

National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/65915	Date: December 31, 2024
Circular Ref. No: 427/2024	

To All NSE Members,

Sub: SEBI order in the matter of unregistered investment advisory activities by M/s Profit Trades, Proprietor- Mr. Sunil Grover.

This has reference to SEBI Order no. QJA/GR/NRO/NRO-DIV-III/31091/2024-25 dated December 31, 2024 wherein, SEBI has debarred the following entity 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 one (1) year from the date of this order or till the date of filing of report, as directed in point (e) above, whichever is later.

Sr. No.	Name	PAN
1	M/s Profit Trades; Proprietor - Mr. Sunil Grover	CBJPG9485K

Further, SEBI vide above order has clarified that if the Noticee has any open position in any exchange traded derivative contracts, as on the date of this order, the Noticee 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 Noticee is 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.

The detailed order is available on SAT website (<https://www.sebi.gov.in/enforcement.html>).

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>

National Stock Exchange of India

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 activities by M/s
Profit Trades, Proprietor- Mr. Sunil Grover**

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.

In respect of:

Name of the Noticee	PAN
M/s Profit Trades; Proprietor - Mr. Sunil Grover	CBJPG9485K

In the matter of unregistered investment advisory services/activities by M/s Profit Trades, Proprietor- Mr. Sunil Grover.

BACKGROUND:

1. The Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') had conducted investigation based on the complaint received vide email dated October 07, 2023 against M/s Profit Trades, Proprietor- Mr. Sunil Grover (hereinafter referred as '**Profit trades/Noticee**') stating that the Noticee was doing unauthorized investment advisory/ research analyst activities through website called www.profittrades.in. In the investigation, it was observed that the Noticee created the aforesaid website on February 26, 2017 and was doing the alleged unregistered Investment Advisory ('**UIA**') since then, which is in violation of the provision of Section 12(1) of the SEBI Act, 1992 (hereinafter referred to as '**SEBI Act**') read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2003 (hereinafter referred to as '**IA Regulations**'). Further, the aforesaid website of the Noticee was found to be active during the investigation.
2. Subsequent to the investigation on the aforesaid complaint, SEBI has initiated instant proceedings under section 11(1),11(4),11(4A),11B(1) and 11B(2) read with

Sections 15HA, 15HB (for violations prior to March 08, 2019) and 15EB (for violations after March 08, 2019) of the SEBI Act, 1992 against the Noticee for the alleged act of providing investment advisory services without having requisite registration/certificate as mandated under IA Regulations.

3. In this regard, a show cause notice dated August 12, 2024 (hereinafter referred to as '**SCN**') was issued to the Noticee, calling upon the Noticee to show cause as to why suitable directions including directions to refund of fees collected towards unregistered investment advisory ('**UIA**') service should not be issued against it under sections 11(1), 11(4) and 11B(1), of SEBI Act for alleged violations of section 12(1) of the SEBI Act read with Regulation 3(1) of IA Regulations and Regulation 3(a),(b),(c),(d) and Regulation 4(2)(k) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as '**PFUTP Regulations**') read with Section 12A(a), (b) and (c) and why direction under Sections 11(4A) and 11B(2) for imposing penalties under SEBI Act read with Sections 15HA, 15HB and 15EB of SEBI Act should not be issued.

4. The facts of the case, as stated in the SCN, are as follows:

I. *The complainant had stated the following in the complaint:*

- *The complainant received a call from this number 844xxxx946¹, who represented himself as a representative of Profit Trades, Delhi for providing Trading calls on a 30% profit sharing basis. On whatsapp (from number 966xxxx606) a screenshot of profit was shared. After going through the website, the complainant could not find it as an authorized either Investment Adviser or Research Analyst. The representative also shared the following bank account details to make the payment:*

Company Name: Profit Trades

Bank Name: Axis Bank

Account Number: 9170xxxxxxxx0791²

IFSC Code: UTIB0003047

¹ Mobile numbers have been masked to ensure privacy

² Bank Account number has been masked to ensure privacy

Branch: Janak Puri A block New Delhi

- II. While investigating the complaint, SEBI sent a letter dated 26.10.2023 to the Noticee asking for information w.r.t activities undertaken by it under IA Regulations and SEBI (Portfolio Managers) Regulations, 2014. The said letter returned undelivered.
- III. SEBI also sought information from the stock exchanges and the depositories i.e. NSE, BSE, NCDEX, NSDL and CDSL through emails dated 26.10.2023 and 14.12.2023, to enquire whether the Noticee is registered with them in the capacity of an 'Authorized Person'.
- IV. BSE, NSE and NCDEX vide emails dated 26.10.2023, 31.10.2023 and 27.10.2023 respectively informed that the Noticee is not registered as their member nor is an 'Authorized Person' affiliated to any Trading Member. Further, the Noticee is also not associated with members in the capacity of client/director/shareholder/ partner/promoter.
- V. CDSL vide email dated 26.10.2023 provided details of demat account recorded against the PAN of the Noticee, which is as under:

BOID	BO Name	DP Name and Address	Other Details
120853000272 2318	Sunil Grover	Alice Blue Financial Services	AC Open Date:02.07.2021 AC Status: Freeze

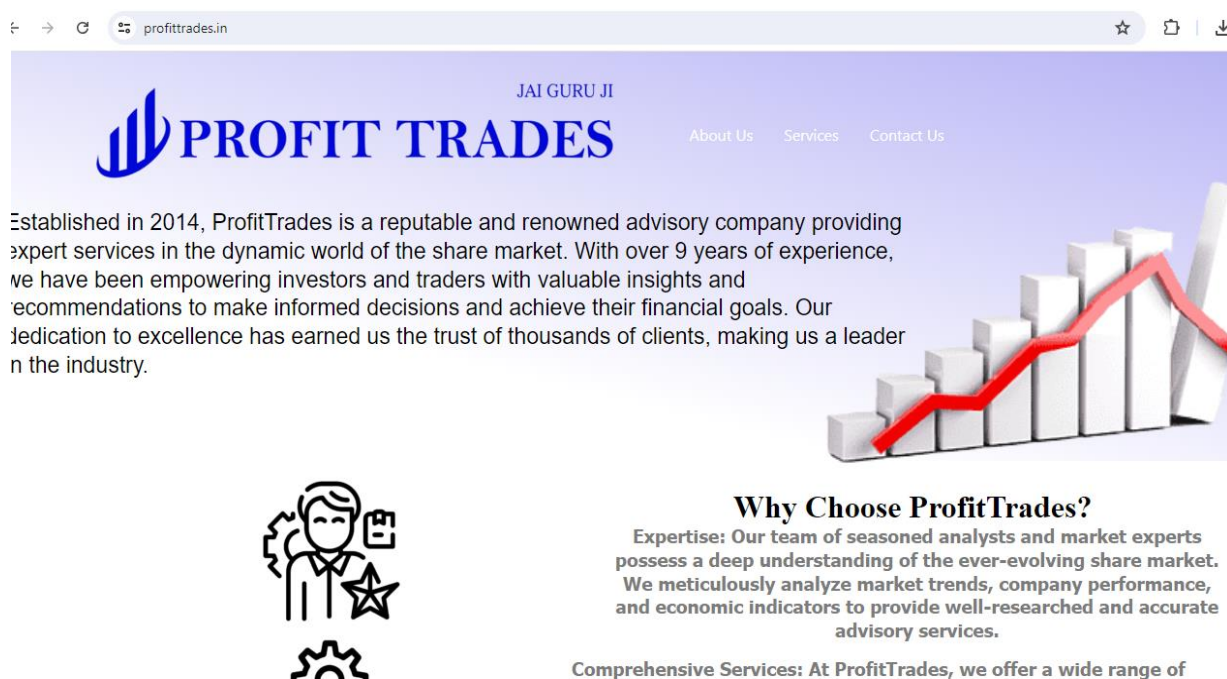
- VI. As per the response received from the banks seeking details of bank accounts linked with the PAN of the Noticee the following was observed-

ACCOUNT NAME	ACCOUNT NUMBER	ACCOUNT OPEN DATE	Comments
Profit Trades	9170xxxxxx0791 (Axis Bank)	30-03-2017	Last entry was on 17.10.2023. Balance-Rs.3,63,370.46
Profit Trades	2010xxxx5725 (Indusind Bank)	20-03-2017	Account closed on 02-05-2023

Sunil Grover	7280xxxx2347 (Indusind Bank)	30-10-2019	Account closed on 11-04-2023
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VII. Telephone calls were made to the mobile numbers provided by the complainant i.e. 844xxxx946, 958xxxx867. Further, a search was made over Truecaller, which revealed that the mobile no.844xxxx946 belongs to one Mr. Punet Sharma (categorized as SPAM), mobile no. 958xxxx867 belongs to Mr. Sunil Grover, and both the mobile numbers are active. A Call was also made on 958xxxx867 on 17.01.2024, however, no response was received.

VIII. The website of the Noticee i.e. www.profittrades.in is presently active (as on date July 16, 2024), upon opening the said URL, following website page appears:



IX. The website www.profittrades.in was further surfed to obtain information regarding the services being rendered by the entity and payment gateway related details of the entity wherein following information appeared-

Established in 2014, Profit Trades is a reputable and renowned advisory company providing expert services in the dynamic world of the share market. With

over 9 years of experience, we have been empowering investors and traders with valuable insights and recommendations to make informed decisions and achieve their financial goals. Our dedication to excellence has earned us the trust of thousands of clients, making us a leader in the industry.

Why Choose Profit Trades?

Expertise: Our team of seasoned analysts and market experts possess a deep understanding of the ever-evolving share market. We meticulously analyze market trends, company performance, and economic indicators to provide well-researched and accurate advisory services.

Comprehensive Services: At Profit Trades, **we offer a wide range of advisory services tailored to suit the unique needs of both beginners and experienced investors. Whether you are seeking short-term trading opportunities or long-term investment strategies, we've got you covered.**

Personalized Approach: We understand that every investor's financial journey is distinct. That's why **our advisory services are personalized to align with your risk appetite, financial objectives, and investment horizon.** We aim to build a lasting partnership and guide you every step of the way.

Your Path to Becoming a Winning Option Trader

Option trading can be a highly rewarding but complex endeavor, requiring a deep understanding of the market and strategic decision-making. At Profit Trades, we are dedicated to empowering you to become a winner in the option trading segment. With over 9 years of experience and a proven track record, we offer a comprehensive range of services and support to help you achieve your financial goals.

In conclusion, Profit Trades is your trusted partner in the option trading segment. Our expert analysis, personalized strategies, educational resources, risk management, constant support, and performance-driven approach are designed to help you navigate the option market with confidence and emerge as a winner.

Join us today and embark on a profitable journey towards financial success in the exciting world of option trading.

Our Head Office: Located in the heart of New Delhi, our head office serves as the nerve center of our operations. Our experienced professionals collaborate here, combining their expertise and knowledge to serve you better. Whether you prefer to visit us in person or seek assistance online, our team is always ready to cater to your needs.

Analysis of the Bank Statements of the Noticee

- X. *The complainant had mentioned in the complaint that the representative of the Noticee shared bank account details over Whatsapp to make the payment for availing services of the Noticee. The Bank Account details stated therein are:*
- Company Name: Profit Trades*
- Bank Name: Axis bank*
- Account Number: 9170xxxxxxxx0791*
- IFSC Code: UTIB0003047*
- Branch: Janak Puri A block New Delhi*
- XI. *In order to ascertain the amount of money received by the Noticee through the alleged UIA activities, Banks were requested to provide Bank Account details linked with the PAN of the Noticee. Upon perusal of the Bank Statements of all such bank accounts, the details of which are provided in the preceding paragraphs, the following was observed:*

Axis Bank No. 9170xxxxxxxx0791

In the Axis Bank Account, it is observed that the Credit entries with Key Words share, tips, profit trades, mem, nifty, banknifty, registration, stock, fees, consultation, brokerage, investment, advisory, service, commission were traceable. The first date of credit entry relating to collection of fee could be traced on 20.05.2017. The analysis of bank statement is as under:

No. of credit entries	4091	Rs.1,70,76,094.32	
		No. of Credit entries with above key words. Cash Deposit	268 amounting to Rs. 23,90,740.30
		No. of credit entries with 'payment' key word.	1454 amounting to Rs. 47,75,217.00
		Total fee collected	Rs. 71,65,957.30
No. of debit entries	2483	Rs.1,67,52,445.24	
		The debit entries for personal use with key words "profit trades, sunil g, Smridhi Grover"	266 amounting to Rs. 65,03,716.00
		The debit entries for personal use with key words ATM-Cash	135 amounting to Rs. 13,49,100.00
		The debit entries for personal use with key words ECOM PUR, Godaddy, facebook	294 amounting to Rs. 4,65,487.12
Total entries	6574		Rs. 83,18,303.12

IndusInd Bank- No. 201xxxxxx725

In the Indusind Bank Account, it was observed that the Credit entries with Key words tips, nifty, fees, Brok, call, advise, trade and commission were traceable. The first date of credit entry relating to collection of fee could be traced on 30.12.2019. The analysis of bank statement is as under-

No. of credit entries	12,170	4,12,98270.93	
		No. of Credit entries with above key words.	199 amounting to Rs. 5,46,479.20
		No. of credit entries with 'PayU ' key word.	222 amounting to Rs. 13,05,747.69
		Total fee collected	Rs. 18,52,226.89

No. of debit entries	6105	The debit entries for personal use with key words "profit trades, sunil g, Smridhi Grover" The debit entries for personal use with key words ATM-Cash The debit entries for personal use with key words One97 Communications	69 amounting to Rs. 26,74,679.00 240 amounting to Rs. 25,78,909.40 537 amounting to Rs. 5,66,208.71
			Rs.58,19,797.11
Total entries	18,275		

IndusInd Bank- No. 159xxxxxx867

XII. In the Indusind Bank Account, it is observed that the Credit entries with Key words tips, trad were traceable. The first date of credit entry relating to collection of fee could be traced on 02.05.2022. The analysis of bank statement is as under-

No. of credit entries	1193	59,38,113.99	
		No. of Credit entries with above key words.	5 entries amounting to Rs. 6,390.00
		No. of credit entries with 'payment' key word	7 entries amounting to Rs. 24,727.00
		Total fee collected	Rs. 31,117.00
No. of debit entries	1182	59,16,909.83	
		The debit entries for personal use with key words ATM-Cash	29 entries amounting to Rs.1,59,500.00
Total entries	2375		

Response received from PayU Money-

Upon perusal of bank entries, it was observed that many credit receipts were seen from PayU money. Vide email dated 28.02.2024, information w.r.t bank details/KYCs linked with entity's PAN/account no. along with purpose of making payment was sought from PayU money. In response, PayU Money provided the KYC and agreement entered between the Noticee and PayU money. (Copy of agreement placed at Annexure 24) Upon perusal of the said agreement following is observed-

- *Agreement was entered on 31.03.2017.*
- *Business category mentioned as Professional and technical services.*
- *PayU had provided payment gateway solutions with respect to Merchant site to the entity.*
- *The entity had setup the merchant site to sell the products and /or collect payments online from customers.*
- *PayU acted as an intermediary by creating link between the merchant site and the respective acquiring bank services by means of software application and PayU money platform thereby enabling customers to make payment of customer charge on the merchant site through acquiring bank services through various payment options.*

XIII. From the above, the following appears to be the fees collected by the Noticee from the alleged UIA services. The first date of credit entry relating to collection of said fee could be traced on 20.05.2017

Bank name	Bank account no.	Amount
Axis Bank	917020029010791	71,65,957.30
IndusInd Bank	201001145725	58,19,797.11
IndusInd Bank	159582083867	31,117.00
TOTAL		1,30,16,871.41

XIV. From the above, it was observed that the Noticee is engaged in act of providing investment advisory services to investors for which it has collected consideration (fees). However, it is observed that the Noticee has not obtained requisite registration for engaging in such investment advisory activities.

XV. *Based on the factual details and observations stated herein above, it was alleged that the Notice has engaged in the activities of investment adviser without obtaining the requisite registration from SEBI, in violation of Section 12(1) of the SEBI Act, 1992, read with Regulation 3(1) of the IA Regulations, 2013.*

XVI. *Further, it was alleged that the entity is disseminating false and misleading information through its website, which is likely to influence the decision of investors in securities market. Further, the entity is allegedly mis-selling the securities and making false assurances/promises along with claims of assured return. Such misrepresentation to render advisory services to public is misleading and influences the decision making of investors in securities market. In view thereof, it is alleged that the said conduct of the Noticee is fraudulent in nature and in violation of provisions of Section 12A(a), (b) and (c) of SEBI Act, 1992 and Regulation 3(a), 3(b), 3(c), 3(d), 4(2)(k) and (s) of PFUTP Regulations.*

5. The aforesaid SCN was served to the Noticee through Speed Post Acknowledgment Due (SPAD) and was accordingly delivered on August 19, 2024 to one of the addresses of the Noticee available on record. Since no reply was received from the Noticee, adhering to the principles of natural justice, the Noticee was provided with an opportunity of personal hearing before the undersigned on October 10, 2024 and accordingly a hearing notice dated September 30, 2024 ('HN') was issued to the Noticee. However, the HN served through SPAD returned undelivered. Since, earlier the SCN was successfully delivered at the same address an attempt was made to hand deliver the HN to the Noticee at the same address. The attempt to hand deliver as well as affix the the HN failed. While attempting affixture of the HN the security guard present at the said society informed that the Noticee has moved out of the said address few months back. Thereafter, the email ID linked with the Noticee was gathered and the SCN was served at the same on October 16, 2024. The SCN along with annexure in original was handed over to the Noticee on October 18, 2024. Thereafter, the Noticee vide email dated October 23, 2024 informed about Annexure CD received by him being corrupt/blank. Thereafter the annexure CD was

handed over to him on October 24, 2024 at SEBI-Delhi office with advised to submit reply of the SCN on or before November 20, 2024.

6. However, the Noticee vide email dated November 20, 2024 sought extension to submit the reply and requested the soft copy of investigation report. Accordingly, vide email dated November 22, 2024 the soft copy of examination report was shared with the Noticee with the direction to submit reply of the SCN on or before December 02, 2024 and the personal hearing was rescheduled on December 03, 2024. Thereafter, the Noticee once again sought adjournment of the personal hearing due to non-availability of the counsel and requested to schedule the same on December 09, 2024.
7. The personal hearing was once again adjourned and was rescheduled on December 10, 2024 with the direction to submit reply of the SCN on or before December 09, 2024. Since the Noticee sent the confirmation to attend the personal hearing and written reply on December 09, 2024 post office hours the personal hearing was conducted virtually using the zoom platform on December 12, 2024. On the said date, the Authorised Representatives (AR) of the Noticee appeared virtually before the undersigned and admitted the violation of IA regulations alleged in the SCN against the Noticee. However, regarding the amount collected by the Noticee through UIA, it was argued that the amount is lesser than what is alleged in the SCN and further submitted that there was a lack of evidence in the SCN regarding the alleged violation of PFUTP regulations. The AR during the hearing also requested additional time to submit supplementary reply of the SCN, which was duly granted. The Noticee and its AR vide multiple letters have submitted reply of the SCN, the contentions raised therein are reproduced below:

- a) *It is submitted that the SCN specifically reiterates certain allegations, made against Noticee, in the Complaint. The said Complaint is false, motivated and the allegation made in the said Complaint, which form the basis of the investigation against Noticee, is not corroborated by independent evidence. In absence of the same, no allegation can be made by the Complainant against the Noticee. It was the Complainant who approached the Noticee and*

not the other way round as alleged by SEBI. The fact that none of the allegations made in the said Complaints could be independently verified goes to show that the Complaint which form the very basis of the investigation, are false, baseless and pursue an oblique agenda against Noticee.

- b) Paragraph 14 of the SCN provides with a table indicating the total fees collected by the Noticee from the alleged UIA services. The table at paragraph 14 indicates that the Noticee has collected a fee of Rs. 1,30,16,871.41/-. The said amount (Rs. 1,30,16,871.41/-) is an addition of the number of credit entries of the bank accounts at paragraphs 13.1 to 13.3. Paragraph 14 provides that the total fee collected in Indusind Bank's account bearing no. 201001145725 as Rs. 58,19,797.11/-. It is submitted that the actual amount as mentioned in paragraph 13.2 as fee collected under the head "no. of credit entries" as Rs. 18,52,226.89/- only. Therefore, the amount provided being fee collected in paragraph 14 of the SCN as Rs. 58,19,797.11/- is incorrect.*
- c) Further it is submitted that several credit entries in the bank statement provided ought to be excluded considering the fact that the same are intra/inter bank transactions.*
- d) Paragraph 13.1 provides that the "No. of credit entries with 'payment' keyword' are Rs.47,75,217.00/-. It is stated that no evidence has been provided with the SCN to allege that all the transactions with the keyword 'payment' are towards alleged UIA services. To the best of my knowledge, it is submitted that the said amount of approximately Rs.47 lakhs relate to amounts received towards my food catering business and do not pertain to investment advisory business. In absence of evidence, the said has to be reduced from the total amount.*
- e) Without prejudice to the fact that the Noticee did not hold himself out as an Investment Adviser, it is submitted that upon a persual of the extract in the paragraph 17 of the SCN, it will be extremely clear that the Noticee is not disseminating false and misleading information. The Noticee has just provided information on their website and nothing else. There is no evidence of the fact that the Noticee is mis-selling the securities and making false*

assurance/promises along with the claim of assured return from the extract in paragraph 17 of the SCN. Not even a single line indicates that there was any false assurance along with claim assured return. SEBI has not specifically indicated as to what is the exact information that was disseminated falsely and / or any misleading information. SEBI has also not provided as to which line specifically provides for assured returns. No iota of evidence has been provided to show whether the information is designed to or likely to influence the decision of the investors dealing in securities. No data pertaining to the traffic on the said website has been provided by SEBI to prove their allegation. In absence of cogent evidence it is denied that the Noticee is liable for violating provisions of Section 12A(a),(b),(c) of the Act and Regulations 3 and 4(2)(k) and (s) of the PFUTP Regulations.

*f) The Noticee cited the judgments of Hon'ble Securities and Appellate Tribunal in **National Securities Depository Ltd. v. Securities and Exchange Board of India** {2007 SCC OnLine SAT 208} and **Karvy Stock Broking Ltd. v. SEBI**, 2008 SCC Online SAT 74 and submitted that any direction of disgorgement and ban must not be punitive and should be remedial in nature. Therefore, there is no reason for SEBI to pass an order banning the Noticee herein.*

8. In view of the above, I note that the SCN and HN were duly served to the Noticee along with all the documents relevant in the instant matter. Further, sufficient time was provided to the Noticee to respond to the SCN. Thereafter, an opportunity of personal hearing was given to the Noticee, which was duly availed. Hence, the principles of natural justice were complied with respect to the Noticee and I shall now proceed to deal with the key issue involved in the instant matter.

CONSIDERATION OF ISSUES AND FINDINGS:

9. I shall proceed to examine the allegations raised against the Noticee in the SCN. For the same, I have considered the material available on record including the

complaints and replies of the Noticee. Accordingly, the following issue requires consideration:

- ***Whether the acts of the Noticee as imputed in the SCN, have resulted in the violation of the provisions of SEBI Act, 1992 read with IA Regulations, 2013 and PFUTP Regulations, 2003, while providing the services related to Investment Advisery without having proper registration?***

10. Before proceeding further in the matter, it is pertinent to refer to the relevant provisions of the SEBI Act, IA Regulations and the PFUTP Regulations, alleged to have been violated by the Noticee, as per the SCN. The said provisions of law are reproduced herein below:

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."

Section 12A. Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.

"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.

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.”

PFUTP Regulations, 2003

Section 2 – Definitions

(1) In these regulations, unless the context otherwise requires,—

...

(b) “dealing in securities” includes:

...

(ii) such acts which may be knowingly designed to influence the decision of investors in securities;

...

(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—

(1) a knowing misrepresentation of the truth or concealment of material fact in order that another person may act to his detriment;

Section 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 the rules and the regulations made there under”.

Section 4- Prohibition of manipulative, fraudulent and unfair trade practices

(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 and which is designed or likely to influence the decision of investors dealing in securities;

...

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

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

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

(ii) knowingly concealing or omitting material facts, or

(iii) knowingly concealing the associated risk, or

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

11. I shall now proceed to examine the issue on merits.

12. I note that the complainant in its complaint to SEBI which was submitted vide email dated October 07, 2023 against Profit Trades, Delhi mentioned the following:

- a) The complainant received a call from the number 844xxxx946 from a representative of Profit Trades, Delhi. It was informed over the call that trading calls will be provided on a 30% sharing basis.
- b) The complainant also received texts over whatsapp from number 966xxxx606 wherein screenshot of profit was shared alongwith the details of website wherein it was mentioned that www.profittrades.in is their website. The complainant

surfing the website and found it to be unauthorized as it is neither a registered investment adviser nor research analyst.

- c) Picture of an identity card of Mr. Sunil Grover (Director) www.profittrades.in was shared with the complainant along with the NISM certificate having PAN CBJPG9485K. The PAN was verified by the complainant over NISM SKILLS REGISTRY and it was observed that Mr. Sunil Grover has the IA qualification certificate in his name.
- d) The following bank account details were also shared with the complainant-

Company Name: Profit Trades

Bank Name: Axis Bank

Account Number: 9170xxxxxxx0791

IFSC Code: UTIB0003047

Branch: Janak Puri A block New Delhi

13. Further, I note from SCN that the web pages of the website www.profittrades.in were perused during the investigation to gather information regarding the content of the said website. Following is the content of the said website:

- *“Established in 2014, Profit Trades is a **reputable and renowned advisory company providing expert services in the dynamic world of the share market. With over 9 years of experience**, we have been empowering investors and traders with valuable insights and recommendations to make informed decisions and achieve their financial goals. Our dedication to excellence has earned us the trust of thousands of clients, making us a leader in the industry.*

Why Choose Profit Trades?

- *Expertise: Our team of seasoned analysts and market experts possess a deep understanding of the ever-evolving share market. We meticulously analyze market trends, company performance, and economic indicators to provide well-researched and accurate advisory services.*

- *Comprehensive Services:* At Profit Trades, we offer a wide range of advisory services tailored to suit the unique needs of both beginners and experienced investors. Whether you are seeking short-term trading opportunities or long-term investment strategies, we've got you covered.
- *Personalized Approach:* We understand that every investor's financial journey is distinct. That's why our advisory services are personalized to align with your risk appetite, financial objectives, and investment horizon. We aim to build a lasting partnership and guide you every step of the way.

Your Path to Becoming a Winning Option Trader

- Option trading can be a highly rewarding but complex endeavor, requiring a deep understanding of the market and strategic decision-making. **At Profit Trades, we are dedicated to empowering you to become a winner in the option trading segment.** With over 9 years of experience and a proven track record, we offer a comprehensive range of services and support to help you achieve your financial goals.
- In conclusion, Profit Trades is your trusted partner in the option trading segment. Our expert analysis, personalized strategies, educational resources, risk management, constant support, and performance-driven approach are designed to help you navigate the option market with confidence and emerge as a winner. **Join us today and embark on a profitable journey towards financial success in the exciting world of option trading.**
- **Our Head Office:** Located in the heart of New Delhi, our head office serves as the nerve center of our operations. Our experienced professionals collaborate here, combining their expertise and knowledge to serve you better. Whether you prefer to visit us in person or seek assistance online, our team is always ready to cater to your needs.

Our Service Charges

- *At ProfitTrades, we believe in delivering value to our clients through a client-centric approach that aligns our success with theirs. Our unique charging model ensures that our clients only pay for the services provided after they have reaped the benefits of profitable trades. This way, we prioritize our clients' financial interests and ensure transparency in all our interactions.*
- *Our charging model is straightforward and designed to motivate our clients to achieve success in the market. Once our clients make a profit on their trades based on our recommendations, we charge a reasonable percentage as a service fee. This way, our interests are intrinsically tied to the success of our clients, fostering a sense of partnership and trust.*
- *To ensure seamless communication and personalized support, our clients have direct access to their respective Relationship Managers (RMs). **Our RMs are experienced professionals who provide tailored advisory services, understand the unique financial goals of each client, and offer expert insights to help them make informed decisions.***
- *In addition to contacting their RMs, clients can reach out to our dedicated customer support team for any queries or assistance. We pride ourselves on delivering prompt and efficient customer support to ensure a smooth and satisfying experience for our clients. **As part of our commitment to transparency, we provide clear and concise details regarding our payment process. All payments, whether for services or profits, are to be made to the below-mentioned official account:***
Bank Name: Axis Bank
Account Holder Name: ProfitTrades Pvt. Ltd.
Account Number: 9170xxxxxxx0791
IFSC Code: UTIB0003047
- *By providing this information upfront, we ensure that our clients can confidently proceed with their transactions, knowing that their funds are being directed to the authorized ProfitTrades account.*

- At ProfitTrades, our success is intertwined with the success of our clients. We strive to build lasting relationships based on trust, expertise, and mutual benefit. Our charging model after profit ensures that we remain dedicated to our clients' financial prosperity, making us a preferred choice in the advisory services industry. **We look forward to guiding you towards profitable ventures in the market and being your trusted partner in your financial journey.** [Emphasis Supplied]

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14. From the aforesaid contents of the website of www.profittrades.in, I note the followings-

- a. Profit Trades was established in 2014 and has been providing advisory services for more than 9 years.
- b. For providing the services, Profit Trades has various packages which it sells to its clients for fees or on profit sharing basis. These packages were for various products like Nifty Options calls, Bank Nifty Options Calls, Options Intraday trading, Futures intraday trading, BTST (Buy Today Sell Tomorrow) Trading, Swing Trading and Positional Trading.
- c. The Noticee has engaged Relationship Managers (RMs) who provides one-to-one services to the clients. These RMs are mentioned as experienced professionals who provide tailored advisory services upon understanding the financial goals of each client.
- d. For the purpose of receiving payments from clients either as fees or profit sharing the details of Axis Bank account details are also provided.
- e. In the *Disclaimer* section, the Noticee has explicitly stated that *Profittrades.in* is not a licensed financial advisor, broker, or dealer.

15. In respect of the above said facts and charges made in the SCN, I note that the Noticee in its reply has accepted that the website www.profittrades.in belongs to it. Further, I also note from SCN that the Axis bank account details provided by the complainant as well as the bank details mentioned on the website are of the same. Details of bank accounts associated with the PAN of Noticee, which were allegedly used to collect money from clients for UIA by the Noticee were obtained during the investigation.

Details of bank accounts associated with the PAN of the Noticee

ACCOUNT NAME	ACCOUNT NUMBER	ACCOUNT OPEN DATE	COMMENTS
Profit Trades	917020029010791 (Axis Bank)	30-03-2017	Last entry was on 17.10.2023. Balance-Rs.3,63,370.46
Profit Trades	201001145725 (Indusind Bank)	20-03-2017	Account closed on 02-05-2023
Sunil Grover	728000052347 (Indusind Bank)	30-10-2019	Account closed on 11-04-2023

16. In view of the above, it is clearly established that the website www.profittrades.com belongs to the Noticee. Hence, I shall now examine the allegations of unregistered investment advisory services allegedly rendered by the Noticee through the said website/whatsapp.
17. In this connection, it is relevant to refer to Regulation 2(1)(m) of the IA Regulations which 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.
18. I also note that, in terms of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations, 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"*.
19. It is imperative that any person carrying out investment advisory activities has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of the SEBI Act and the Regulations framed thereunder. In this regard, 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.”

20. Therefore, I note that in order to obtain 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 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.

21. Further, the IA Regulations requires minimum professional qualification and prescribes mandatory net-worth. 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.

22. In the present matter, I note that the Noticee was not registered with SEBI in the capacity of Investment Adviser while acting as investment adviser through the website www.profittrades.in. The Noticee has admitted that he does not possess SEBI registration to provide investment advisory services. The contents of the website, as mentioned in Paragraph 13 above, clearly reveals that the activities mentioned on the website is nothing but the activities related to investment advisory. Further, I note that the bank accounts of Noticee were used to receive money from clients, and the Noticee has admitted receiving the same. Therefore, it is clearly established that Noticee was engaged in IA activities without obtaining the requisite registration from SEBI as per IA Regulations.

Calculation of consideration/fees collected by the Noticee through investment advisory activities

23. I note from SCN that the bank statements of all the three bank accounts of the Noticee were examined wherein various transactions with the narration of the word,

such as, *share, tips, profit trades, mem, nifty, banknifty, trade, registration, stock, fees, consultation, brokerage, investment advisory, service, advise, commission* were found. The same were considered as fees collected by the Noticee towards investment advisory services. Thus, I note that the Noticee was collecting money from clients for the said IA activities.

I. Axis Bank No. 9170xxxxxxxx0791

In the Axis Bank Account, the first date of credit entry relating to collection of fee could be traced on 20.05.2017. The analysis of bank statement is as under:

No. of credit entries	4091	Rs.1,70,76,094.32	
		No. of Credit entries with above key words. Cash Deposit.	268 amounting to Rs. 23,90,740.30
		No. of credit entries with 'payment' key word.	1454 amounting to Rs. 47,75,217.00
		Total fee collected	Rs. 71,65,957.30
No. of debit entries	2483	Rs.1,67,52,445.24	
		The debit entries for personal use with key words "profit trades, sunil g, Smridhi Grover"	266 amounting to Rs. 65,03,716.00
		The debit entries for personal use with key words ATM-Cash	135 amounting to Rs. 13,49,100.00
		The debit entries for personal use with key words ECOM PUR, Godaddy, facebook	294 amounting to Rs. 4,65,487.12
Total entries	6574		Rs. 83,18,303.12

II. IndusInd Bank- No. 201xxxxxx725

In the Indusind Bank Account, the first date of credit entry relating to collection of fee could be traced on 30.12.2019. The analysis of bank statement is as under-

No. of credit entries	12,170	4,12,98,270.93	
		No. of Credit entries with above key words.	199 amounting to Rs. 5,46,479.20
		No. of credit entries with 'PayU ' key word.	222 amounting to Rs. 13,05,747.69

		Total fee collected	Rs. 18,52,226.89
No. of debit entries	6105	The debit entries for personal use with key words "profit trades, sunil g, Smridhi Grover" The debit entries for personal use with key words ATM-Cash The debit entries for personal use with key words One97 Communications	69 amounting to Rs. 26,74,679.00 240 amounting to Rs. 25,78,909.40 537 amounting to Rs. 5,66,208.71
			Rs.58,19,797.11
Total entries	18,275		

III. IndusInd Bank- No. 159xxxxxx867

In the IndusInd Bank Account, it was observed that the credit entries with key words tips, trad were traceable. The first date of credit entry relating to collection of fee could be traced on 02.05.2022. The analysis of bank statement is as under-

No. of credit entries	1193	59,38,113.99	
		No. of Credit entries with above key words.	5 entries amounting to Rs. 6,390.00
		No. of credit entries with 'payment' key word	7 entries amounting to Rs. 24,727.00
		Total fee collected	Rs. 31,117.00
No. of debit entries	1182	59,16,909.83	
		The debit entries for personal use with key words ATM-Cash	29 entries amounting to Rs. 1,59,500.00
Total entries	2375		

PayU Money Gateway used by Noticee to collect fees from clients-

24. I note from SCN that, upon perusal of bank entries, it was observed that many credit receipts were seen from PayU money. Further, I note that vide email dated 28.02.2024, information w.r.t bank details/KYC's linked with entity's PAN/account number along with purpose of making payment were also sought from PayU money.

25. In response, PayU Money provided the KYC and agreement entered between the Noticee and PayU money. Upon perusal of the said agreement the following was observed-

- Agreement was entered on 31.03.2017.
- Business category mentioned as '*Professional and technical services*'.
- PayU had provided payment gateway solutions with respect to Merchant site to the entity.
- The entity had setup the merchant site to sell the products and /or collect payments online from customers.
- PayU acted as an intermediary by creating link between the merchant site and the respective acquiring bank services by means of software application and PayU money platform thereby enabling customers to make payment of customer charge on the merchant site through acquiring bank services through various payment options.

26. I note from the SCN that the total amount of money alleged to be collected by the Noticee through the said UIA activities is stated as Rs.1,30,16,871.41. However, in this regard, the Noticee had contended that in paragraph 14 of the SCN, instead of taking the total of credit entries of Rs.18,52,226.89 (Indusind bank account) while arriving at the aforesaid total amount, the total debit entry of Rs.58,19,797.11 has been wrongly considered as the amount collected by the Noticee from UIA services.

27. Upon considering the above submission, I note that there is a typographical error in the SCN and the amount in Table 14 of the SCN has invariably been mentioned as Rs.58,19,797.11 (sum of debited amount in the bank account of Indusind bank a/c no.201xxxxxx725) instead of Rs.18,52,226.89 (sum of credited amount in the bank account of Indusind bank a/c no.201xxxxxx725). In view of this, the total amount alleged to be collected by the Noticee through the said UIA activities stand modified accordingly and the below table shall be considered in place of Table 14 of the SCN for the purpose of calculation:

Bank name	Bank account no.	Wrong amount as per SCN (in Rs.)	Correct amount (in Rs.)
Axis Bank	9170xxxxxxx0791	71,65,957.30	71,65,957.30
IndusInd Bank	201xxxxxxx725	58,19,797.11	18,52,226.89
IndusInd Bank	159xxxxxxx867	31,117.00	31,117.00
TOTAL		1,30,16,871.41	90,49,301.19

28. In addition to the above submission, the Noticee highlighted that certain transactions, which are in the nature of inter /intra - bank transactions, ought to be excluded while calculating the fees collected by the Noticee from UIA activities. In this regard, the Noticee had highlighted various entries in the bank statements and had contended that an amount of Rs.16,26,300/- being in the nature of intra/inter-bank transactions ought to be excluded. For the same the Noticee also highlighted the said entries in the bank statements. The investigating authority then verified the above submission of the Noticee. It was then confirmed vide email dated December 30, 2024 that Rs.16,20,700/- out of the contended Rs.16,26,300/- was in the nature of intra/inter-bank transactions. For the remaining amount of Rs.5,600/-, I note from the response received from the investigating authority that the corresponding entries in the recipient bank account/s of the Noticee could not be found. Accordingly, I partially accept the instant contention of the Noticee. Thereby, the total amount collected by the Noticee as fees from its clients from the said UIA activities needs to be reduced by Rs.16,20,700/- on account the of the same being inter/intra-bank transfers. (Rs.90,49,301.19 – Rs.16,20,700 = Rs. 74,28,601.19)

29. Further, I note that the Noticee in its submission had also contested the amount of Rs.47,75,217/-, alleged in the SCN as fees collected by the Noticee with the narration '*payment*', and has submitted that to the best of their knowledge, the No. of credit entries with '*payment*' keyword' which is approximately Rs.47 lakhs, relate to amounts received towards the food catering business run by Noticee's mother (Mrs. Anita Grover) and do not pertain to investment advisory business as alleged. It was also contended that in absence of evidence, the said amount has to be reduced from the total amount and that some of the persons who have made the payments do not even hold demat account, let alone trading account. It was also

stated that no evidence has been provided with the SCN to allege that all the transactions with the keyword 'payment' are towards UIA services.

30. For the above contention with respect to the amount of Rs.47,75,217/-, I note that the Noticee had stated that the burden of proving the fact rests on the party who substantially asserts the affirmative issues i.e. SEBI. Accordingly, it was stated that SEBI needs to prove that the said amount was collected by the Noticee for the UIA activities. In this regard, I want to highlight that the said burden was sufficiently discharged by SEBI as adequate evidence was gathered and shared with the Noticee to allege that the Noticee through website www.profittrades.in is, prima facie, carrying out the UIA activities and is collecting fees for the said purpose. The bank account statements of the Noticee was examined to arrive at the total amount credited in the bank accounts of the Noticee with the narrations which indicates payment made to the Noticee for the said UIA activities. The details of bank account of the Noticee is also found to be displayed on the aforesaid website of the Noticee. Once the prima facie case is made out, the burden shifts towards the Noticee to contest the said findings.

31. The supporting documents produced by the Noticee to buttress the above contention is not sufficient as the Noticee could not establish from the same the other business activity allegedly carried out by the mother of Mr. Sunil Grover. Also, the requirement of having trading and demat account is not a prerequisite for seeking investment advice and hence the same cannot be accepted. Accordingly, the above submission of Noticee cannot be accepted.

32. Considering the above submission and the facts and material placed on record, I note that the Noticee has admitted that the website www.profittrades.in belongs to it, which is involved in providing investment advisory services to the clients/investors and the Noticee has gained monetary benefit for the said purpose without having proper authority viz. SEBI registration. Accordingly, the Noticee is required to refund the money collected as advisory fees/share in profits/ monetary benefit of any other nature received from clients to their respective clients and submit a completion report in this regard to SEBI. It is therefore, at the time of submitting the said

completion report to SEBI, the complete details on the extent of the credits received by the Noticee in his bank accounts, as stated in the SCN, along with the supporting documents, duly certified by an independent Chartered Accountant, may be provided to SEBI, as claimed hereinabove.

33. From the above, I note that the Noticee is engaged in the act of providing investment advisory services to investors for which it has collected consideration (fees) of **Rs.74,28,601.19**. However, it is observed that the Noticee has not obtained requisite registration for engaging in such investment advisory activities and hence is not authorized to carry out the said activities.

34. I further note that the website of the Noticee i.e. www.profittrades.in is still active and the Axis bank account details of the Noticee are mentioned therein for collecting fees from clients. Accordingly, any amount collected by the Noticee post-investigation i.e. 17.10.2023 (date of last entry in Axis bank account of Noticee observed during investigation) is also liable to be refunded to the respective investor/s.

35. In view of the above, I find that the Noticee by acting as an investment adviser within the meaning of the IA Regulations, without obtaining requisite certificate of registration from SEBI has acted in total disregard to the requirements of law. Therefore, I conclude that Noticee who is running the scheme of UIA activities, has violated Section 12(1) of SEBI Act, 1992 read with Regulation 3(1) of the IA Regulations.

36. With respect to the other allegation regarding the conduct of the Noticee being fraudulent upon the investors and potential, I note that the SCN has alleged that the Noticee is disseminating false and misleading information through its website, which is likely to influence the decision of investors in securities market. Further, it was alleged that the Noticee is allegedly mis-selling the securities and making false assurances/promises along with claims of assured return. Such misrepresentation to render advisory services to public is misleading and influences the decision making of investors in securities market.

37. In this regard, I note that Regulation 3 of PFUTP regulations prohibits certain dealings in securities wherein manipulative or deceptive methods are used, or any entity employs any device or scheme or artifice to defraud in connection with dealing in or issuing securities and also engage in any act, practice, course of business which operate as fraud or deceit upon any person in connection any dealing in or issue of securities. Further, Regulation 4(2)(k) states that dealing in securities shall be deemed to be manipulative fraudulent or unfair trade practice if any person disseminates information which he knows to be false or misleading, through any media either physical or digital, and is designed to influence the decision of investors in securities.

38. For the above allegation the Noticee had submitted that, the Noticee has not held himself out as an investment adviser, it was submitted that upon perusal of the extract in the paragraph 17 of the SCN, it will be extremely clear that the Noticee is not disseminating false and misleading information. The Noticee is just providing information on their website and nothing else. There is no evidence of the fact that the Noticee is mis-selling the securities and making false assurance/promises along with the claim of assured return from the extract in paragraph 17 of the SCN. Not even a single line indicates that there was any false assurance along with claim assured return. SEBI has not specifically indicated as to what the exact information that was disseminated falsely is and / or any misleading information. SEBI has also not provided as to which line on the website specifically provides for assured returns. No iota of evidence has been provided to show whether the information is designed to or likely to influence the decision of the investors dealing in securities.

39. In this regard, I note that as per Regulation 2(c) of PFUTP Regulations, any reckless conduct which was intended to knowingly misrepresent the truth or concealment of material fact and also a suggestion as to a fact which is not true by one who does not believe it to be true constitutes *fraud*. In this regard, I note that it is an admitted fact that Noticee is not registered as an investment adviser with SEBI. Further, in the disclaimer section of the website of the Noticee i.e. www.profittrades.in (reproduced in the preceding paragraphs) the Noticee has disclosed that it is not a licensed (registered) adviser and has also highlighted the risk involved in option

trading. Regarding the allegation of promising assured returns, I note that the contents of aforesaid website and the communication of the representative of the Noticee with the complainant are perused and it is observed that the said allegation is not supported with any evidence. Moreover, I reiterate that the website of Noticee has following mentioned in its disclaimer section-

'Options trading involves risks, and you should carefully consider your investment objectives, level of experience, and risk appetite before trading options. Trading options may not be suitable for all investors....Profittrades.in does not guarantee any specific investment results or profit, and past performance is not indicative of future results. The information provided on this website is based on historical data and performance, and no assurance can be given that future performance will be similar... We strongly recommend that you consult with a licensed financial advisor or professional before making any investment decisions.... Options trading is a complex and high-risk activity, and it's important to understand the risks involved before investing.'

40. From the aforesaid, I note that the Noticee has stated the risk associated with the options trading and has also warned the clients and potential clients against any expectation of guaranteed return. Further, it has recommended to consult a licensed financial advisor/ professional before making investment decision. Hence, I note that the necessary grounds to prove the allegation of fraud and the violation of PFUTP violations are absent in the facts of the instant matter.

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

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

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

42. The observation recorded by the Hon'ble Supreme Court of India in the matter of **Kanaiyalal Baldevbhai Patel** (Supra) is also worth quoting: “...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...”.

43. In view of the aforesaid observation and the precedents mentioned above, I conclude that the allegation against the Noticee that the Noticee is disseminating false and misleading information through its website, which is likely to influence the decision of investors in securities market and for mis-selling the securities and making false assurances/promises along with claims of assured return is not proved. Hence, the violation of Regulation 3(a), (b), (c) & (d) and 4(2)(k) and (s) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, 1992 against the Noticee is not established.

44. I note that the SCN has called upon the Noticee to show cause as to why appropriate penalty be not imposed under Sections 15EB, 15HB and 15HA of SEBI Act for the violations alleged in the SCN. Section 15EB which is a penal provision was inserted vide the Finance Act, 2018 came into effect on 08-03-2019. Prior to that, for the violations of IA Regulations, penalty used to be imposed under Section 15HB which is a miscellaneous penal provision. It was observed that Noticee has collected money for its UIA services prior to and post 2019 hence there is application of both

Section 15HB and 15EB. Section 15EB and 15HB of the SEBI Act are reproduced hereunder: -

Section 15EB - 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.”

45. From the above, I note that the Noticee's activities show that it is acting as an investment adviser through the website www.profittrades.com and whatsapp without holding the requisite certificate of registration as investment adviser from SEBI. Further, the Noticee continuously received investment advisory fees in its bank accounts of Axis and Indusind, in violation of Regulation 3(1) of the IA Regulations and Section 12(1) of the SEBI Act. Consequently, I find that the Noticee is liable to be imposed with penalty under and 15EB/15HB of the SEBI Act. Since, the violation of Regulation 3(a), (b), (c) & (d) and 4(2)(k) and (s) of the PFUTP Regulations read with Section 12A(a), (b) and (c) of SEBI Act, 1992 against the Noticee is not established, it is not liable for the penalty under Section 15HA of SEBI Act.

46. For this purpose, 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.”

DIRECTIONS:

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

- a. The Noticee shall refund all the money collected/received from any investor, as fees or consideration or in any other form, in respect of its 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 one local daily with wide circulation, about this Order and shall give details of 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/ complainants 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 Noticee is prohibited from selling its 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, Supervision, Enforcement and Complaints - 4 (SEC-4), 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 Point (a) and (d) 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 Noticees. Thereafter, remaining amount, if any, will be deposited in the '*Investors Protection and Education Fund*' maintained by SEBI
- g. However, if the Noticee fails to submit the duly certified report by an independent Chartered Accountant within stipulated time as directed above, the recovery proceedings against the Noticee under Section 28A of SEBI Act shall be initiated for the amount of **Rs.74,28,601.19** (Seventy four lakhs twenty eight thousand six hundred and one rupees and nineteen paise).
- 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 **one (1) year** from the date of this order or till the date of filing of report, as directed in point (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 Point (h) 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 15EB/15HB 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.

48.It is hereby clarified that if the Noticee has any open position in any exchange traded derivative contracts, as on the date of this order, the Noticee 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 Noticee is 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.

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

50.The direction for refund as given in Para 47(a) above does not preclude the complainants/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.

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

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

Date: December 31, 2024

Place: Mumbai

G RAMAR

QUASI JUDICIAL AUTHORITY

SECURITIES AND EXCHANGE BOARD OF INDIA