

Department: Investigation	Segment: All
Circular No: MSE/ID/16940/2025	Date: March 28, 2025

Subject: SEBI Order in the matter of Unregistered Investment Advisory activities by Mr. Mohit Gupta (Proprietor of Safe Trading).

To All Members,

This is with reference to SEBI Order no. QJA/GR/NRONEW DELHI/NRO-DIV-III/31331/2024-25 dated March 27, 2025, wherein SEBI has restrained following entity from accessing the securities market and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of one (1) years from the date of this Order or till the date of filing as directed in para 35(e) of the Order, whichever is later.

Noticee Nos	Name of Entity	PAN
1.	Mr.Mohit Gupta(Proprietor of Safe Trading)	BZIPG8092C

Further, SEBI vide above order has directed that if the Noticee has any open position in the exchange traded derivative contracts, as on date of this order, he can close out/square off such open positions within 3 months from the date of order or at expiry of such contracts, whichever is earlier.

This order shall come into force with immediate effect.

Members of the Exchange are advised to take note of the full text of the order available on SEBI's website [www.sebi.gov.in] and ensure compliance.

For and on behalf of

Metropolitan Stock Exchange of India Limited

Sushil Kumar

Assistant Manager

Metropolitan Stock Exchange of India Limited

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1), 11(4), 11(4A), 11B (1) AND 11B (2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH SECTION 12(1) OF SEBI ACT AND REGULATION 3(1) OF THE SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013 AND UNDER SECTION 15-I OF THE SEBI ACT, 1992 READ WITH RULE 5 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of:

Name of the Noticee	PAN
Mr. Mohit Gupta (Proprietor of Safe Trading)	BZIPG8092C

In the matter of Unregistered Investment Advisory Services by Mr. Mohit Gupta (Proprietor of Safe Trading).

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had conducted an examination based on two complaints dated August 22, 2019 and March 12, 2020, against Safe Trading, Proprietor Mohit Gupta (hereinafter referred to as the ‘**Noticee**’), wherein he was prima facie observed to be carrying out unregistered investment advisory (UIA) activities in violation of provisions of Section 12A (a), (b), (c) of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”), Section 12(1) of SEBI Act read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as “**IA Regulations**”) as well as provisions of Regulations 3(a), (b), (c), (d), 4 (2) (k) and (s) of SEBI (prohibition of Fraudulent and Unfair Trade

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Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”).

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

2. On the basis of findings of the examination, SEBI issued Show Cause Notice dated December 14, 2024 (“SCN”) to the Noticee which, *inter-alia*, alleged the following:

2.1. Mr. Kirit Koshti (“Complainant No.1”)

- a) The complainant No.1, vide his email dated August 22, 2019, stated the following;
- i. He paid a sum of Rs.10,000/- for intraday tips to the Canara Bank (account No. 5118201000084) of Safe Trading (Mr. Mohit Gupta).
 - ii. He was assured to generate Rs.22,000/- by investing Rs.25,000 or Rs. 35,000/- into market, but incurred continuous loss of Rs.8,000/-.
 - iii. Thereafter, he had requested, several times, for his Rs.10,000/- to be returned, but he was informed that the said money will not be returned/repaid. Subsequently, his number also got blocked and communication ceased with him.
- b) In this regard, SEBI vide email dated August 23, 2019, had requested Complainant No.1, to provide the address, email ID, or IFSC Code of the bank in which he had made payment for the advisory services received by him. In response, Complainant No.1, vide an email dated 29/08/2019, provided the details of the Canara Bank Account No. 5118201000084 (IFSC Code CNRB0005118) of the entity.
- c) Thereafter, vide emails dated 21/05/2020 and 17/01/2023, additional information was sought from Complainant No.1 and replies were received vide emails dated 26/05/2020 and 07/02/2023, however, no fresh information was provided by him.

2.2. Mr. Praneeth Reddy Padamati (“Complainant No.2”):

a) Complainant No.2, vide his SCORES Complaint No. SEBIE/MH20/0002816/1, dated 12/03/2020 stated the following;

i. He had approached the Noticee telephonically, based on the Noticee’s posts on Youtube and Instagram for trades in crude oil on MCX India. During the said phone call, he was informed, that he will be charged a fee of Rs.10000/- as in 1-month period minimum Rs.200 per 1 lot 100 units, i.e., Rs.200 multiplied with 100 Rs.20,000/- per lot profit is earned in crude oil.

ii. Accordingly, he had paid Rs.10,000/- on February 29, 2020 for call services in the month of March. Thereafter, he was added to a Group on Telegram named Client 200 points by the Noticee, after which, he started to trade.

iii. Subsequent to that he made a loss of Rs.20, followed by loss of Rs. 14,000/-, in 7 lots the first week, when he was assured by the Noticee that he will earn profits by the end of the month. Thereafter, in the second week of his trading, the markets became very volatile due to CORONA virus and the Noticee stopped providing calls.

iv. When he asked the Noticee to either resume providing services or refund his money, he was blocked on whatsapp and removed from the telegram group.

b) Additionally, Complainant No.2, shared screenshots of: -

i. his chats (vide his mobile number +917668055191) with the Noticee,

ii. the details of the online payment of Rs.10,000/- made to the Noticee,

iii. the investment tips for members of a group with name Crude client 200 points.

c) Thereafter, SEBI, vide emails dated 17/01/2023 and 07/02/2023, had sought additional information from Complainant No.2, however, no reply has been received from him.

d) In view of the above, it was noted that Complainant No.2 has made a payment of Rs.10,000/- towards the investment advisory services received from the Noticee and had suffered losses.

2.3. Analysis of Bank Account Statements:

(a) Based on the bank details of the Noticee received from Complainant No.1, SEBI, vide an email dated 17/02/2020, requested Canara Bank to provide KYC documents and account statement for the bank account number 5118201000084 (IFSC Code CNRB0005118). This apart, the bank was also requested to provide all other bank accounts of the Noticee. Accordingly, Canara Bank, vide email reply dated 27/02/2020 had shared the KYC documents and statements for the following accounts: -

S. No.	Account No.	Account Type	Beneficiary Name
1	5118201000084	Current	M/s Safe Trading/ Mohit Gupta
2	5118101001918	Savings	Mohit Gupta
3	5118401000648	Deposit	Mohit Gupta

(b) Subsequently, the latest statements of the savings and the current accounts sought vide emails dated 14/03/2023, 07/04/2023, 13/06/2023 and 19/06/2023, was also provided by the Canara Bank through emails dated 16/03/2023 and 24/04/2023.

A. Current Account No. 5118201000084

On examination of the aforesaid bank account details the followings were observed:

- i. From the statement provided by Canara Bank for account No. 5118201000084 in Noticee's name, it is observed that the account has credit transactions of about Rs.1,64,97,310.94.
- ii. On perusal of those credit transactions, the following were observed;
 - a. 160 transactions of Rs.1,400/- each amounting to Rs.2,24,000/-
 - b. 163 transactions of Rs.10,000/- each amounting to Rs.16,30,000/-
 - c. 10 transactions amounting to Rs.2,53,900/-, other than from Mohit Gupta with key words as Safe Trading.
 - d. 5 transactions amounting to Rs. 20,183/- with key words like fee, algo, crude, stock, nifty, tip.

e. 93 transactions amounting to Rs.2,63,391.50/- with key words like mohit, mhit.

iii. The volume of transactions of same amount made through IMPS, NEFT, UPI appears to be in the nature of fees.

B. Savings Account No. 5118101001918

On examination of the aforesaid bank account details the followings were observed:

- i. From the statement provided by Canara Bank for the account No. 5118101001918 in the Noticee's name, it is observed that the account has credit transactions of about Rs.72,16,805.68.
- ii. On perusal of the transactions, it is noticed that most of the transactions are of personal in nature. Most of the transactions were of money transferred from account No.5118201000084 amounting to Rs.3,86,590/-
- iii. In the statements, the key words like fee, algo, crude, stock, nifty, tip, key words like fee, algo, crude, stock, nifty, tip, was searched and found only two transactions in the narration of fee and algo.
- iv. There were transactions pertaining to stock brokers RKSV, RKSV Commodities India Pvt Ltd, Alice Blue Financial Services Pvt Ltd., VNS Finance and Capital Services Ltd.

C. Thus, the total amount attributed towards unregistered investment advisory services (collected through two bank accounts) is Rs.23,94,574.50. Details are as below:

Frequency	Denomination / Specific Remarks	Total Value (in Rs.)
160	Transactions amounting 1,400/- each.	2,24,000.00
163	Transactions amounting 10,00/- each.	16,30,000.00
10	Keyword – Safetradin	2,53,900.00

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5	Keywords – fee, algo, crude, stock, nifty, tip	20.183
93	Keywords – Mohit, mhit	2,63,391.50
Total credits identified	Current account - 5118201000084	23,91,474.50

Frequency	Denomination / Specific Remarks	Total Value (in Rs.)
2	Keywords – fee, algo, crude, stock, nifty, tip	3,100/-
Total credits identified in	Savings account - 5118101001918	3,100/-

2.4. Information sought from Mohit Gupta: SEBI vide letter dated January 24, 2023, sought for information from the Noticee. However, even though, the said letter did not return undelivered, no reply was received from the Noticee in this regard. Further, emails dated 20/01/2023 and 07/02/2023 were sent to the available email ids of Mohit Gupta and the same were duly delivered, despite which, no reply was received from the Noticee.

2.5. Status of SEBI registration: Upon verification, it was observed that no entity with name Mohit Gupta/ Safe Trading was found to be registered with SEBI in any capacity. Further, the entity Safe Trading did not appear in the list of companies/LLPs on the MCA website also. Thereafter, it was observed that, the name Safe Trading appeared as registered LLP under ROC – Kolkata which was converted from a private limited company incorporated in 2006. However, on perusal of the list of partners / directors, the name Mohit Gupta was not associated with the said entity.

2.6. Social Media Channels run by the Noticee:

- a) Upon conducting a random search on the Telegram App for existence of any telegram channel being run by the Noticee, SEBI observed that a channel with name **SafeTrading Mohit Gupta** is being run by the Noticee. On further checking the chat history of the telegram channel **SafeTrading Mohit Gupta**, SEBI observed the following: -

- i. The telegram channel **SafeTrading Mohit Gupta** was operational since 22/09/2019 and is currently active with 1357 subscribers.
 - ii. Investment Advisory services were being provided on the said telegram channel, where the general public were asked to contact the Noticee on his whatsapp number 7668055191. Incidentally, this said mobile number is same with which Complainant-2 chatted with the Noticee and paid Rs.10,000/- for receiving investment advisory services.
 - iii. The said telegram channel also made assurance of guaranteed accuracy for the tips provided.
 - iv. Further, a service for algo trading is being provided through the said telegram channel asking investors to register for a charge of Rs.1,800/- and monthly maintenance charge of Rs.1,000/-. For this service, the investors were required to share with the Noticee their demat account details, such as ID and password.
- b) On further perusal of the said telegram channel, SEBI observed that one Whatsapp Business Account is also being run with the number +917668055191 by the Noticee.
- c) In addition, an Instagram channel is also being run with the handle @safetrading.in, since August 2018, based out of Nepal and having 2,288 followers. It was also observed that the username of the said Instagram handle has been changed thrice.

2.7. Website of the Noticee:

- a) On perusal of the website <https://safe-trading.in/>, it was observed that it is being used to provide investment advisory services.
- b) The website, inter alia, states the following:

Home Tab

- i. *Safe Trading is owned & promoted by Mohit Gupta, A 24-year-old MCX Commodity Trader having 6+ Successful years of experience in Technical Analysis (MT4, Amibroker, Many More Platforms).*
- ii. *My Services - I'm an enriched and full-fledged technology-driven trader with sustainable competitive advantages arising from strong brand, unmatched credibility and market leadership across the industry.*

- iii. Claim to have 223+ satisfied clients, 13600 subscribers and 5+ team members

About Tab

About Mohit Gupta - Mohit Gupta is known for his expertise in generating intraday levels for Crudeoil to get easy 20/25 points with minimum risk. He is always ready to help each & every customer either small or big, low-risk traders or medium traders, he is always ready to help each and every customer who was registered on Alice Blue under his referral.

Contact Details

The Whatsapp number mentioned is +91-7668055191 and email id mentioned is mhitgpta@gmail.com

- c) In addition to above the website also states that *“Join my free Telegram Group where I share market tips& updates regularly. You can also follow me on social media to stay updated”!*
- d) As per Whois lookup, the domain was created on 02.03.2015 and is valid till 02.03.2024 and last update was carried out on 11.09.2023. This indicates that the activities of Noticee was going on at the time of the examination.

2.8. Information received from Exchanges:

- a) SEBI, vide emails dated 22/05/2020, 14/03/2023 and 14/11/2023 had requested NSE and BSE to confirm if the Noticee was registered with them in the capacity of an Authorized Person (“AP”) and if so to provide the details of trading account and KYC.
- b) NSE, vide an email dated 17/03/2023 has confirmed that the Noticee is not related to any of its trading member, but has confirmed that the Noticee is registered with RKSVM Securities India Pvt. Ltd. (“RKSVM”) as an AP. The exchange has also shared the KYC for trading accounts in the Noticee’s name. Thereafter, vide email dated 15/11/2023, NSE has informed that the Noticee was no longer an AP of RKSVM.
- c) BSE, vide emails dated 16/03/2023 and 29/05/2020, has submitted that the Noticee is not registered as an AP with any of its registered trading member and also shared the KYC details of the trading accounts in the name of the Noticee.

2.9. Information received from Depositories:

- a) SEBI, vide emails dated 22/05/2020 and 14/03/2023 had requested the depositories to confirm if the Noticee was having any demat account with Depository Participants (**DPs**) registered with them and if so, sought the details of the said demat accounts and KYC.
- b) Accordingly, CDSL, vide emails dated 26/05/2020, 22/03/2023 and 19/04/2023 has informed that it is not having any records with name "Safe Trading" but it has provided KYC details of 6 demat accounts in the name of Mohit Gupta.
- c) While NSDL, vide emails dated 27/05/2020 has submitted that no demat accounts were found on the basis of details shared by SEBI. Further, no reply has been received from NSDL w.r.t. email sent on 14/03/2023.

2.10. Information received from Stock Broker:

- a) During examination of the statement of current account No. 5118201000084 of the Noticee, serviced by Canara Bank, it was noted that there were several banking transactions with RKSVM / RKSVM Commodities India Pvt. Ltd. Therefore, vide emails dated 22/05/2020, the broker RKSVM was advised to provide clarification/ reasons with respect to the said transactions.
- b) Further, the broker, RKSVM was advised to provide list of all the securities/ investment related activities (like investment advisory, research analyst/ portfolio management services) undertaken by it and confirm if it is having any association with the Noticee.
- c) In response the broker, RKSVM, vide its emails dated and 01/06/2020 and 24/03/2023 has informed that the Noticee has been registered with it as an AP since August 2019 and this registration is in the name of Mohit Gupta only and no separate trade name is used for this registration. Further, it also stated that the Noticee's registration has been cancelled.
- d) RKSVM has further informed that being an online discount broker, it has not ventured in the advisory/ research/ PMS activity and hence they do not provide any such services to any of its clients and has not obtained any such services from the Noticee for any of its clients.

- e) RKSV also stated that as per clause given in the second page of brokerage sheet of the registration document (which is part of termination clause), an AP cannot provide any advisory/ research/ PMS service to any client.
- f) Further, RKSV has confirmed that it is having relationship only as a broker and an AP and all credit transactions found by SEBI in the bank account of the Noticee pertains to Referral Credit/ Brokerage Credit paid by RKSV to the Noticee in the normal course of its business.

3. The said acts of investment advisory were carried out by the Noticee without obtaining registration from SEBI. In this regard, “investment advice” and investment adviser’ defined under Regulation 2(1)(l) and 2(1)(m) of IA Regulations respectively are as under:

2(1)(l). *“investment advice” means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.”*

2(1)(m). *“investment adviser means any person who for consideration, is engaged in the business of providing advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called.”*

4. Based on the facts stated in the said SCN, it was alleged that the Noticee was engaged in the activities of an investment advisory service without obtaining the requisite registration from SEBI, as required in terms of Section 12(1) of the SEBI Act read with Regulation 3(1) of IA Regulations.

5. Further, it is also observed and alleged that the contents on the website taken together with other information as available on record regarding investment advisory services and the collection of fees indicate that the activities of Noticee are fraudulent in nature and are covered within the definition of “fraud” as defined in Regulation 2(1)(c) & (3) of PFUTP Regulations, 2003, which reads as under:

“Definitions

2. (1) *In these regulations, unless the context otherwise*

.....

c) *“fraud” includes any act, expression, omission or concealment committed whether in a deceitful manner or not by a person or by any other person with his connivance or by his agent while dealing in Securities in order to induce another person or his agent to deal in securities, whether or not there is any wrongful gain or avoidance of any loss, and shall also include-*

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

.....

(3) an active concealment of a fact by a person having knowledge or belief of the fact;

.....

....

And “fraudulent” shall be construed accordingly

...”

6. On combined reading of provisions mentioned above it can be inferred that the activities/ dealings of the Noticee are in the fraudulent in nature and accordingly, he has violated Regulations 3(a), (b), (c), (d), 4 (2) (k) and (s) of PFUTP Regulations, 2003, Section 12A (a), (b), (c) of SEBI Act, 1992 read with Regulation 3 (1) of the IA Regulations, 2013.
7. Therefore, the Noticee was called upon to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B (1) of the SEBI Act, 1992 including direction of refund of fees/monies collected from the investors should not be issued against him and why inquiry should not be held against him in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and penalty be not imposed upon him under Section 11 (4A), 11B (2) read with Section 15HB and 15HA of the SEBI Act, for the aforesaid violations.
8. SCN dated December 14, 2024 was sent to the Noticee through SPAD at the addresses of the Noticee, available on record and was duly delivered. However, since no reply was filed in the matter despite the completion of 21 days of service of SCN, in the interest of natural justice, personal hearing was granted to the Noticee on March 11, 2025 vide hearing notice dated February 21, 2025. As the hearing notice could not be delivered,

another opportunity of personal hearing was granted to the Noticee on March 26, 2025 and published in two Hindi newspapers (Amar Ujala & AAJ, both Gorakhpur Edition) and one English newspaper (Hindustan times, Gorakhpur Edition), on March 18, 2025.

9. I note that the Noticee has neither filed any reply in the matter nor appeared for hearing. Hence, it is presumed that Noticee has nothing to submit in respect of the allegations levelled in the SCN. In this regard, it is pertinent to note that the Hon'ble Securities Appellate Tribunal (SAT) in the matter of **Classic Credit Ltd. vs. SEBI** (Appeal No. 68 of 2003 decided on December 08, 2006) has, inter alia, held that,

".....the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them".

10. Further, in view of the aforesaid observation made by the Hon'ble SAT, I find no reason to take a different view and accordingly, I deem it appropriate to proceed against the Noticee ex-parte, based on the material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

11. I have considered the material available on record including complaint, the SCN and the documents available on record.

12. I note that following issues arise for consideration in the present case: -

A. Whether the Noticee acted as an unregistered investment advisor in contravention of Section 12(1) of the SEBI Act and Regulation 3 (1) of the IA Regulations and whether the conduct of the Noticee can be construed as 'fraud' in terms of the Regulation 2(1)(c) of PFUTP Regulations and consequently he is in violation of Regulations 3(a), (b),

(c), (d), 4(2)(k) and 4(2)(s) of SEBI PFUTP Regulations read with Section 12 A (a), (b) and (c) of the SEBI Act?

B. If answer to issue no. A is in the affirmative, what penalty and/or directions should be passed against the Noticee?

13. Before proceeding further, it is pertinent to refer to the relevant provisions of the SEBI Act, PFUTP Regulations and the IA Regulations which are reproduced hereunder: -

SEBI Act

Section 12 (1) - Registration of stock brokers, sub-brokers, share transfer agents, etc.

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

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

"No person shall directly or indirectly-

- a. use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;*

- b. employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognized stock exchange;*

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- c. *engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognized stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder;”*

IA Regulations

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

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

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

“investment advice” means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through Provided that investment advice given through any other means of communication for the benefit of the client and shall include financial planning: Provided that investment advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public shall not be considered as investment advice for the purpose of these regulations;”

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

“investment adviser” means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;”

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

“On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations:”

Prohibition of Fraudulent and Unfair Trade Practices Regulations, 2023 (PFUTP Regulations)

Section 3 - Prohibition of certain dealings in securities

“No person shall directly or indirectly-

- (a) buy, sell or otherwise deal in securities in a fraudulent manner*
- (b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*
- (d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under”.*

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

- (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.*
- (2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following: -*

...

.....

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities

.....

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

Issue A: Whether the Noticee acted as an unregistered investment advisor in contravention of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations and whether the conduct of the Noticee can be construed as ‘fraud’ in violation of Regulations 3(a),(b), (c), (d), 4(2)(k) and 4(2)(s) of SEBI PFUTP Regulations read with Section 12 A (a), (b) and (c) of the SEBI Act?

14. Firstly I note that para 14 of the SCN has mentioned that the Noticee is allegedly liable for penalty under Sections 15HB and 15 HA of the SEBI Act. However, as regards Section 15 HB, I note that it pertains to a violation when no separate penalty has been provided and in this regard, I note that Section 15 EB is the correct penal provision for violations pertaining to the IA Regulations. Therefore, in this case, if the Noticee is found guilty of violating the provisions of IA Regulations, then, penalty will be imposed as per Section 15 EB of the SEBI Act.

15. I now proceed to consider the matter on merits.

16. In this regard, I note that Regulation 2(1) (m) of the IA Regulations defines the term ‘*investment adviser*’. As per the said regulation, investment adviser means any person, who is engaged in the business of providing investment advice to clients or other person or group of persons for consideration. Further, it includes any person who holds himself out as an ‘*investment adviser*’. Regulation 2(1)(m) of the IA Regulations refer to terms ‘*consideration*’ and ‘*Investment advice*’. As per Regulation 2(1)(g) of the IA Regulations, consideration means any form of economic benefit including non-cash benefit, received or receivable for providing investment advice. As

Order in the matter of Unregistered Investment Advisory activities by Mr. Mohit Gupta (Proprietor of Safe Trading)

per Regulation 2(1)(l) of the IA Regulations, '*investment advice*' means the advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning. However, advice given through newspaper, magazines, any electronic or broadcasting or telecommunications medium, which is widely available to the public, shall not be an investment advice within the meaning of Regulation 2(1)(l) of the IA Regulations.

17. From the facts mentioned in the SCN such as shared through the telegram channel to the complainant including the details of fees for account handling services along with profit details, capital required and validity of the plan and also sharing the bank account details for collecting the fees for service rendering as well as the narration of the bank statement i.e. '*fee*', '*algo*', '*crude*', '*stock*', '*nifty*', '*tip*', '*narration fee*' etc., clearly indicates that the Noticee was engaged in investment advisory service relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, through his telegram channel, in lieu of consideration. It is therefore noted that, if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including entities which are holding themselves out as investment advisers, will be covered by the definition of '*Investment Adviser*' as given in Regulation 2(1)(m) of the IA Regulations. Apart from this, as noted above, the receipt of consideration of Rs.10,000/- from both the complainants in Canara Bank account for the investment advisory services provided by the Noticee is nothing but these services were being offered in lieu of the consideration, as noted above. Hence, I find that without any doubt in terms of Regulation 2(1)(l) of IA Regulations, 2013, the Noticee was doing Investment advisory services through his website, telegram channel and his other social media accounts. Therefore, I find that the Noticee was

engaged in the business of providing investment advice to his clients, for consideration, and was holding himself out to be 'Investment Adviser' as given in Regulation 2(1)(m) of the IA Regulations, 2013.

18. I note that, if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including entities which is holding himself out as investment adviser, will be covered by the definition of '*Investment Adviser*' as given in Regulation 2(1)(m) of the IA Regulations, 2013. I find that in terms of Regulation 2(1)(l) of IA Regulations, 2013, the Noticee was providing Investment advisory services through his website his telegram channel and his other social media accounts. As noted above, the Noticee received Rs.23,94,574.50 as consideration for the investment advisory services provided by him. Therefore, I find that the Noticee was engaged in the business of providing investment advice to his clients, for consideration, and thus, acting as an investment adviser, as defined under Regulation 2(1)(m) of the IA Regulations, 2013. From the discussion above, I further find that the Noticee was holding himself out to be Investment Adviser as given in Regulation 2(1)(m) of the IA Regulations, 2013.

19. Further, I note that the Noticee has not made any submissions to prove that these funds were earned from other source of income. Hence, I find that these services were being offered by the Noticee for the consideration, as noted above. Therefore, I find that the Noticee was engaged in the business of providing investment advice to his clients, for consideration, and thus acted as an investment adviser, as defined under Regulation 2(1)(m) of the IA Regulations.

20. I also note that, in terms of Section 12(1) of the SEBI Act and Regulation 3(1) of the IA Regulations, 2013, the registration of the investment advisers is mandatory. It provides that, "*On and from the commencement of these regulations, no person shall*

act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations”.

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

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

22. Therefore, I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy, inter alia, the following requirements, as provided under the IA Regulations:

- i. An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 along with requisite nonrefundable application fee;
- ii. The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
 - a. A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognized

foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;

- b. An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
 - c. Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.
- iii. Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

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

24. In view of the above, I find that aforesaid total credit of Rs.23,94,574.50 have been considered as fee for investment advisory services provided by him while acting as an investment adviser without obtaining certificate of registration from SEBI. In view of the above, I find that the Noticee, by acting as investment adviser within the meaning of the IA Regulations and without obtaining certificate of registration from

SEBI, has acted in total disregard to the requirements of law and has violated Regulation 3(1) of the IA Regulations and Section 12(1) of the SEBI Act.

25. The SCN also alleged that the contents on the Noticee's website/telegram channel/social media are fraudulent in nature and are covered within the definition of 'fraud' in terms of the Regulation 2(1)(c) of PFUTP Regulations, which is in violation of Regulations 3(a), (b), (c), (d), 4(2) (k) and 4(2) (s) of SEBI PFUTP Regulations read with Section 12 A (a), (b) and (c) of the SEBI Act.

26. As regards the allegation of fraud, I note that the Noticee has also misled and misrepresented to the proposed clients by assuring returns and thereby concealing the associated risks in dealing in securities. These deliberate false and misleading claims and representations of the Noticee have influenced and induced the decisions of its clients as evident from the details of complaints. The assurance of loss recovery without any basis and further assured maximization of returns etc., are an active concealment of the material fact that every investment in the market is subject to market risk. In my view, promising assured returns/ assured loss recovery in securities market amounts to misrepresentation and misleading the investors. Such reckless conduct intended to induce investors to deal in securities constitutes 'fraud' under the PFUTP Regulations.

27. Further, the observation recorded by the Hon'ble Supreme Court of India in the matter of **SEBI Vs. Kanaiyalal Baldevbhai Patel** [(2017) 15 SCC 1] is worth quoting: "...A person can be said to have induced another person to act in a particular way or not to act in a particular way if on the basis of facts and statements made by the first person the second person commits an act or omits to perform any particular act. The test to determine whether the second person had been induced to act in the manner he did or not to act in the manner that he proposed, is whether but for the representation of the facts made by the first person, the latter would not have acted in the manner he did...". Therefore, I am constrained to observe that the acts of resorting to misrepresentation and spreading falsehood about, promise of assured profit/unreasonably high returns/assured loss recovery etc., are fraudulent in nature,

having the potential to fraudulently induce the investors to deal in securities by availing of his services.

28. I further note that Regulation 3 prohibits certain dealings in securities wherein manipulative or deceptive methods are used, or any entity employs any device or scheme or artifice to defraud in connection with dealing in or issuing securities and also engage in any act, practice, course of business which operate as fraud or deceit upon any person in connection any dealing in or issue of securities. Further, I also note that Regulation 4(2)(k) provides that dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities and Regulation 4(2)(s) talks about prohibition of mis-selling of securities or services relating to the securities market, which clearly the Noticee has done. Therefore, I note that the Noticee was indeed involved in mis-selling of services to his clients by making false and misleading statements of providing guaranteed returns to the investors.

29. In continuation, I also note that the Noticee, by assuring guaranteed returns with respect to their investment advisory related plans as stated by complainant No.1, by concealing the associated risks in dealing in securities and by knowingly publishing false and misleading information, defrauded the potential investors by inducing them to invest in the shares based on the advice of promising guaranteed returns and therefore, I find that the Noticee has violated the provisions of Regulation 3 (b), (c) & (d), 4 (2)(k) and (s) of the PFUTP Regulations read with Section 12A (a), (b), (c) of the SEBI Act.

30. In view of above, I am convinced and would like to conclude that these activities were being carried out by the Noticee without obtaining the necessary certificate of registration as an investment adviser and therefore, the Noticee has violated the provisions of Section 12(1) of the SEBI Act read with Regulation 3 of the IA Regulations. Further, as concluded above, the Noticee, by making fraudulent and

misleading dissemination of information with respect to assurance of guaranteed returns has also violated the provisions of Regulation 3(b), (c) & (d) and 4 (2)(k) and (s) of the PFUTP Regulations read with Section 12A (a), (b), (c) of the SEBI Act.

Issue B: If answer to issue no. A is in the affirmative, what penalty and/or directions should be passed against the Noticee?

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

Penalty for default in case of investment adviser and research analyst

“15 EB - Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.”

Penalty for fraudulent and unfair trade practices

“15 HA - 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”.

32. I note that Section 15J of the SEBI Act provide for factors which are required to be considered for adjudging quantum of penalty. Section 15J of the SEBI Act reads as follows: -

“Factors to be taken into account while adjudging quantum of penalty.

15J. While adjudging quantum of penalty under 15-I or section 11 or section 11B, the Board or the adjudicating officer shall have due regard to the following factors, namely: —

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

- (b) *the amount of loss caused to an investor or group of investors as a result of the default;*
(c) *the repetitive nature of the default.”*

Explanation. —For the removal of doubts, it is clarified that the power to adjudge the quantum of penalty under sections 15A to 15E, clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section.”

33. The activities of the Noticee, as brought out above, seen in the backdrop of the aforesaid provisions show that he was acting as an investment adviser without holding the certificate of registration from SEBI. Additionally, the violations of PFUTP Regulations have also been established against the Noticee. As a regulator of the capital markets, SEBI has the duty to safeguard the interests of investors and protect the integrity of the securities market. Since, the conduct of Noticee mentioned hereinabove is not in the interest of investors and the securities market, necessary action has to be taken against him. Therefore, I find that the Noticee has violated the provisions of Section 12(1) of SEBI Act read with Regulation 3(1) of the IA Regulations and Regulation 3 (b), (c) & (d), 4 (2)(k) and (s) of the PFUTP Regulations read with Section 12A (a), (b), (c) of the SEBI Act. In view of the above, I am convinced that this is a fit case where suitable directions need to be issued and appropriate monetary penalty also needs to be imposed on the Noticee.

34. As observed above, I note that the Noticee received total credit of amounts to the tune of Rs.23,94,574.50, is collected towards unregistered investment advisory services. These being the proceeds of an illegal activity, are liable to be refunded to the respective clients.

DIRECTIONS

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

- (a) The Noticee shall refund all the money collected/received from any investors / complainants, as fees or consideration or in any other form, in respect of his unregistered investment advisory activities immediately, and in any case, within a period of three months from the date of this order.
- (b) The Noticee shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, about this Order and shall give details of modalities for refund, including the details of contact person such as name(s), address(es) and contact detail(s) of person(s) to be approached for refund, within 15 days from the date of receipt of this order;
- (c) The repayments to the complainants/investors shall be effected only through electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- (d) The Noticee is prohibited from selling his assets, properties including mutual funds/shares/securities held by him in demat and physical form except for the purpose of effecting refunds as directed above. Further, the banks are directed to allow debit from the bank accounts of the Noticee, only for the purpose of making refunds to the clients who were availing the investment advisory services from the Noticee;
- (e) After completing the aforesaid repayments, the Noticee shall file a report of such completion with SEBI addressed to the “*Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051*”, within a period of 15 days, after expiry of four months from the date of public notice, as directed above, duly certified by an independent Chartered Accountant and the direction at para 35(d) above shall cease to operate upon filing of such report;
- (f) The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/complainants/investors who were availing the investment advisory

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

- (g) The Noticee is debarred from accessing the securities market, directly or indirectly and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of **one (1) year** from the date of this order or till the date of filing of report, as directed in para 35(e) above, whichever is later;
- (h) The Noticee shall not undertake, either during or after the expiry of the period of restraint and prohibition, as mentioned in para 35(g) above, either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a certificate of registration from SEBI as required under the securities laws;
- (i) The Noticee is hereby imposed with penalty of Rs.5,00,000/- (Rupees Five Lakh Only) under Section 15HA of the SEBI Act and Rs.1,00,000/- (Rupees One Lakh Only) under Section 15EB of the SEBI Act;
- (j) The Noticee shall remit / pay the said amount of penalty, within a period of forty-five (45) days from the date of receipt of this order, through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link: ENFORCEMENT → Orders → Orders of EDs/CGMs → PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in.
- (k) In case of failure of the Noticee to comply with the aforesaid directions in subparagraph (i), SEBI, on the expiry of the stipulated time period therein from the date of coming into force of this order, may recover such amounts, from the Noticee, in accordance with Section 28A of the SEBI Act including such other provisions contained in securities laws.

36. It is hereby clarified that if the Noticee has any open position in the exchange traded derivative contracts, as on date of this order, he can close out/square off such open positions within 3 months from the date of order or at expiry of such contracts, whichever is earlier. The Noticee is permitted to settle the pay in and pay out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.
37. For any non-compliance of this order, the Noticee shall be subject to strict action under the applicable provisions of the law, including prosecution.
38. It is clarified that the direction for refund as given in Para 35(a) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticee for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.
39. This order shall come into force with immediate effect.
40. A copy of this order shall be sent to the Noticee, all the recognized Stock Exchanges, the relevant banks, Depositories, Registrar and Transfer Agents of Mutual Funds and BSE Administration and Supervision Ltd., to ensure that the directions given above are strictly complied with.

Date: March 27, 2025

Place: Mumbai

**G RAMAR
CHIEF GENERAL MANAGER
SECURITIES AND EXCHANGE BOARD OF INDIA**