

National Stock Exchange of India

Circular

Department: Investigation	
Download Ref No: NSE/INVG/69341	Date: July 28, 2025
Circular Ref. No: 495/2025	

To All NSE Members,

Sub: SEBI Order in the matter of trading based on the stock recommendations given by Guest Experts appearing on Zee Business Channel

This has reference to NSE Circular no. NSE/INVG/60619 dated February 08, 2024 and SEBI Order No. WTM/KCV/ISD/ISD-SEC-6/30020/2023-24 dated February 8, 2024, wherein SEBI has restrained following entities from buying, selling or dealing in securities, either directly or indirectly, in any manner whatsoever until further orders.

Sr. No.	Name	PAN
1	Partha Sarathi Dhar	ASCPD8155H
2	SAAR Commodities Private Limited (SAAR Commodities)	AAJCS7343G
3	Manan Sharecom Private Limited	AAPCM9816L
4	Kanhya Trading Company	AAXFK5345H
5	Himanshu Gupta	AISPG3320M

SEBI has now in its Order No. WTM/AS/ISD/ISD-SEC-4/31540/2025-26 dated July 28, 2025 has directed that Notice Nos. 1 to 4 mentioned above are debarred from accessing the securities market and are prohibited from buying, selling and otherwise dealing in the securities market, directly or indirectly, in any manner whatsoever, for a period of two years. The said debarment period shall be reckoned from the date of the Interim Order dated February 08, 2024.

Further, SEBI vide above order has directed that the proceedings against Noticee No. 5 (Mr. Himanshu Gupta) are disposed of without issuance of any direction or imposition of any penalty in view of the reasons recorded in the in the said order. Accordingly, the directions issued against

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Noticee No. 5 vide the interim order cum show cause notice dated February 08, 2024 shall cease to operate.

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

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

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

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

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

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

**Sandesh Sawant
Senior Manager**

**Annexure: SEBI Order in the matter of trading based on the stock recommendations
given by Guest Experts appearing on Zee Business Channel**

SECURITIES AND EXCHANGE BOARD OF INDIA**FINAL ORDER**

Under the provisions of Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of the Securities and Exchange Board of India Act, 1992

In Respect of:

Table No. 1

Sl. No.	Name of Noticees	PAN
1.	Partha Sarathi Dhar	ASCPD8155H
2.	SAAR Commodities Private Limited	AAJCS7343G
3.	Manan Sharecom Private Limited	AAPCM9816L
4.	Kanhya Trading Company	AAXFK5345H
5.	Himanshu Gupta	AISPG3320M

In the matter of trading based on the stock recommendations given by Guest Experts appearing on Zee Business Channel

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1. The present proceedings emanate from an Interim Order cum Show Cause Notice dated February 08, 2024 (hereinafter referred to as “SCN”), which was passed pursuant to an investigation carried out by Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) against the following 15 entities.

Table No. 2

Noticee No.	Name of Noticees
1.	Nirmal Kumar Soni
2.	Partha Sarathi Dhar
3.	SAAR Commodities Private Limited (SAAR Commodities)
4.	Manan Sharecom Private Limited
5.	Kanhya Trading Company
6.	Nitin Chhalani

7.	Rupesh Kumar Matoliya
8.	Ajaykumar Ramakant Sharma
9.	SAAR Securities India Private Limited
10.	Ramawatar Lalchand Chotia
11.	Kiran Jadhav
12.	Ashish Kelkar
13.	Himanshu Gupta
14.	Mudit Goyal
15.	Simi Bhaumik

2. The summary of the Interim Order cum Show Cause Notice issued against these 15 Noticees, who were divided into 3 broad categories, is as under:

First category- Profit Makers: (Noticees No. 1-5)

- a) It was alleged that five entities namely, Nirmal Kumar Soni, Partha Sarathi Dhar, SAAR Commodities Private Limited, Manan Sharecom Private Limited and Kanhya Trading Company were the entities that made profit by executing trades which were allegedly executed based on advance information of stock recommendations given by guest experts and thus, these entities were referred to as “Profit Makers”.

Second category- Enablers: (Noticees No. 6-10)

- b) It was alleged that five entities namely, Nitin Chhalani, Rupesh Kumar Matoliya, Ajaykumar Ramakant Sharma, SAAR Securities India Private Limited and Ramawatar Lalchand Chotia aided/assisted Profit Makers in making profit based on advance information of stock recommendations of guest experts. This category of entities allegedly provided necessary support/credentials viz. trading accounts/ trading terminals, log-in IDs and passwords, etc., for aiding and abetting Nirmal Kumar Soni to execute trades in his account and in the accounts of SAAR Commodities Private Limited (hereinafter referred to as ‘**SCPL**’), Manan Sharecom Private Limited (hereinafter referred to as ‘**MSPL/Manan**’) and Kanhya Trading Company (hereinafter referred to as **KTC/Kanhya**’).

Third category- Guest Experts: (Noticees No. 11-15)

- c) It was alleged that five entities namely, Kiran Jadhav, Ashish Kelkar, Himanshu Gupta, Mudit Goyal and Simi Bhaumik were the guest experts who appeared on different shows on the Zee Business Channel and provided/issued stock recommendations to viewers of this Channel. These Guest Experts had allegedly provided non-public information to certain entities (Profit Makers) prior to broadcasting of their recommendations. These guest experts had significant social media presence and gave stock recommendations on shows broadcasted on Zee Business Channel.
3. The following factual determination was, *prima facie*, made in the SCN dated February 08, 2024:
- a) *During the investigation period, Zee Business telecasted shows whose format revolved around dissemination of scrip/contract trading recommendations. These recommendations were made by a panel of experts who used to appear as guests on the shows. The said panel included Noticees being Guest Experts namely Kiran Jadhav, Ashish Kelkar, Himanshu Gupta, Mudit Goyal, and Simi Bhaumik, who used to appear regularly on the shows. The aforementioned Guest Experts also had a significant following on social media platform "X". These Guest Experts were found to be connected to each other.*
- b) *The popularity of these shows had equipped Noticees with a deep awareness of the substantial impact these recommendations wielded over prices and trading volumes of scrip/contract recommended. Around the time of the broadcast of recommendations of the Guest Experts, there was favourable movement in scrip/contract price and trading volumes, aligned to the recommendation made by Guest Experts. The average traded volume around the recommendation was substantially higher as compared*

to the average traded volume during the preceding 15-minutes period prior to the broadcasting of recommendations.

- c) Noticees had a reasonable expectation of an increase in the price and volume traded in the scrip/contract following the broadcasting of the recommendations on the channel. Hence, till the time the recommendations were made public, it remained a non-public information.*
- d) Noticees devised a scheme to take advantage of the advance possession of non-public information about the recommendations given by Guest Experts on the shows. The scheme involved Guest Experts to share, directly or indirectly, their recommendations with Nirmal Kumar Soni and Partha Sarathi Dhar, before the same were broadcasted on Zee Channel. The exact timings of the shows were also shared among the Guest Experts and Noticee Nos. 1 and 2.*
- e) Based on the prior possession of this non-public information, Noticee No. 1 and 2 placed the first leg of orders in the same scrip/contract (first- leg of the trade) through the trading account of Noticee Nos. 1 to 5, before the telecast of the recommendations made by Guest Experts. Thereafter, the Noticees squared off the position (second leg of the trade) immediately around the time or after the recommendations were telecasted on the shows, thereby earning significant profits from the favourable movement in price and volume of the scrip/contract.*
- f) The Enablers (Noticees Nos. 6 to 10) provided log-in credentials/ trading accounts/ client codes and passwords/ NEAT terminal details of broker etc. and enabled trades to be executed in the account of Noticees Nos. 3, 4 and 5 by the Noticee No. 1.*
- g) There are sufficient evidences in the form of proximity of trades executed in the accounts of Noticees Nos. 1 to 5, to the recommendations made by Guest Experts in the shows.*
- h) Profit earned through recommendation based trades were shared by Profit Makers with these Guest experts through cash and other non-banking channels/arrangement.*

4. Thus, based on the investigation carried out by SEBI, SCN was issued against 15 entities under the provisions of Sections 11(1), 11(4), 11(4A), 11B(1) and 11B(2) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”), with regard to the high correlation between the trading done by the profit makers with the help of the enablers and the stock recommendations given by the guest experts, during the investigation period (February 01, 2022 to December 31, 2022). Vide the said SCN, the following directions were issued against these 15 entities.
- a) *Noticees Nos 1 to 5 and 11 to 15 are restrained from buying, selling or dealing in securities, either directly or indirectly, in any manner whatsoever until further orders.*
 - b) *If the above Noticees have any open position in any exchange traded derivative contracts, as on the date of the 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. 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.*
 - c) *The said Noticee Nos. 11 to 15 shall preserve the records of their various social media accounts maintained by them, directly or indirectly, till further directions.*
 - d) *An amount of INR 7,41,29,648/-, being the total unlawful gain earned from the alleged fraudulent and unfair activities is impounded, jointly and severally from Noticee as mentioned in the table 33 above.*
 - e) *Noticees mentioned in the table no 33 above (1 to 5 and 11 to 15) are directed to credit/deposit jointly/ severally the aforesaid amount of unlawful gains to an interest bearing Escrow Account created specifically for the purpose in a Nationalized Bank and deposit within 15 days from the date of service of this order. The above Noticees shall create Escrow Account(s) with Lien in favour of SEBI and the amount kept therein shall not be released without permission from SEBI.*

- f) *Banks, where the Noticees (1 to 5 and 11 to 15) are holding Bank accounts are directed to ensure that no debits shall be made, without the permission of SEBI, in respect of the bank accounts held jointly or severally by these Noticees, except for the purposes of transfer of funds to the Escrow Account. Further, the Depositories are also directed that no debit shall be made, without permission of SEBI, in respect of the demat accounts held by the aforesaid Noticees. However, credits, if any, into the accounts maybe allowed. Banks and the Depositories are also directed to ensure that all the aforesaid directions are strictly enforced. Further, debits in the bank accounts may also be allowed for amounts available in the account in excess of the amount to be impounded. Banks are allowed to debit the accounts for the purposes of complying with this Order.*
- g) *Registrar and Transfer Agents are directed to ensure that, they neither permit any transfer nor redemption of the securities, including Mutual Funds units, held by Noticees nos 1 to 5 and 11 to 15.*

5. Vide the said Interim Order cum Show Cause Notice the *Noticees* were called upon to show cause as to why suitable directions, including the following, should not be issued against them:

- a) Direction to disgorge an amount equivalent to the alleged unlawful profits made on account of the scheme as described above, along with interest.
- b) Directing them to refrain from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period.

6. Further, *Noticees* Nos. 1 to 5 and 11 to 15 were called upon to show cause as to why appropriate penalty under Section 11B (2) and 11(4A) read with Section 15HA of SEBI Act, 1992 should not be imposed on them for the alleged violations of SEBI Act, 1992 and PFUTP Regulations, as the case may be.

7. Furthermore, Noticees No. 6 to 10 were called upon to show cause as to why appropriate directions, including debarring them from associating themselves with the Securities Market, in any manner whatsoever, should not be issued against them under sections 11(1), 11(4), and 11B(1) of the SEBI Act, 1992. These Noticees were also called upon to show cause as to why appropriate penalty under sections 11B(2) and 11(4A) read with section 15HA of the SEBI Act, 1992 should not be imposed on them for the alleged violations of the SEBI Act, 1992 and PFUTP Regulations, as the case may be.

Settlement Proceedings

8. Pursuant to the issuance of the said SCN, all the entities except Noticee No. 13 (Himanshu Gupta) filed their settlement application(s) in terms of the SEBI (Settlement Proceedings) Regulations, 2018, ("Settlement Regulations") proposing to settle the proceedings initiated vide the SCN through a settlement order without admitting or denying the allegations. Settlement applications of Partha Sarathi Dhar, Manan and Kanhya were rejected by SEBI for not filling the revised settlement terms in terms of the Settlement Regulations. Further, the settlement application of SCPL was also rejected as the amount proposed by it was not in line with the amount calculated as per the Settlement Regulations.
9. The settlement application(s) in respect of 10 entities viz. Nirmal Kumar Soni, Nitin Chhalani, Rupesh Kumar Matoliya, Ajaykumar Ramakant Sharma, SAAR Securities India Private Limited, Ramawatar Lalchand Chotia, Kiran Jadhav, Ashish Kelkar, Mudit Goyal and Simi Bhaumik were approved on November 12, 2024 and a settlement Order dated January 16, 2025 was passed in respect of these 10 entities and proceedings initiated against them vide the SCN dated February 08, 2024 were disposed of.

Inspection and hearing

10. The Authorized Representative (AR) of Noticee No. 13 (Mr. Himanshu Gupta), vide letter dated February 26, 2024 sought inspection of a list of documents. The 1st

inspection of documents was provided to the AR on March 20, 2024 wherein inspection of physical file containing the Investigation Report (IR) along with the relevant annexures was provided. Along with the physical inspection, a CD containing the copies of relevant documents was provided. Further, the AR vide letter April 18, 2024, reiterated the request for inspection of all the documents mentioned in the letter. Pursuant thereto, 2nd inspection of the documents was scheduled on June 26, 2024 wherein certain documents sought by the said Noticee were provided. Subsequently, Noticee No. 13 filed his reply vide letter dated July 26, 2024. Hearing in the matter was scheduled on September 10, 2024, which was attended by the AR of Noticee No. 13. During the hearing, the AR made submissions in line with the reply filed vide letter dated July 26, 2024. Subsequently, post-hearing submissions were also filed vide letter dated September 20, 2024 and matter was reserved for Order *qua* the said Noticee.

11. Vide letter/email dated August 20, 2024, all the Noticees (except Mr. Himanshu Gupta), who had filed their settlement applications were advised to file their written submissions. Mr. Partha Sarathi Dhar, MSPL and KTC were intimated about the rejection of their settlement applications vide email dated September 25, 2024. Subsequently, vide email dated November 19, 2024, SEBI informed about rejection of settlement application of SCPL. Despite remainders dated August 20, 2024 and October 18, 2024, these 4 entities viz. Mr. Partha Sarathi Dhar, MSPL, KTC and SCPL, whose settlement applications were rejected did not submit their written submissions.

12. An opportunity of personal hearing was granted to these four Noticees i.e., Mr. Partha Sarathi Dhar, MSPL, KTC and SCPL on January 06, 2025. Mr. Partha Sarathi Dhar filed his written submissions vide letter dated January 02, 2025, MSPL filed its written submissions vide letter dated January 03, 2025 and KTC filed its written submissions vide letter dated January 04, 2025. During the scheduled hearing, the ARs of Mr. Partha Sarathi Dhar, MSPL, KTC and SCPL appeared and made their submissions. The AR of SCPL, which had not filed its

written submissions was granted two weeks' time to file the same. Pursuant thereto, SCPL filed its written submissions vide letter dated January 20, 2025. MSPL filed its post-hearing submissions vide letter dated January 20, 2025.

WRITTEN SUBMISSIONS FILED BY THE NOTICEES :

Himanshu Gupta:

A. The SCN enlarges the scope of powers prescribed under section 11(4)(d) of the SEBI Act to direct Mr. Himanshu Gupta to deposit the alleged gains amounting to ₹ 7,41,29,648, which is impermissible;

- i. SEBI has been granted powers strictly in respect of "*proceeds*" in respect of "*any transaction which is under investigation*". Thus, only the proceeds which are quantified and identified with respect to a transaction are permitted to be impounded. As per SCN, SEBI has quantified a sum of ₹7,41,29,648, as the total unlawful gain earned from the alleged fraudulent and unfair activities. It was Noticee Nos. 1 to 5 who were in receipt of the said alleged unlawful gains in their respective bank accounts. Thus, despite such identification of the proceeds and the same being credited to the bank accounts of Noticee Nos. 1 to 5, SEBI enlarges its powers under Section 11(4)(d) to direct Mr. Himanshu Gupta to, *inter alia*, deposit the alleged gains.

B. Violation of Principles of Natural Justice qua inspection of documents;

- i. Noticee No. 13 provided a list of documents which were sought by him and which were either not provided by SEBI or were partially provided. He sought to place reliance on the various judgments such as Judgments of Hon'ble Supreme Court in the matters of *T. Takano v. SEBI*¹ and *Reliance*

¹ (2022) 8 SCC 162

*Industries v. SEBI*². Judgments of Hon'ble Guwahati High Court in the matter of *Sunita Agarwal v. Securities and Exchange Board of India and Another*³, Judgment of Bombay High Court in the matter of *Ashok Dayabhai Shah And Ors v. SEBI*, Judgments of Hon'ble SAT in the matters of *Mukesh D. Ambani v. SEBI* and *National Stock Exchange of India Ltd. v. SEBI*.

C. No reason to continue ex-parte ad-interim order;

- i. In the present matter, SEBI has failed to establish any urgency to pass an interim order against Mr. Himanshu Gupta. He was not called upon to join the inquiry / investigation on the basis of which the said order had been passed. It was wrongly alleged at Table 1, Para 11 of the Ex-Parte Ad-Interim Order that a statement dated January 19, 2023 of Mr. Himanshu Gupta was recorded. No such statement was ever recorded.

D. There is no 'Non-public information' and charge of Fraud cannot be pressed against the Noticee.

- i. A *prima facie* case of violation of Section 12A of the SEBI Act and Regulations 3 and 4 of the PFUTP Regulations is made out against Mr. Himanshu Gupta amongst others. However, the said provisions inhere *mens rea* as the essential ingredient of an act to constitute an offence.
- ii. Mr. Himanshu Gupta did not influence or induce either the Profit Makers or the public at large to trade in the recommended scrip on Zee Business.
- iii. SEBI has failed to demonstrate how Mr. Himanshu Gupta provided prior information to the alleged Profit Makers with any substantial evidence beyond hearsay, such as WhatsApp conversations between two unrelated individuals. SEBI cannot rely on such evidence to levy allegations of fraud under the PFUTP Regulations.

² (2022) 10 SCC 181

³ 2022 SCC OnLine Gau 2325

- iv. In fact, on the contrary, appropriate disclosures with respect to the securities in question were made to Globe Capital Market Limited in accordance with its policies and to the public at large. It would therefore be established from Mr. Himanshu Gupta's position that the public and the Profit Makers after due deliberation and in accordance with market trading norms carried out the trade.
- v. Neither have the elements of "fraud" been attracted nor have they been established.
- vi. The act of communication of technical analysis/recommendation of a scrip can itself not be considered as fraud.
- vii. The recommendation to trade in a scrip is per se not 'information' for the purpose of 'non-public information' or unpublished price sensitive information.
- viii. Allegation of violating Regulation 4(2)(o) is without any jurisdiction as the legislative intent behind this provision was to cover only the SEBI registered intermediary or its employees.
- ix. It is well settled that imposing punishment under the PFUTP Regulations on the ground of commission of fraud requires clear and unambiguous evidence and a high degree of probability. In support, the Noticee relied on the order of Hon'ble SAT in the matter of *DLF Vs SEBI*.⁴
- x. SEBI in past have observed that the charge of fraud under the PFTUP requires higher threshold. In support, the Noticee relied on the order of SEBI in the matter *Keynote Corporate Services Limited*⁵.
- xi. Mr. Himanshu Gupta has not "dealt in securities" as he has not "knowingly" designed any scheme to influence the decision of the public or of profit makers.
- xii. SEBI (Investment Advisors) Regulations, 2013 exempts comments made in good faith with respect to any '*trends in the securities market*'.

⁴ Appeal No. 331 of 2014 order dated March 13, 2015

⁵ Order No. WTM/RKA/efd / 46/2016 dated April 06, 2016

- xiii. Mr. Himanshu Gupta is not an 'insider' in terms of Regulation 2(1)(g) of the SEBI (Prohibition of Insider Trading) Regulations, 2015 ("**PIT Regulations**") who would be prohibited to communicate any information to a third person. Mr. Himanshu Gupta is not a SEBI registered intermediary and therefore even restrictions, if any, under any of such SEBI regulations i.e. SEBI (Investment Advisors) Regulations, 2013 or SEBI (Research Analysts) Regulations, 2014, would not apply to the Noticee thereby prohibiting communication of such information.

E. No connection between Mr. Himanshu Gupta and the Profit Makers and the allegations of communication of recommendation by Himanshu Gupta to Profit Makers are merely on the basis of conjectures and surmises;

- i. The connection with Mr. Ashish Kelkar is a professional relation;
- ii. Mr. Himanshu Gupta did not travel with Mr. Mudit Goyal nor was he aware about Mr. Mudit Goyal visit to Pune.
- iii. There is no evidence to show any communication by the Noticee to Profit Makers.
- iv. Guest Experts used to share / discuss emerging opportunities at that point of time with each other in good faith. Additionally, Mr. Ashish Kelkar being senior to Mr. Himanshu Gupta appreciated and praised Mr. Himanshu Gupta's recommendations and told him to discuss recommendations so that they could use each other's experience and expertise.
- v. There is no evidence to show that Mr. Himanshu Gupta has directly communicated any information to any of the Profit Makers or any other guest experts.
- vi. Before the recommendations were made public on live show, the recommendations which the Guest Experts were going to give on the show was communicated to the Zee Business team well in advance as a normal routine. These recommendations used to be shared with the channel through production control room before broadcast so that they can prepare / make graphics accordingly.

- vii. Out of the purported 209 trading instances across different dates during the investigation, SEBI's call data recording analysis only identified three days where there was a phone call between Mr. Himanshu Gupta and Mr. Ashish Kelkar. It is submitted that throughout the investigation period of 333 days, SEBI identified exchanges of calls between Mr. Himanshu Gupta and Mr. Ashish Kelkar on only three days, totaling five calls. This does not indicate any communication of recommendations in advance in any way. Furthermore, according to the trade log, no trades were executed by any Profit Makers on the dates of alleged communication between Mr. Himanshu Gupta and Mr. Ashish Kelkar.
- viii. SEBI has not shown any evidence that the recommendation 'PNB 42 CE' was in fact communicated by Mr. Himanshu Gupta to SCPL and MSPL right before it was aired on Zee business. Further, recommendation of 'PNB 42 CE' was telecasted on Zee Business at around 02:27 PM and as per the table provided by SEBI, the trade by SCPL, got executed only on 2:27:15 PM which is at the time / after the recommendation. With respect to trade of MSPL, the trade got executed only on 2:29:51 PM which is after the recommendation was out in public.
- ix. There is no evidence with respect to Mr. Himanshu Gupta being in touch with Mr. Nirmal Soni or any other Profit Makers. Despite citing 208 instances of trades being undertaken by profit makers based on Mr. Himanshu Gupta's recommendation, SEBI has not provided even single instance where SEBI has any evidence for communication of recommendation by him.
- x. Liability of Mr. Ashish Kelkar, giving a third party the information of the scrips which Mr. Himanshu Gupta was going to recommend, cannot be foisted upon Mr. Himanshu Gupta since the said information was communicated to Mr. Ashish Kelkar on a bona-fide basis without there being any intention or involvement or knowledge about the entire scheme.

F. Perusal of time period of appearance on Zee Business incorrect and enlarged;

- i. There have been discrepancies between:
 - i. The timing of recommendations as recorded by SEBI and the actual timing in the video files when the scrip pop-up appears and
 - ii. The timing of recommendations as recorded by SEBI and the actual timing in the video files when Mr. Himanshu Gupta begins his verbal recommendations.

G. No evidence of malicious intent can be established as there is no proof of any illegal gain

- i. There is no evidence as to how and when Mr. Himanshu Gupta received any alleged profits from the profit makers.
- ii. Merely because name of Mr. Himanshu Gupta is appearing in chat of third party would not entail a deeming fiction that the Noticee has received money.
- iii. No bank statement/bank entry has been shown to demonstrate any receipt of funds by Mr. Himanshu Gupta.

H. Direction of disgorgement/impounding cannot be joint and several;

- I. No penalty can be imposed on the Noticee for any alleged violation under section 15HA of the SEBI Act, 1992.
- J. The statements of Mr. Mudit Goyal and Mr. Ashish Kelkar make it clear that they shared their own stock recommendation and not any recommendations made by Mr. Himanshu Gupta.
- K. Balance of convenience lies in the favour of Mr. Himanshu Gupta (Noticee No. 13)

SAAR Commodities Private Limited and Manan Sharecom Private Limited

13. SCPL, vide its written submissions dated January 20, 2025, and MSPL, vide its written submissions dated January 03, 2025 and post hearing submissions dated January 20, 2025 made similar submissions, which are as under:

- i. SEBI has only taken trades where SCPL and MSPL made profits during that period and ignored the loss making trades;
- ii. SEBI has not established that the so-called stock recommendations(s) was non-public information. Only because the Guest Experts shared their recommendations with the profit makers i.e. Noticee No. 2 in advance before its broadcast on Zee Business does not *ipso facto* mean that there was any non-public information.
- iii. It is not alleged in the SCN that the recommendations by the 'Guest Experts' were fraudulent or were meant to deceive the other investors. The SCN does not even allege that there were investors' complaints.
- iv. Even assuming that SCPL has possession of information from 'Guest Experts', the said information was neither obtained in bad faith nor did it induce any investor to trade in the scrips where SCPL had traded. In support, Noticee has relied on the observations made in the matter of *Kanaiyalal Baldevbhai Patel Vs SEBI*⁶.
- v. The SCN has ignored the definition of fraud under Regulation 2(1)(c) of the PFUTP Regulations which define fraud.
- vi. The SCN does not even allege that SCPL and MSPL executed any trades which either induced anyone to trade or even caused a loss to anyone.
- vii. The allegation of fraud cannot be based on allegations without any convincing evidence. In the present case, SEBI has not proved that the alleged advance stock recommendation given by the 'Guest Experts' were based on unpublished price sensitive information or material non-public information or SCPL and MSPL availed some benefits which other investors did not receive. Thus, only because SCPL and MSPL had traded during the investigation period, it cannot lead to the conclusion that SCPL and MSPL are guilty of any violation at all.

⁶ (2017) 15 SCC 1

- viii. There was no element of inducement involved in the acts of SCPL and MSPL which is required for establishing charges under Section 12A(a) to (c) of SEBI Act read with PFUTP Regulations. In support various cases were relied upon.
- ix. The proposed direction of disgorgement is moot now as SEBI has already passed a settlement order in respect of some of the Noticees and as a part of settlement, the alleged amount has already been deposited with SEBI. Thus, the proposed direction of disgorgement qua SCPL and MSPL is not maintainable. Without prejudice to the same, SCPL and MSPL have highlighted certain discrepancies in the calculation of disgorgement amount and further submitted that after correcting the data, the alleged unlawful gain reduces to around ₹1 Crores and SCPL has been made to pay almost 4 times the disgorgement amount. Thus, no further monetary penalty or direction is warranted.
- x. The present proceedings have become infructuous as the SCN has been disposed of against Noticee No. 1, 6-12, 14 and 15. All the Guest Experts other than Noticee No. 13 and the Director of Noticee i.e., Noticee No. 1 has also settled the matter. Thus, allegations are not maintainable.
- xi. SEBI should consider the mitigating factors and the specific facts and circumstances of the case and should not levy any monetary penalty or non-monetary directions.

Partha Sarathi Dhar

14. Mr. Partha Sarathi Dhar vide his letter dated January 02, 2025 made the following submissions.

- i. His trades cannot be said to be recommendation based trades. Many trades were squared off i.e. the second leg of the trade was closed, before the recommendation was made public. In support, the Noticee submitted the illustrative extract of the trade log. The Noticee's trading pattern shows that out of a total of more than 2000 trades during the investigation period for an aggregate sum of ₹7,55,18,91,327, only about 302 trades for an aggregate

value of ₹ 1,48,43,62,603 have been alleged to be recommendation based trades, which is miniscule.

- ii. Neither he was a part nor he had knowledge of any fraudulent scheme, his actions were consistent with that of an ordinary prudent investor. His trades were based on the recommendations provided by his wife, Simi Bhaumik, who is a recognized securities expert and SEBI registered Research Analyst.
- iii. His Trades cannot be said to constitute a fraudulent or unfair trade practice. The SCN assumes some foundational fallacy such as (i) the presence of unequal information between parties per-se is fraudulent and amounts to obtaining an unfair advantage (ii) His conduct was synonymous with front running. It is further submitted that both these observations are belied by the observations of Hon'ble Supreme Court in the matter of *SEBI & Ors. vs Kanaiyalal Baldevbhai Patel & Ors.* This decision recognized that (i) having unequal or superior information is not inherently fraudulent and (ii) it becomes fraud if that information is obtained through deceit.
- iv. There is no evidence to show that he received profits, either in cash or in any manner or that he had any profit sharing arrangement.
- v. He cannot be held liable for disgorgement of gains on a joint and several basis.
- vi. He has already been restrained from trading in securities which is his only business, taking into account the factors that no investors have suffered any loss, no penalty should be imposed considering the factors under Section 15J of the SEBI Act.

Kanhya Trading Company

15. KTC vide its written submissions dated January 04, 2025 made the following submissions.

- i. It had a share trading account with Motisons Shares Private Limited. Mr. Nirmal Soni was working with Motisons Shares Private Limited till July 2022.

Mr. Nirmal Soni used to provide customer support to it and Mr. Nitin Chalani and always used to solve queries using trading software, share trading, etc. In this context, Mr. Nitin Chalani and Mr. Nirmal Kumar Soni had Whatsapp conversation.

- ii. The fund transfer between Mr. Nirmal Kumar Soni and Mr. Nitin Chalani was for an urgent personal requirement for short term basis. The same was partly repaid on November 30, 2022 and thereafter the entire loan (except ₹5 lakhs) was repaid along with interest.
- iii. The trades in its account were placed by its partners and not by Mr. Nirmal Kumar Soni as alleged in the SCN.
- iv. It had not executed trades on the basis of any recommendation(s) given by Mr. Kedar Jadhav, Mudit Goyal and Himanshu Gupta. It is not connected with them.
- v. SEBI has alleged that during the relevant period KTC had executed total of 531 trades in a span of 11 months (February 2022 to December 2022), out of which only trades entered in the month of August 2022 are impugned which shows that its trades were genuine and in normal course.
- vi. Computation of ill-gotten gain is wrong for impugned trades.
- vii. Without prejudice to the above submissions, it is submitted that even if one considers the trades executed on the basis of recommendations given by Ms. Simi Bhaumik and Mr. Ashish Kelkar, as they are alleged to be connected with Mr. Nirmal Soni and on the said basis, trading is assumed to be fraudulent, its alleged unlawful gain comes to ₹ 20,05,995, break up of which was provided. In view of the same, they are liable for disgorgement of ₹ 20,05,995 instead of ₹1,10,41,979 as alleged in the SCN.
- viii. SEBI has wrongly considered various trades where both the buy and sell orders were entered into account prior to time of recommendation. These instances cannot be termed as recommendation based trades. Details of such trades has been provided.

- ix. The entire ill-gotten gains have been impounded/deposited with SEBI which should be considered as mitigating factor along with the fact that its partners are young and respectable citizen of country.
- x. There has been no violation of Section 12A(a), (b) and (c) of the SEBI Act and Regulation 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(d) of the PFUTP Regulations.

CONSIDERATION AND FINDINGS:

16. As noted earlier, the proceedings against 10 Noticees were settled vide a settlement Order dated January 16, 2025, *inter alia*, as per the following terms:

“The Applicants shall undergo voluntary debarment from buying, selling or dealing in securities, either directly or indirectly, in any manner for a period of six months in terms of the Revised Settlement Terms submitted by them.

SEBI shall not initiate any other enforcement action against the Applicants for the violations as alleged in the SCN.”

17. Thus, the scope of the present order is limited to the remaining 5 Noticees viz. Mr. Himanshu Gupta, Mr. Partha Sarathi Dhar, MSPL, KTC and SCPL. However, reference shall be made to any of the Noticees, if required for the purpose of dealing with the allegations levelled against the above named 5 Noticees.

18. I now proceed to deal with the allegations made against the said 5 Noticees in light of the submissions made by them.

ROLE OF HIMANSHU GUPTA

19. At the outset, I find it relevant to deal with a preliminary objection raised by Mr. Himanshu Gupta relating to non-adherence to principles of natural justice in the context of inspection of documents sought by him.

20. Mr. Gupta has provided a list of documents which were sought by him, and submitted that the same were either not provided by SEBI or were partially provided. I have perused the list of documents sought by Mr. Gupta *vis-a-vis* list of documents provided for inspection by SEBI. In the first inspection, conducted on March 20, 2024, the investigation report and the annexures thereof, based on which the allegations were levelled on Mr. Gupta were provided. Pursuant thereto, Mr. Gupta reiterated the request for inspection of all the documents. In response thereto, second inspection was scheduled on June 26, 2024, wherein inspection of additional documents was provided. I note that all the documents/data pertaining to Mr. Gupta were provided and only the documents which pertain to third parties/Co-Noticees and which have no relevance for the determination of the issue against him, were not provided.

21. Additionally, Mr. Gupta has not provided any cogent rationale for seeking these documents (as to how they are relevant) and the repeated requests for inspection appear to be a roving and fishing enquiry. Further, the Noticee has not provided any cogent reason to justify that non-provision of any of these document(s) as sought by him has resulted in any prejudice against him. The list of the documents which has been sought by the Noticee and the reason for its non-provision (wherever not provided) is mentioned hereunder:

Sr. No.	Required Document	Provided / If not provided, the rationale for not providing the document
1	Copy of the Order of the Competent Authority/ Executive Director appointing the Investigating Authority under Section 11(C) of the SEBI Act, 1992	<i>Provided</i>
2	Order of the Magistrate / Judge allowing the Investigating Authority to conduct search and seizure on the premises of the suspected entities.	<i>Not provided and not relied upon.</i> The requested document pertains to Co-Noticees and the same cannot be provided as it involves confidential material concerning third party(ies).

Sr. No.	Required Document	Provided / If not provided, the rationale for not providing the document
3	Copy of Panchnama drawn subsequent to the search and seizure	<i>Not provided and not relied upon.</i> Search and Seizure operation was not conducted at his premises. The Panchnama of other entity is confidential material concerning a third party(ies).
4	Copy of Investigation Report including underlying annexures submitted by the Investigating Authority along with supplementary report, additional report or any other report, if any.	<i>Provided</i> Investigation report along with relevant annexures relating to Mr. Gupta were provided.
5	Copy of opinion / order of the Investigating Authority showing reasonable ground to believe that the books, registers, other documents and record of, or relating to, any intermediary or any person associated with securities market in any manner, may be destroyed, mutilated, altered, falsified or secreted.	<i>Not provided</i> Search and Seizure operation was not conducted at his premises. The Panchnama of other entity is confidential material concerning a third party(ies).
6	Copy of Application filed by the Investigating Authority to the Magistrate or Judge of such designated court in Mumbai for an order for the seizure of such books, registers, other documents and record.	<i>Not provided</i> Search and Seizure operation was not conducted at his premises. The Panchnama of other entity is confidential material concerning a third party(ies).
7	Copy of the <i>prima facie</i> opinion formed by SEBI with respect to pattern of correlation of trades of suspect entities with recommendations made by guest experts on Zee Business.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
8	Copy of data contained in electronic devices seized by SEBI	<i>Partly provided.</i> All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
9	Copy of Statement recorded during search and seizure operation conducted by SEBI.	<i>Partly provided.</i> Only the relevant statement recordings wherein Mr. Gupta was specifically mentioned have been provided.

Sr. No.	Required Document	Provided / If not provided, the rationale for not providing the document
10	Copy of analysis of data contained in electronic devices seized during search and seizure operation.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
11	Copy of analysis of KYC details and bank account statements of Noticees.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
12	Copy of KYC details and bank account statements of Noticees in possession of SEBI.	All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
13	Copy of analysis of Client Application Forms (CAF) provided by Telecom Service Providers (TSP).	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
14	Copy of Client Application Forms (CAF) provided by Telecom Service Providers (TSP) in possession of SEBI.	All relevant documents/data pertaining to Himanshu Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
15	Copy of SEBI communication and letters issued to Telecom Service Providers.	<i>Provided.</i>
16	Copy of analysis of Call Data Records (CDR) of Noticees	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
17	Copy of Call Data Records (CDR) of Noticees in possession of SEBI.	All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
18	Copy of opinion recorded on the file by the authorised officer / Investigating Authority, calling for the CDR indicating the reason why s/he considers it necessary to call for the CDRs.	<i>Provided</i>
19	Copy of analysis of Geographical locations of Noticees of during certain periods.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.

Sr. No.	Required Document	Provided / If not provided, the rationale for not providing the document
20	Copy of analysis of trading activities of Noticees.	The requested analysis was part of the Investigation Report and its accompanying Annexures which were already provided.
21	Copy of analysis of recorded videos of shows provided by Zee Media Corporation Limited.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
22	Copy of analysis of Account Opening Forms (AOF) provided by banks	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
23	Copy of analysis of relevant material available on Ministry of Corporate Affairs (MCA) website.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
24	Copy of order of the Whole Time Member approving initiation of proceedings under section 11(4A) and 11B(2).	<i>Provided.</i>
25	Copy of the statement recordings of the Nirmal Kumar Soni, Kiran Jadhav, Ashish Kelkar, Himanshu Gupta and Mudit Goyal as conducted by SEBI.	<i>Partly Provided.</i> Only relevant statement recordings wherein Mr. Gupta is specifically mentioned were provided.
26	Copy of information collected from MCA website, etc, AOF/ KYC details received from banks, etc to show connection amongst the Noticees.	The requested analysis was part of the Investigation Report and its accompanying Annexures, which were already provided.
27	Copy of all Call Data Records as seized by SEBI of communications between Ashish Kelkar, Himanshu Gupta and Mudit Goyal.	All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
28	Copy of the Complete WhatsApp chats between Ashish Kelkar and Kiran Jadhav wherein it was observed Himanshu Gupta had visited them in Pune.	The requested extracts were part of the Investigation Report and its accompanying Annexures, which were already provided.

Sr. No.	Required Document	Provided / If not provided, the rationale for not providing the document
29	Copy of the Complete WhatsApp chat between Nirmal Kumar Soni and Ashish Kelkar dated June 30, 2022; and Nirmal Kumar Soni and Nitin Chhalani dated July 01, 2022, informing in advance the show timings and impending recommendations of the guest experts.	The requested extracts were part of the Investigation Report and its accompanying Annexures which were already provided.
30	Copy of the video clippings pertaining to Himanshu Gupta dated June 30, 2022 shared by Zee Media Corporation Limited with SEBI	Provided. Soft Copy of the video was provided
31	Copy of the video clippings pertaining to Himanshu Gupta dated September 20, 2022, available with SEBI.	Provided. Soft Copy of the video was provided
32	Copy of complete WhatsApp chats between Nirmal Kumar Soni, SAAR Commodities and Manan Sharecom, if any, wherein the recommendations of Himanshu Gupta dated June 20, 2022 were shared by Nirmal Kumar Soni	The requested extracts were part of the Investigation Report and its accompanying Annexures, which were already provided.
33	Copy of all the trades executed, demat account statements, video clippings of Himanshu Gupta, any other documents available with SEBI for the trade instances and profits made by SAAR Commodities Pvt Ltd, Manan Sharecom Pvt Ltd, Kanhya Trading Company, Partha Sarathi Dhar and Nirmal Soni based on the recommendations of Himanshu Gupta.	Provided. Soft Copy of the video was provided
34	Copy of the complete Telegram chats between Ashish Kelkar and Kiran Jadhav wherein they have shared the calculations forwarded by Nirmal Soni to them, which also mentions Himanshu Gupta.	The requested extracts were part of the Investigation Report and its accompanying Annexures, which were already provided.

Sr. No.	Required Document	Provided / If not provided, the rationale for not providing the document
35	Copy of WhatsApp chats between Ashish Kelkar and Nirmal soni; as well as chats purportedly between Ashish Kelkar and Himanshu Gupta, or any other chats referencing Himanshu Gupta, wherein the pictures of currency notes were shared.	The requested extracts were part of the Investigation Report and its accompanying Annexures, which were already provided.
36	Copy of any other documents, chats, CDRs and Video Clipping pertaining to Himanshu Gupta as available with SEBI.	All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
37	All the documents received, communications made by SEBI with any person in respect of the present proceedings, not provided along with the Interim Order, if any	All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
38	Any other statement recorded by SEBI during the investigation / inspection.	<i>Partly provided</i> Only relevant statement recordings wherein Mr. Gupta was specifically mentioned were provided
39	Any adverse material available on record or any documents with SEBI evidencing anything in relation to the allegations against the Noticee.	All relevant documents/data pertaining to Mr. Gupta were already provided. Data pertaining to co-Noticees was not provided as it involves confidential material concerning third party(ies).
40	Copy of communication with Zee Business, if any	Provided

22. Considering the above, I find that the record clearly shows that all the documents / material relied upon and relevant for the purpose of these proceedings have been provided to Mr. Gupta in line with the principles propounded by the Hon'ble Supreme Court of India in the matters of *T. Takano v. SEBI* and *Reliance Industries v. SEBI*. Thus, the contention related to non-provision of documents and resultantly violation of principles of natural justice is not tenable.

23. It is noted that the SCN has categorized the entities into three groups viz. Profit Makers, Enablers and Guest Experts. Mr. Himanshu Gupta was one of the guest experts who had allegedly provided non-public information to profit makers prior to broadcasting of his recommendations. It is stated in the SCN that Mr. Himanshu

Gupta was a research professional and Senior Vice President (Research) at Globe Capital Market Limited (as per the website of this company). He provided stock recommendations under the tagline “**HITMAN HIMANSHU**” on shows broadcasted on Zee Business. He had over 15,700 followers on “X” (erstwhile Twitter) during the investigation period.

24. The SCN has alleged that Mr. Himanshu Gupta was part of the fraudulent scheme based on the following:

- a) His connection with other ‘Guest Experts’ viz. Ashish Kelkar, Mudit Goyal and Kiran Jadhav.
- b) Whatsapp chat between Nirmal Kumar Soni and Ashish Kelkar dated June 30, 2022, wherein Ashish Kelkar was informing Nirmal Kumar Soni about the timings of his (Ashish Kelkar) appearance and other *Guest Experts*, referred to as HG and MG (abbreviation for Himanshu Gupta and Mudit Goyal, respectively) and details of their (Himanshu Gupta and Mudit Goyal and Ashish Kelkar) impending stock recommendations and the video grab of the actual appearance of Himanshu Gupta during the time indicated by Ashish Kelkar;
- c) Scrips/contracts recommended by Himanshu Gupta were the same as informed by Ashish Kelkar in the Whatsapp chat dated June 30, 2022, prior to broadcast of the recommendations;
- d) Multiple chats of Ashish Kelkar sharing certain calculations with Kiran Jadhav, in which there was also a reference of HG (Himanshu Gupta);
- e) Recommendation given by Mr. Himanshu Gupta for the scrip PNB 42CE and the execution of trades by SCPL and MSPL in the scrip of PNB 42CE;
- f) Telegram chats between Ashish Kelkar and Kiran Jadhav (982XXXX880), wherein it was seen that they were sharing with each other calculations forwarded by Nirmal Kumar Soni to them. It was noticed that there was mention of HG (Himanshu Gupta) in such messages.
- g) WhatsApp chat between Ashish and “Lalu”, wherein it was observed that image of one ₹10 note was exchanged between them with a mention of name

along with mobile number as “Gupta ji -844XXXX0469”. The said number belonged to Himanshu Gupta.

25. Against the other guest experts viz. Kiran Jadhav, Ashish Kelkar, Mudit Goyal and Simi Bhaumik, the SCN has relied on direct evidence(s) including data contained in electronic devices seized during search and seizure operation, analysis of KYC details and bank account statements, statement recordings and analysis of trading details of profit makers. In contrast, for levelling the allegations against Mr. Himanshu Gupta, the SCN relies primarily on circumstantial evidence comprising Whatsapp chats between Mr. Nirmal Kumar Soni and Mr. Ashish Kelkar, chats of Ashish Kelkar sharing certain calculations with Kiran Jadhav, recommendation given by Mr. Himanshu Gupta for the scrip PNB 42CE and the execution of trades by SCPL and MSPL in the scrip of PNB 42CE, and WhatsApp chat between Ashish and ‘Lalu’. The adequacy of circumstantial evidences to establish the charges in a case would be dependent on the appreciation of the same in the peculiar facts and circumstances and the strength of defense presented by the Noticee viz. Mr. Himanshu Gupta.
26. The crux of the allegation is that entities as identified in the SCN, *prima facie* devised and employed a scheme where Guest Experts, before making recommendations on Zee Business channel, communicated information (recommendation) amongst each other and also with Profit Makers in advance. These Profit Makers would then engage in executing first leg of trade just before the recommendation was to be aired. Post broadcast of recommendation, the Profit Makers would close the position with the second leg of transaction and in the process, earned profit. Thus, it is essential to determine whether Mr. Himanshu Gupta was involved in sharing of non-public information with the other ‘guest experts’ and with the ‘profit makers’ before the same was aired on Zee Business.
27. One of the evidence which has been relied in the SCN is the connection of other ‘Guest Experts’ viz. Ashish Kelkar, Mudit Goyal and Kiran Jadhav with Mr. Gupta. Considering that these guest experts were professionals who appeared on Zee

business channel, I find merit in the submission that it is reasonable to expect mutual acquaintance among them. Professional relationships and networking are natural and expected among individuals operating in the same industry and appearing on the same media platform.

28. The SCN relies on a WhatsApp chat between Nirmal Kumar Soni (Profit Maker) and Ashish Kelkar (Guest Expert) dated June 30, 2022. In this communication, Ashish Kelkar provided advance information regarding:

- The timing of shows featuring 'HG' (apparently referring to Mr. Himanshu Gupta);
- The specific scrips (Tata Motors and Indiacem) that HG was going to recommend on his show.

It was further stated in the SCN that the timing of the appearances of Guest Experts viz., Mudit Goyal, Himanshu Gupta, and Ashish Kelkar was around the same time as informed by Ashish Kelkar to Nirmal Kumar Soni. Further, as per the SCN, the scrips/contracts recommended by the aforementioned *Guest Experts* i.e. Himanshu Gupta, Ashish Kelkar and Mudit Goyal, were also the same as informed by Ashish Kelkar in the Whatsapp chat. The screenshot of the aforesaid conversation dated June 30, 2022 is produced below:

Screenshot 1



29. I note that Mr. Himanshu Gupta indeed appeared on Zee Business around the same time as informed by Ashish Kelkar to Nirmal Kumar Soni and also recommended the scrips of Tata Motors and Indiacem. However, it is pertinent to note that the profit makers did not trade in the scrips of (Tata Motors and Indiacem) on the date of the recommendation. It is contended by Mr. Gupta that even the record does not anywhere show that any of the Profit Makers traded on the basis of this recommendation. Further, as per the trade log of June 30, 2022, only two trades were executed by profit makers on that day which were Tatapower and ITC and both of which were not recommended by Mr. Himanshu Gupta. This demonstrates the absence of any causal connection between Mr. Gupta's recommendations and the Profit Makers' trading activities.

30. Further, the flow of information from Mr. Himanshu Gupta to Mr. Ashish Kelkar is also unclear. The SCN does not bring forth any evidence demonstrating how or in what manner the information about the impending trade recommendation was communicated by Mr. Himanshu Gupta to Mr. Ashish Kelkar. Mr. Himanshu Gupta, in his submissions has stated that throughout the investigation period of 333 days, SEBI identified exchanges of calls between Mr. Himanshu Gupta and Mr. Ashish Kelkar on only three days, totaling five calls. Furthermore, according to the trade log provided by SEBI, no trades were executed by any Profit Maker on the dates of alleged communication between Mr. Himanshu Gupta and Mr. Ashish Kelkar. Without supporting evidence establishing execution of trades by the profit makers in the scrips allegedly recommended by Mr. Himanshu Gupta and the flow of communication of impending recommendation(s) from Himanshu Gupta to Mr. Ashish Kelkar, it would be difficult to hold Mr. Himanshu Gupta culpable for the alleged violations. In my view, the evidence fails to meet the standard required to establish his participation in the alleged fraudulent scheme.

31. Further, the SCN has alleged that SCPL and MSPL have executed trades in the contract of 'PNB 42 CE' right before it was recommended by Mr. Himanshu Gupta. In this regard, Mr. Himanshu Gupta has submitted that SEBI has not shown any

evidence that the recommendation was in fact communicated to SCPL and MSPL by him. In this regard, I note from the material available on record that there is no proof of communication of the scrip 'PNB 42 CE' from either Mr. Himanshu Gupta and/or other guest experts to the profit makers. Without proof of information flow, the allegation of trading based on advance information cannot be substantiated for this particular transaction.

32. I also note that the SCN has relied on one WhatsApp chat between 'Ashish' and "Lalu", wherein it is observed that image of one ₹ 10 note was exchanged with a mention of name along with mobile number as "Gupta ji -844XXXX0469" which belonged to Mr. Himanshu Gupta. Further, the SCN stated that it is probable that the INR 10 was used to share commission generated out of trades executed based on the recommendation of Guest Experts. However, the SCN does not adduce any direct evidence to prove any sharing of profits by Mr. Himanshu Gupta or receipt of any kickbacks from the alleged scheme. Rather, the SCN refers to a probability of sharing of profits. Thus, mere inclusion of Mr. Himanshu Gupta's number in the third party chat does not establish that he received money, particularly when the SCN has not adduced any direct evidence to support such a claim. This, the evidence is insufficient to establish Mr. Gupta's participation in any profit-sharing arrangement or his culpability in the alleged scheme.

33. Accordingly, I find that to support the allegation levelled against Mr. Himanshu Gupta, neither the evidence of execution of trades in the scrips of (Tata Motors and Indiacem) on the date of the recommendation, nor the evidence of communication regarding the scrip 'PNB 42 CE' from Mr. Himanshu Gupta to SCPL and MSPL is available. The SCN also does not bring forth any prior arrangement between Mr. Himanshu Gupta and other entities be it Profit Makers, Enablers or Guest Experts. Thus, considering the totality of the facts and circumstances, I am constrained to disagree with the findings in the SCN against Mr. Himanshu Gupta for the reason that the material available on record is insufficient to prove the allegations against Mr. Himanshu Gupta. Thus the proceedings initiated against him are liable to be disposed of without any direction or penalties.

ROLE OF MR. PARTHA SARATHI DHAR, SCPL, MSPL AND KTC

34. As noted earlier, these four entities were part of the *Profit Makers* group that made profit by executing trades which were allegedly executed based on advance information of stock recommendations given by guest experts. An amount of ₹ 7,41,29,648 was earned by *Profit Makers* from trades executed on the basis of advance receipt of non-public information of recommendations provided by *Guest Experts*. *Enablers* also helped *Profit Makers* in executing these transactions. I note that these four entities have made separate *albeit* similar submissions. Given the commonality of their arguments, I would collectively deal with the submissions made by them to avoid unnecessary repetition. Any specific submission unique to a particular Noticee will be addressed separately as required.
35. At the outset, it is pertinent to note that the SCN had identified total unlawful gain of ₹7,41,29,648 from the alleged fraudulent and unfair activities which was directed to be impounded, jointly and severally from Noticees No. 1 to 15. SEBI has already passed a Settlement Order dated January 16, 2025 against 10 entities as mentioned earlier. As part of the settlement proceedings, the unlawful gains of ₹7,41,29,648 were already deposited in an escrow account which has been considered in the settlement terms and accordingly settlement order has been passed.
36. Vide the SCN, these entities (i.e., Mr. Partha Sarathi Dhar, SCPL, MSPL and KTC amongst others) were called upon to show cause as to why suitable directions, including the *direction to disgorge an amount equivalent to the alleged unlawful profits made on account of the scheme* should not be issued against them under Sections 11(1) and 11B(1) of the SEBI Act, 1992. I note that these four entities have made specific submissions on the incorrect methodology applied by SEBI while arriving at this amount, submissions on the joint and several liability of the Noticees and discrepancies in the impugned trades which were considered for arriving at the unlawful profits, etc. Since the amount of ₹7,41,29,648 has already been disgorged as a part of the settlement proceedings, the issue of passing a

direction of disgorgement of the unlawful profits has become infructuous. Consequently, any discussion on the submissions made by the said Noticees on calculation of the unlawful gains has also become academic. Accordingly, I would not delve into the submissions made by these entities on the methodology adopted for calculation of the unlawful gains, joint and several liability of the Noticees and other related submissions.

37. Taking note of the above, the following issues require consideration:

- a) Whether Partha Sarathi Dhar, SCPL, MSPL and KTC have violated the provisions of Sections 12A(a), 12A (b), 12A(c) and 12A(e) of SEBI Act and Regulations 3(a), 3(b), 3(c), 3(d), 4(1) and 4(2)(d) of SEBI (PFUTP) Regulations as alleged in the SCN?
- b) If the answer to the above question is in the affirmative, what directions are required to be issued and what quantum of monetary penalty should be imposed on Partha Sarathi Dhar, SCPL, MSPL and KTC?

38. Before dealing with the alleged violations of section 12A of the SEBI Act and regulations 3 and 4 of the PFUTP Regulations and the submissions of the Noticees in that regard, in order to discuss the object and purpose of these provisions, I find it pertinent to refer to the following findings of Hon'ble Supreme Court in the matter of *SEBI Vs. Kanaiyalal Baldevbhai Patel*⁷:

"8. Indisputably, the object and purpose of this regulation (FUTP 2003) is to safeguard the investing public and honest businessmen. The aim is to prevent exploitation of the public by fraudulent schemes and worthless securities through misrepresentation, to place adequate and true information before the investor, to protect honest enterprises seeking capital by accurate disclosure, to prevent exploitation against the competition afforded by dishonest securities offered to the public and to restore the confidence of the prospective investor in his ability to select sound securities.

⁷ CIVIL APPEAL NO. 2595 OF 2013

...

11. It is important to note that SEBI has amended the regulation, a number of times, to keep up with the technology and times. A reference may be made to the amendments carried out to the regulation –

...

12. Although aforesaid amendments are made to the regulation, yet such amendments sometimes fail to live up to human ingenuity and growth of technology. Usurpation of reprehensible profits by fraudsters, who are not entitled to them, must be made answerable by this Court as per established tenants of rule of law without leaving incentives for fraudulent practices, based on creativity of disingenuous, to survive the legal gambits.

...

21. The object and purpose of FUTP 2003 is to curb “market manipulations”. Market manipulation is normally regarded as an “unwarranted” interference in the operation of ordinary market forces of supply and demand and thus undermines the “integrity” and efficiency of the market. This Court in *N. Narayanan v. adjudicating Officer, SEBI*, has laid down that-

Prevention of market abuse and preservation of market integrity is the hallmark of Securities Law. Section 12A read with Regulations 3 and 4 of the Regulations 2003 essentially intended to preserve ‘market integrity’ and to prevent ‘Market abuse’. The object of the SEBI Act is to protect the interest of investors in securities and to promote the development and to regulate the securities market, so as to promote orderly, healthy growth of securities market and to promote investors protection. Securities market is based on free and open access to information, the integrity of the market is predicated on the quality and the manner on which it is made available to market. ‘Market abuse’ impairs economic growth and erodes investor’s confidence. Market abuse refers to the use of manipulative and deceptive devices, giving out incorrect or misleading information, so as to encourage investors to jump into conclusions, on wrong premises, which is known to be wrong to the abusers. The statutory provisions mentioned earlier deal with the situations where a person, who deals in securities, takes advantage of the impact of an action, may be manipulative, on the anticipated impact on the market resulting in the “creation of artificiality”.

22. From the line of decisions cited herein above, it can be inferred that as a matter of principle, while interpreting this regulation, the court must weigh against an interpretation which will protect unjust claims over just, fraud over legality and

expediency over principle. Once this rule is clearly established, individual cases should not pose any problem.”

39. Thus, the purpose behind prevention of fraudulent and unfair trade practices is, *inter alia*, to prevent exploitation of the public by fraudulent schemes, to place adequate and true information before the investors, to protect honest enterprises seeking capital by accurate disclosures, etc.

40. In this backdrop, I shall now proceed to address the submissions made by the aforesaid 4 Noticees. SEBI Act and the Rules and Regulations made thereunder seek to prevent market manipulation(s) which is normally regarded as an “unwarranted” interference in the operation of ordinary market forces of supply and demand. Such manipulations fundamentally undermine the integrity and efficiency of securities markets. The thrust of these legal provisions is to prevent information asymmetry between different sets of stakeholders and prevent interference in the operation of ordinary market forces of supply and demand. These objectives are essential to maintain fair, transparent, and efficient capital markets where all participants can operate on a level playing field.

41. It has been submitted that SEBI has not established that the so-called ‘stock recommendation(s)’ was non-public information and the fact that the Guest Experts shared their recommendation(s) with the profit makers in advance before its broadcast on Zee Business, does not *ipso facto* establish the existence of non-public information. In this regard, I note that Section 12A(e) of the SEBI Act, *inter alia*, provides that no person shall directly or indirectly deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of SEBI Act or the rules or the regulations made thereunder. For market manipulation cases, information can be termed as “non-public” when it possesses inherent asymmetry and the general public lacks equal access to such information. The advance sharing of Guest Expert recommendations clearly meets

this standard. The contention that advance recommendation sharing does not constitute non-public information is therefore legally untenable.

42. It has been alleged in the SCN that till the time the recommendations by the guest experts were not made public, it remained a non-public information. The profit makers had got advance information, directly or indirectly, about the impending recommendations in an unfair manner to the detriment of general investors. As stated in the SCN, they used this advance information to make profit by trading on the basis of such advance information knowing that investors would act on the recommendations, and the price and volume would move in the expected direction enabling them to make profit. The Noticees including the profit makers had a reasonable expectation of an increase in the price and volume traded in the scrip/contract following the broadcasting of the recommendations on the channel. The SCN also brought out how these recommendations had made impact on price and volume of the scrip/contract being recommended, creating opportunities for making unlawful gains on the basis of advance information. Some samples to illustrate how these recommendations of *Guest Experts* impacted the market price and volume are reproduced below:

- August 25, 2022: Impact on the price and volume based on recommendations by Simi Bhaumik

Chart 1

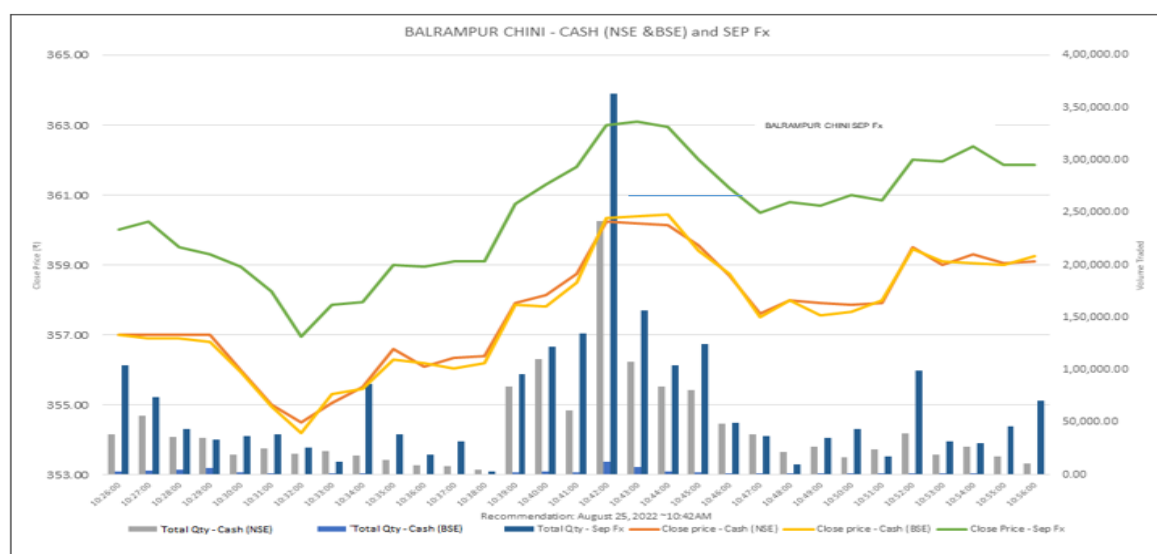


Chart 2

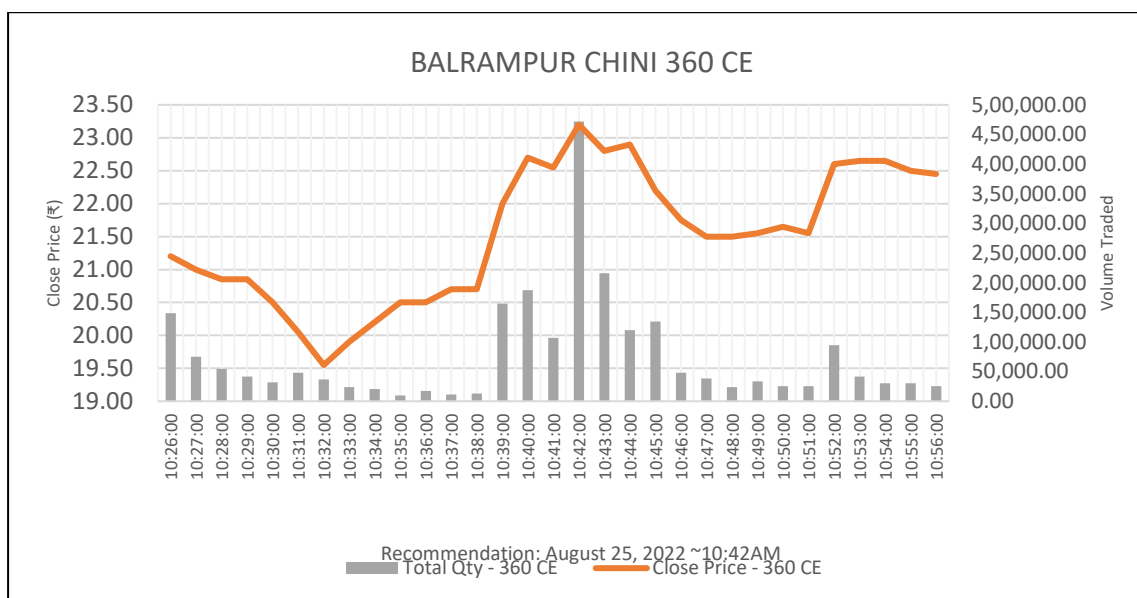


Table No. 3

Recommendation date		August 25, 2022		
Recommendation time (t)		~10:42 AM		
Scrip/Contract Recommended		BALRAMPUR CHINI		
Recomm ended Levels (For Cash)	Recommended Price (INR)	360.3		
	Target Price (INR)	375-400		
	Stop Loss (INR)	-		
Scrip/Contract		BALR AMPU R CHINI (EQ)	BALRAM CHIN FF	BALRAM CHIN 360CE
Price Impact Post Recomm endation	Average High/ Low Variation % in preceding 15 mins [t-15]	0.24	0.26	2.26
	Average High/ Low Variation % during recommendation time and succeeding 2 mins [t and t+2]	0.48	0.47	3.77
	Average High/ Low Variation % in succeeding 15 mins [t+15]	0.29	0.27	2.23
Volume Impact Post	Avg Trading Vol in Preceding 15 mins [t-15] (number of shares/underlying shares)	35,640	50,987	58,987

Recommendation	Avg Trading Vol during recommendation time and succeeding 2 mins [t and t+2] (number of shares/underlying shares)	1,44,327	2,18,133	2,65,067
	Avg Trading Vol for succeeding 15 mins [t+15] (number of shares/underlying shares)	56,221	81,280	90,667
Relevant Price Sensitive Corporate Announcement on the day of the recommendation or the prior day		No		

The analysis of the **price impact** shows the following-

- In the preceding 15 minutes before the recommendation, the average high/low price variation was relatively low at 0.24%, 0.26% and 2.26% for BALRAMCHIN (EQ), BALRAMCHIN Sep Futures and BALRAMCHIN 360CE respectively.
- However, during the recommendation time and the subsequent 2 minutes (t and t+2), there was a significant surge in price volatility, with an average high/low variation of 0.48%, 0.47% and 3.77% for BALRAMCHIN (EQ), BALRAMCHIN Sep Futures and BALRAMCHIN 360CE respectively.
- In the succeeding 15 minutes (t+15) after the recommendation, the average high/low variation stood at 0.29%, 0.27% and 2.23% for BALRAMCHIN (EQ), BALRAMCHIN Sep Futures and BALRAMCHIN 360CE respectively.

An analysis of the **volume impact** shows the following-

- The average trading volume in the 15 minutes leading up to the recommendation (t-15) was 35,640 shares, 50,987 shares and 58,987 shares for BALRAMCHIN (EQ), BALRAMCHIN Sep Futures and BALRAMCHIN 360CE respectively.
- During the recommendation time and the following 2 minutes (t and t+2), the trading volume experienced a substantial increase, reaching an average of 1,44,327 shares, 2,18,133 shares and 2,65,067 shares for BALRAMCHIN (EQ), BALRAMCHIN Sep Futures and BALRAMCHIN 360CE respectively.
- In the succeeding 15 minutes (t+15) after the recommendation, the average trading volume remained elevated at 56,221 shares, 81,280 shares and 90,667

shares for BALRAMCHIN (EQ), BALRAMCHIN Sep Futures and BALRAMCHIN 360CE respectively.

- September 02, 2022: Impact on the price and volume based on recommendation by Kiran Jadhav

Chart 3

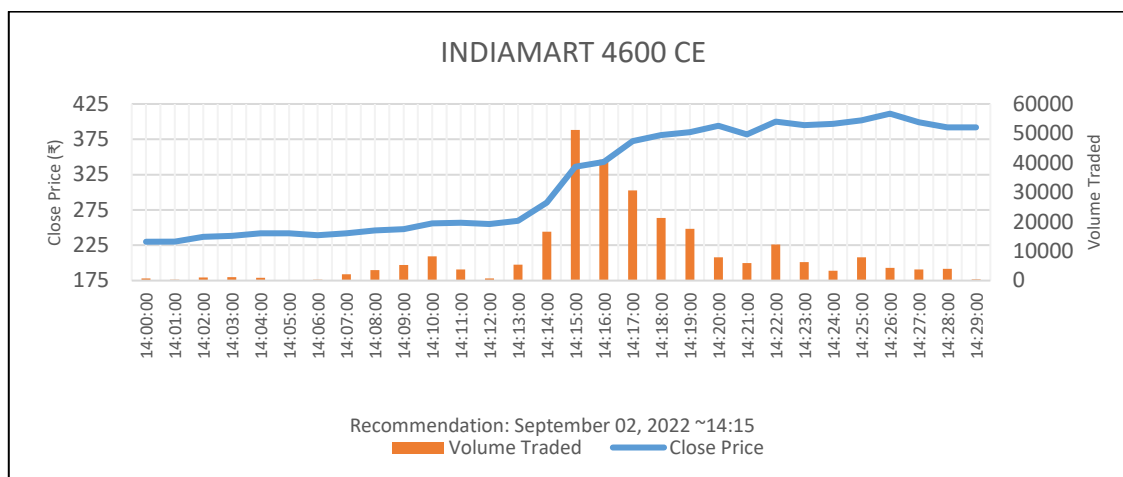


Table No. 4

Recommendation date		September 02, 2022
Recommendation time (t)		~02:15 PM
Scrip/Contract Recommended		INDIAMART 4600 CE
Recommended Levels	Recommended Price (INR)	290
	Target Price (INR)	580/600
	Stop Loss (INR)	240
Price Impact Post Recommendation	Average High/ Low Variation % in preceding 15 mins [t-15]	1.28
	Average High/ Low Variation % during recommendation time and succeeding 2 mins [t and t+2]	12.64
	Average High/ Low Variation % in succeeding 15 mins [t+15]	5.06
Volume Impact Post Recommendation	Avg Trading Vol in Preceding 15 mins [t-15] (number of underlying shares)	2411
	Avg Trading Vol during recommendation time and succeeding 2 mins [t and t+2] (number of underlying shares)	36,300

	Avg Trading Vol for succeeding 15 mins [t+15] (number of underlying shares)	14,540
	Relevant Price Sensitive Corporate Announcement on the day of the recommendation or the prior day	No

The analysis of the **price impact** shows the following-

- In the preceding 15 minutes before the recommendation, the average high/low price variation was relatively low at 1.28%.
- However, during the recommendation time and the subsequent 2 minutes (t and t+2), there was a significant surge in price volatility, with an average high/low variation of 12.64%.
- In the succeeding 15 minutes (t+15) after the recommendation, the price variation remained high, with an average high/low variation of 5.06%.

The analysis of the **volume impact** shows the following-

- The average trading volume in the 15 minutes leading up to the recommendation (t-15) was 2,411 shares.
- During the recommendation time and the following 2 minutes (t and t+2), the trading volume experienced a substantial increase, reaching an average of 36,300 shares.
- In the succeeding 15 minutes (t+15) after the recommendation, the average trading volume remained elevated at 14,540 shares.
- From the above, it can be seen that the recommendation had a significant impact on both the price and trading volume of the contract "INDIAMART 4600 CE".

43. The above illustrations clearly bring out that there was a considerable increase in the volume and price of the respective scrip/contract just after the broadcast of the recommendation(s) on the channel.

44. As has been brought out in the interim order cum SCN, the prior information regarding such recommendations (to be broadcasted) on the channel were communicated to the profit makers by the guest experts / enablers, and they used the said information to trade, thereby making profits.

45. These acts of the Noticees were detrimental to the interest of integrity of the securities market and also adverse to the interest of investors who invested based on recommendations of *Guest Experts* totally unaware of any scheme being employed by them. These acts also interfered in the normal functioning of the market, impacting the demand and supply of securities. Thus, the contention that

information about the impending stock recommendation(s) before the same were made public, is not non-public information is wholly unacceptable. It was material as well as non-public information which the Guest experts shared with the profit makers who, with the help of enablers, made unlawful gains.

46. The aforesaid four Noticees have also contended that the recommendations by guest experts were not fraudulent or were meant to deceive the other investors or they did not induce any one to trade in the securities. It is also argued that the SCN has ignored the definition of fraud under Regulation 2(1)(c) of the PFUTP regulations. I note that the definition of fraud given under Regulation 2(1)(c) of PFUTP Regulations is an 'inclusive' definition. It *inter alia* 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. In this regard, I refer to the following observations of Hon'ble Supreme Court in *the Kanaiyalal Baldevbhai Pate*⁸ matter:

5. *"If Regulation 2(c) of the 2003 was to be dissected and analyzed it is clear that any act, expression, omission or concealment committed, whether in a deceitful manner or not, by any person while dealing in securities to induce another person to deal in securities would amount to a fraudulent act. The emphasis in the definition in Regulation 2(c) of the 2003 Regulations is not, therefore, of whether the act, expression, omission or concealment has been committed in a deceitful manner but whether such act, expression, omission or concealment has/had the effect of inducing another person to deal in securities.*
6. *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*

⁸ supra

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".

7. *The dictionary meaning of the word "induced" may now be taken note of*

BLACK'S LAW DICTIONARY, EIGHTH EDITION, defines 'inducement' as "the act or process of enticing or persuading another person to take a certain course of action."

Merriam-Webster Dictionary defines 'inducement' as "a motive or consideration that leads one to action or to additional or more effective actions."

8. *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. No element of dishonesty or bad faith in the making of the inducement would be required."*

47. The observations made by Hon'ble Supreme Court are applicable to the present case also. For any entity to be charged for fraud under the PFUTP regulations, the emphasis is on whether such act, expression, omission or concealment has/had the effect of inducing another person to deal in securities. In the present case, the SCN has clearly brought out the evidence of direct/indirect sharing of non-public information regarding recommendations, by *Guest Experts* to *Profit Makers* in advance and subsequent trading based on such information. Some of these instances are being reproduced below.

- Sharing of advance information between Simi Bhaumik and Partha Sarathi Dhar followed with trade by Partha Sarathi Dhar and Manan Sharecom Private Limited

48. Simi Bhaumik recommended 'Buy' for BALRAMPUR CHINI' on Zee Business on August 25, 2022 at around 10:42 AM. The screenshot below depicts such recommendation.

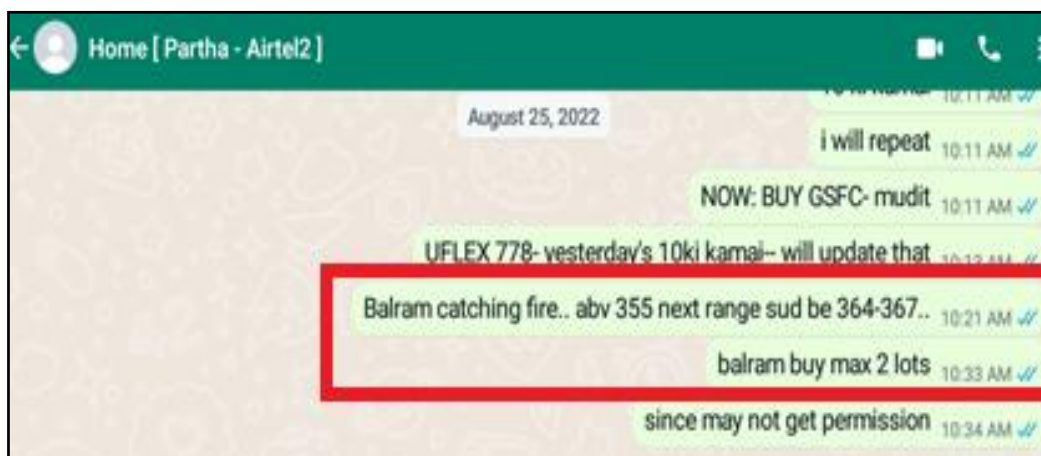
Screenshot No. 2



49. On analysis of the Whatsapp chats shared between Simi Bhaumik (974XXXX790) and Partha Sarathi Dhar (974XXX921), it is seen that the *Guest Expert*, Simi Bhaumik had shared information about her recommendation to buy 'BALRAMPUR

CHINI' at 10:21 AM, in advance, with Partha Sarathi Dhar. Same can be seen from the screenshot below:

Screenshot no. 3



50. An analysis of the trades executed by Partha Sarathi Dhar on August 25, 2022, showed the following:

Table No. 5

DATE	SYMBOL	INSTRUMENT TYPE	BUY QUANTITY	BUY VALUE	BUY ORDER START TIME	SELL QUANTITY	SELL VALUE	SELL ORDER START TIME	Record Time
25/08/22	BALRAMCHIN	FUTSTK	33,600	1,21,27,120.00	10:35:24	33,600	1,22,30,400.00	10:41:56	10:41:00

51. Thus, it is seen that Partha Sarathi Dhar had advance information of the recommendation to be made by Simi Bhaumik on Zee Business. The above screenshot shows that Simi Bhaumik had shared her recommendation with Partha Sarathi Dhar before recommending the same on Zee Business. Thus, she facilitated Partha Sarathi Dhar to take a position / execute trade based on such advance information of recommendation being broadcasted.

52. The summary of trading activity of Partha Sarathi Dhar and Manan Sharecom Private Limited in the contract BALRAMPUR CHINI SEP Futures and BALRAMPUR CHINI 360 CE, based on advance information from Simi Bhaumik is as follows:

Table No. 6

Entity Name	Partha Sarathi Dhar		Manan Sharecom Private Limited	
PAN	(ASCPD8155H)		(AAPCM9816L)	
Contract Name	BALRAMPUR CHINI SEP Futures		BALRAMPUR CHINI 360 CE	
Expiry Date	September 29, 2022			
Trade Leg	First leg of Trade	Second leg of Trade	First leg of Trade	Second leg of Trade
	Buy	Sell	Buy	Sell
Date	August 25, 2022			
Order Start Time	10:35:24 AM	10:41:56 AM	10:39:47 AM	10:41:35 AM
Order End Time	10:39:53 AM	10:41:56 AM	10:39:56 AM	10:44:13 AM
Trade Start Time	10:35:28 AM	10:42:14 AM	10:39:47 AM	10:42:12 AM
Trade End Time	10:39:53 AM	10:42:15 AM	10:39:57 AM	10:44:14 AM
Average Price	360.93	364.00	21.60	23.21
Traded Quantity	33,600	33,600	1,08,800	1,08,800
Total Value Traded (₹)	1,21,27,120	1,22,30,400	23,50,000	25,25,360
Client Traded Val to Market Val	0.44%		2.65%	
Client Traded Val in the select security vis-à-vis all securities in the market	25.61%		7.20%	
Profit	1,03,280		1,75,360	

53. Thus, it is noted that both Partha Sarathi Dhar and Manan Sharecom initiated their Buy orders at 10:35:24 Hrs and 10:39:47 Hrs, respectively, just before the broadcast of the recommendation on Zee Business at around 10:42 AM. Further, the limit sell orders were placed by Partha Sarathi Dhar at 10:41:56 Hrs and by MSPL between 10:41:35 Hrs and 10:44:13 Hrs i.e. around the time when the relevant recommendation was being aired on the news channel. Thus, they knew about the impending recommendation and also knew that once recommendation is made, share price would go up. Hence, limit sell order(s) was strategically placed

at higher price which were executed after the recommendation was telecast and price rose following the recommendation.

54. The SCN documented multiple instances demonstrating the proximity of trades executed in the accounts of Noticees Nos. 2 to 5 to recommendations made by Guest Experts. These Guest Experts shared their recommendations, directly or indirectly, with Nirmal Kumar Soni and Partha Sarathi Dhar prior to broadcast on Zee Channel. Based on the prior possession of this non-public information, Nirmal Kumar Soni and Partha Sarathi Dhar placed the first leg of orders in the relevant scrip/contract (first- leg of the trade) through the trading accounts of *other profit makers*, before the telecast of the recommendations made by *Guest Experts*. Thereafter, the *Noticees* squared off the position (second leg of the trade) immediately around the time or after the recommendations were telecast on the shows, thereby earning significant profits from the favourable movement in price and volume of the scrip/contract. Thus, the possession of non-public information from the guest experts enabled the profit makers to place the first leg of orders which were squared off after the recommendations were made public.

55. A natural and logical inference that follows is that the profit makers would not have entered into the transactions in question, had it not been for the information provided by the guest experts. It is also to be noted that these guest experts had a significant media presence, and they provided recommendations on a mainstream business channel. They therefore owed a fiduciary duty to the general public who relied on their recommendations as well as to the business channel. A fiduciary must act in utmost good faith and cannot act for personal benefit or the benefit of third parties. In this case, neither the business channel nor the general public was informed about the advance sharing of non-public information, constituting a clear breach of these fiduciary obligations.

The scheme created systematic information asymmetry whereby:

- Gullible investors were induced to trade based on Guest Expert recommendations;

- The general public remained unaware that the information/recommendations had been pre-shared with other entities;
- Investors became victims of deliberate information asymmetry.

As established in previous analysis, the recommendations led to demonstrable variations in price and volume of the relevant scrips, confirming that public investors were induced to deal in securities based on compromised information. Thus the argument that no inducement or deceit occurred is therefore untenable. The acts and omissions by these entities clearly fall within the definition of fraud under the applicable regulations.

56. Further, the contention that there was no 'dealing in securities' is equally untenable.

The definition of 'dealing in securities' is very broad and inclusive which includes an act of buying, selling or subscribing pursuant to any issue of any security or agreeing to buy, sell or subscribe to any issue of any security or otherwise transacting in any way in any security. The specific inclusion of the phrase "otherwise transacting" demonstrates the legislative intent to cast a wide definitional net that would encompass diverse forms of securities transactions, including the activities undertaken by the four Noticees in the present case.

57. I find it pertinent to address specific submissions made by the Noticees. SCPL contends that even assuming that it possessed information from 'Guest Experts', such information was neither obtained in bad faith nor did it induce any investor to trade in the scrips where SCPL had traded. Similarly, Partha Sarthi Dhar argues that he got the information about the impending recommendation from his wife (a registered Research Analyst) and was not procured through deceit.

58. In this context, I draw reference to the discussion in earlier paragraphs wherein the element of 'inducement' has been comprehensively addressed. As regards the argument regarding absence of deceit and bad faith, it is noted that entire arrangement amongst all the constituents of the scheme—Guest Experts, enablers, and profit-makers— was *ab initio mala fide*.

59. The systematic artifice to exploit the impact of the recommendations of Guest Experts on a nationally broadcasted news channel by taking prior positions and subsequently squaring them off at beneficial prices, cannot, by any reasonable standard, be characterized as rooted in good faith. The profit makers did not make profits out of good fortune but by malicious design. Accordingly, the arguments in this regard are rejected as being without merit and contrary to the established facts.

60. Another contention made by the four Noticees is with regard to the standard of proof required in the 'fraud' cases, submitting that without any convincing evidence, allegation of fraud cannot be established. In this regard, I note that the following evidences were collected during the investigation:

- (a) *Evidence of connection amongst various entities;*
- (b) *Evidence of sharing of advance information about scrip/contract recommendations by Guest Experts with Profit Makers prior to the appearance of these experts on Zee Business;*
- (c) *Evidence of trades carried out by Profit Makers based on such advance information;*
- (d) *Evidence of increase in trade volumes as well as favourable movement of price in line with recommendations, creating opportunities for Profit Makers to make profits based on such advance information; and*
- (e) *Evidence of sharing of profit by Profit Makers with Guest Experts.*

61. On the standard of proof required in these types of cases, I refer to the observations made by Hon'ble Supreme Court in the matter of *Kanaiyalal Baldevbhai Patel*⁹ wherein the following was observed:

"14. To attract the rigor of Regulations 3 and 4 of the 2003 Regulations, mens rea is not an indispensable requirement and the correct test is one of preponderance of probabilities. Merely because the operation of the

⁹ supra

aforesaid two provisions of the 2003 Regulations invite penal consequences on the defaulters, proof beyond reasonable doubt as held by this Court in Securities and Exchange Board of India Vs. Kishore R. Ajmera(supra) is not an indispensable requirement. The inferential conclusion from the proved and admitted facts, so long the same are reasonable and can be legitimately arrived at on a consideration of the totality of the materials, would be permissible and legally justified.”

62. The evidence in this case establishes clear violations of legal provisions which *inter alia* includes:

- a) Sharing of advance information by Guest Experts other than Himanshu Gupta with the profit makers as illustrated above at Screenshot 3.
- b) Nirmal Kumar Soni was designated as the Authorized Signatory and Director of Manan Sharecom Private Limited as per the Account Opening Form of MSPL with HDFC. Further, the mobile number registered in the HDFC bank account of MSPL was registered in the name of Nirmal Kumar Soni.
- c) SAAR Securities India Private Limited and SCPL were having common directors.
- d) SAAR Securities India Private Limited was serving as the trading member of SCPL. As brought out in the SCN, Ramawatar Lalchand Chotia (a Director and Authorized Signatory of SAAR Securities India Private Limited) was directly and frequently in connection with Nirmal Kumar Soni. Based on a particular Whatsapp chat, it has been demonstrated in the SCN that Ramawatar Lalchand Chotia requested Nirmal Kumar Soni to square off open positions in the Client code SC100, which belonged to SCPL. Ramawatar Lalchand Chotia also instructed Nirmal Kumar Soni to transfer a specific sum to the bank account of SCPL to address margin-related issues.

- e) The registered address for 14 terminals of SAAR Securities matched with the registered office address of Manan Sharecom Pvt Ltd and the same address was mentioned in the Panchnama dated January 19, 2023 for Nirmal Kumar Soni. The details of the NEAT Terminals of SAAR Securities were shared with Nirmal Kumar Soni and the remote desktop software was also installed in the computer of Nirmal Kumar Soni, by an employee of SAAR Securities.
- f) The SCN has brought out the connection between Nirmal Kumar Soni and Nitin Chhalani (partner of KTC). In one of the Whatsapp chats, Nitin Chhalani is seen to have requested Nirmal Kumar Soni to get the password reset for MXX96 (which is short for Client Code N_1XX81_MXX96 that is associated with Kanhya Trading Company), and the same was done by Nirmal Kumar Soni. Further, in one of the WhatsApp chat, Nitin Chhalani had asked Nirmal Kumar Soni to execute trades in the account of KTC with Motisons Shares Private Limited.
- g) Proximity of trades executed in the accounts of Partha Sarathi Dhar, SCPL, MSPL, and KTC, corresponding to recommendations made by Guest Experts (excluding Himanshu Gupta).
- h) Evidence in the form of whatsapp chats showing profit-sharing arrangements between the Guest Experts (excluding Himanshu Gupta) and Nirmal Kumar Soni.
- i) Admission by Guest Experts (excluding Himanshu Gupta) and Nirmal Kumar Soni that they had a profit-sharing arrangement for sharing recommendations with Nirmal Kumar Soni prior to giving the recommendations on Zee Business.
- j) Coordinated trading patterns that demonstrate systematic exploitation of privileged/non-public information.

63. In response to the allegations made in the SCN, the Noticees in their submissions, have merely made unsubstantiated denials without bringing out any specific material to dispute the veracity of the evidences brought out in the SCN. This, in my view, in the totality of the facts and circumstances discussed hereinabove, leads to an indubitable conclusion that the conduct of the Noticees was fraudulent in terms of regulation 2(1)(c) of the PFUTP Regulations and in violation of the provisions of law mentioned in the SCN.

64. In this context, I find it pertinent to draw reference to observations of Hon'ble Supreme Court in the matter of Kanaiyalal Baldevbhai Patel¹⁰ wherein it was held that "*...the provisions of regulations 3 (a), (b), (c), (d) and 4(1) of the SEBI (PFUTP) Regulations are couched in general terms to cover diverse situations and possibilities. Once a conclusion, that fraud has been committed while dealing in securities, is arrived at, all these provisions get attracted in a situation like the one under consideration*". In view of the above, since the acts of the Noticees concerned fall within the definition of "fraud", I find that the same are in violation of the provisions of regulations 3 (a), (b), (c), (d) and 4(1) of the PFUTP Regulations read with section 12 A(a), (b) and (c) of the SEBI Act.

65. In terms of Regulation 4(2)(d) of the SEBI (PFUTP) Regulations inducing any person for dealing in any securities for artificially inflating, depressing, maintaining or causing fluctuation in the price of securities through any means including by paying, offering or agreeing to pay or offer any money or money's worth, directly or indirectly, to any person is deemed to be fraudulent or an unfair trade practice.

66. Thus, the necessary ingredients to attract the rigour of said regulation are inducement, dealing in securities and artificially interfering in the price/volume of the securities through any means. As, it is already established above, the act of sharing of advance information by the guest experts and the subsequent trading

¹⁰ supra

by the profit makers, had all the necessary ingredients to attract the provisions of Regulation 4(2)(d).

67. To conclude, based on the discussion above, I find that Partha Sarathi Dhar, SCPL, MSPL and KTC have violated provisions of Sections 12A(a), 12A (b), 12A(c) and 12A(e) of SEBI Act, Regulations 3 (a), 3(b), 3(c), 3(d), 4(1) and 4(2)(d) of SEBI (PFUTP) Regulations.

68. Having established the allegations against these entities, the matter now requires determination of:

- The appropriate directions to be issued against Partha Sarathi Dhar, SCPL, MSPL and KTC
- The quantum of monetary penalty to be imposed on each entity in terms of Section 15HA of SEBI Act.

69. I note that Section 15HA of the SEBI Act provides that 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. The directions / penalties, have to be issued against the Noticees except Mr. Himanshu Gupta, based on the specific facts and circumstances discussed hereinabove, and in light of the factors mentioned in Section 15J of the SEBI Act, as reproduced below:

“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.”

70. As brought out in the interim order cum show cause notice, Partha Sarathi Dhar, SCPL, MSPL, and KTC by engaging in the fraudulent scheme described above derived unlawful gains as follows:

- Partha Sarathi Dhar: ₹53,84,661
- SAAR Commodities Pvt Ltd.: ₹4,37,57,697
- Manan Sharecom Pvt Ltd.: ₹1,35,01,336
- Kanhya Trading Company: ₹1,10,41,979

The quantum of unlawful gains realized by these Noticees demonstrates the extensive deployment of the fraudulent scheme. The violations of the provisions of the SEBI Act and the PFUTP Regulations have already been established in the present case, and therefore, these Noticees are liable for issuance of appropriate directions and imposition of appropriate monetary penalty. The unlawful gains made by each Noticee constitute a relevant factor in determining suitable directions and monetary penalties. Section 15J of the SEBI Act specifically identifies "amount of disproportionate gain" as a factor to be considered when determining penalty quantum.

71. Having said that, I also note the following mitigating factors as contended by these entities (Partha Sarathi Dhar, SCPL, MSPL and KTC):

- The ill-gotten gains of ₹ 7,41,29,648 have already been disgorged pursuant to the settlement order.

- The authorized signatory(ies) of MSPL, SCPL and KTC have already settled the proceedings *qua* themselves.
- The interim Order cum SCN was passed on February 08, 2024 and the entities have since been debarred.

Having considered these mitigating circumstances, I proceed to determine the appropriate and proportional quantum of penalty and directions to be imposed.

Order

72.I, therefore, in order to protect the interest of investors and the integrity of the securities market, in exercise of the powers conferred upon me under Sections 11(1), 11(4) and 11B(1) read with Section 19 of the SEBI Act, hereby direct that the Noticees namely, Partha Sarathi Dhar, SAAR Commodities Private Limited, Manan Sharecom Private Limited and Kanhya Trading Company are debarred from accessing the securities market and are prohibited from buying, selling and otherwise dealing in the securities market, directly or indirectly, in any manner whatsoever, for a period of two years. The said debarment period shall be reckoned from the date of the Interim Order dated February 08, 2024.

73.Further, in exercise of the powers conferred upon me under sections 11(4A) and 11B(2) read with Sections 15 HA of the SEBI Act, I hereby impose the following penalties on the following Noticees.

Name of the Noticee	Penalty Amount (in ₹) u/s 15HA of SEBI Act
Partha Sarathi Dhar	50,00,000
SAAR Commodities Private Limited	2,00,00,000
Manan Sharecom Private Limited	75,00,000
Kanhya Trading Company	75,00,000

74.The Noticees mentioned at above table shall remit / pay the said amount of penalties within forty-five (45) days from the date of receipt of this order through

the online payment facility available on the website of SEBI, i.e. www.sebi.gov.in by clicking on the payment link: ENFORCEMENT -> Orders -> Orders of Chairperson/Members-> PAY NOW. In case of any difficulty in the making of online payment of the penalties, the Noticees may seek support at portalhelp@sebi.gov.in. The confirmation of e-payment shall be sent to the Division Chief, Integrated Surveillance Department (ISD), SEBI, SEBI Bhavan II, Plot no. C-7, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051” and copies to the e-mail id:-tad@sebi.gov.in as per the format given below:

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

75. The proceedings against Noticee No. 13 (Mr. Himanshu Gupta) are disposed of without issuance of any direction or imposition of any penalty in view of the reasons recorded in the earlier paragraphs. Accordingly, the directions issued against him vide the interim order cum show cause notice dated February 08, 2024 shall cease to operate.

76. This order comes into force with immediate effect.

77. The settlement of obligations, if any, of the Noticees debarred vide this Order, in the cash segment or the F&O segment of the stock exchange(s), as existing on the date of this Order, can take place irrespective of the restraint/prohibition imposed by this Order.

78.A copy of this order shall be served on all the recognized stock exchanges, depositories and the Registrar and Share Transfer Agents for ensuring its strict compliance.

Sd/-

DATE: JULY 28, 2025

AMARJEET SINGH

PLACE: MUMBAI

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA