB of the SEBI Act, 1992	Rs. 1,00,000/- (Rupees One Lakh only)
		Section 15HA of the SEBI Act, 1992	Rs. 5,00,000/- (Rupees Five Lakh only)
2	Mr. Jitendra Bharbhuja (Proprietor of Maxx Innovation)	Section 15EB of the SEBI Act, 1992	Rs. 1,00,000/- (Rupees One Lakh only)
		Section 15HA of the SEBI Act, 1992	Rs. 5,00,000/- (Rupees Five Lakh only)
3	Mr. Vipin Sharma	Section 15EB of the SEBI Act, 1992	Rs. 1,00,000/- (Rupees One Lakh only)
		Section 15HA of the SEBI Act, 1992	Rs. 5,00,000/- (Rupees Five Lakh only)

(i) In case of failure of the Noticees to comply with the aforesaid directions in sub-paragraph (a), (f) and (h), 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 Noticees, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws;

(j) The Noticees shall remit / pay the said amounts of penalty, 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 Noticee may contact the support at portalhelp@sebi.gov.in. The demand draft or the details/ confirmation of e-payment should be sent to "The Division Chief, Market Intermediaries Regulation and Supervision Department (MIRSD), Division of Registration-2, 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)	

(k) The Noticees shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 69(g) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws.

70. It is hereby clarified that if the Noticees have any open position in any exchange traded derivative contracts, as on the date of this order, they can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. The Noticees are permitted to settle the pay in and pay out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.

71. The direction for refund, as given in paragraph 69(a) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticees for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

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

73. A copy of this order shall be sent to the Noticee no. 1, Mr. Vishal Lath, Noticee no. 2, Mr. Jitendra Bharbhuja and Noticee no. 3, Mr. Vipin Sharma, recognized Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of mutual funds to ensure that the directions given above are strictly complied with.

Sd/-

Date: March 27, 2024
Place: Mumbai

Dr. ANITHA ANOOP
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA