BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/JS/YK/2025-26/31573]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SECURITIES AND EXCHANGE BOARD OF INDIA (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:
Streetgains Research Services
(Proprietor – Kumar Venkataramegowda Santhosh, Research Analyst)
PAN: BPDPS6595F

In the matter of Streetgains Research Services (Proprietor - Kumar Venkataramegowda Santhosh, Research Analyst)

BACKGROUND

1. Streetgains Research Services (Proprietor – Kumar Venkataramegowda Santhosh, Research Analyst) (hereinafter referred to as "**Noticee**") has been registered with the Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") as a research analyst (hereinafter referred to as "**RA**") since June 30, 2016. The registration number of Noticee is INH200003208. SEBI had undertaken an inspection of Noticee on March 15, 2024. The inspection had been conducted for the period from April 01, 2022, to March 14, 2024 (hereinafter referred to as "**Inspection period/IP**").

2. Thereafter, findings of the said inspection were communicated to Noticee by SEBI vide letter dated April 05, 2024. In response to the findings in the Inspection Report, Noticee submitted his replies vide e-mails dated April 11, 2024 and April 18, 2024. After analyzing the findings of the inspection vis- à -vis the response of Noticee, a post inspection analysis report (hereinafter referred to as **"PIA"**) was prepared wherein the following violations were alleged:

   (a.) Noticee provided assurance of returns/loss recovery to his clients and thereby knowingly misled/induced his clients which was likely to influence the decision of clients dealing in securities and engaged in mis-selling. Noticee also failed to exercise due diligence by not exercising any control over employees who

were engaging with his clients. Therefore, it was alleged that Noticee had violated the provisions of regulations 3(a), (b), (c), (d), 4(1), and 4(2)(k), (o) and (s) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as "**PFUTP Regulations**") read with sections 12A(a), (b), and (c) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") and clauses 1 and 7 of code of conduct as specified in the Third Schedule read with regulation 24(2) of the Securities and Exchange Board of India (Research Analysts) Regulations, 2014 (hereinafter referred to as "**RA Regulations**").

(b.) Noticee advertised his past performance in respect of his research calls on social media. Therefore, it was alleged that Noticee had violated the provisions of clause 1(c)(xii) of SEBI Circular No. SEBI/HO/MIRSD/MIRSD-PoD-2/P/CIR/2023/51 dated April 05, 2023 (hereinafter referred to as "**SEBI Circular dated April 05, 2023**") read with clause 8.1(c)(xii) of the SEBI Master Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2024/49 dated May 21, 2024 (hereinafter referred to as "**SEBI Master Circular dated May 21, 2024**").

(c.) Noticee encouraged sale of products not suiting the risk profile of the clients through incentives given to his sales executives. Therefore, it was alleged that Noticee had violated the provisions of clause 4(xi) of the SEBI Circular No. CIR/MIRSD/5/2013 dated August 27, 2013 (hereinafter referred to as "**SEBI Circular dated August 27, 2013**") read with clause 12.4(xi) of the SEBI Master Circular dated May 21, 2024.

(d.) Noticee failed to maintain proper rationales for arriving at research recommendations and also failed to digitally sign the research report maintained in electronic form. Therefore, it was alleged that Noticee had violated the provisions of regulations 25(1)(i) and (iii) read with 25(2), and clauses 1, 2, 6, and 7 of the code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

3. Pursuant to the superannuation of the earlier Adjudicating Officer (hereinafter referred to as ''**AO**'') who had been appointed so vide communiqué dated October 07, 2024, the undersigned was appointed as AO in this matter vide communiqué dated May 02, 2025 under section 15-I of the SEBI Act read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Rules"**), to inquire into and adjudge under the provisions of sections 15EB and 15HA of the SEBI Act for the aforementioned violations alleged to have been committed by Noticee.

SHOW CAUSE NOTICE, REPLY AND HEARING

4. Show Cause Notice Ref. No. SEBI/EAD-2/NH/YK/34491/2024 dated November 05, 2024 (hereinafter referred to as **"SCN"**) was issued to Noticee by erstwhile AO in terms of rule 4 of the Rules read with section 15-I of the SEBI Act to show cause as to why an inquiry should not be held against Noticee and why penalty, if any, should not be imposed on him in terms of the provisions of the sections 15EB and 15HA of the SEBI Act for the violations alleged to have been committed by Noticee.

5. The SCN dated November 05, 2024, *inter alia*, alleged the following:

"a. ***Assurance of returns/loss recovery***

- *It was observed from PIA that from the perusal of the sample whatsapp chats of Sales Executives (SE) of Noticee with the clients/investors, the following was noted:*
  1. *In respect of whatsapp chat with Mr Muthuram, it was observed that SE of Noticee messaged him that if you traded with premium trades you will get good returns and messaged profit screenshots pertaining to index plan and premium plan.*
  2. *In respect of whatsapp chat with Veenashitya, it was observed that Veenashitya was told that she will get monthly returns as well as some good profit in long term investment.*
  3. *In respect of whatsapp chat with Vaibhav Ultap and another client whose phone is *******200, it was observed that they were told that that they will get good returns.*
  4. *In respect of whatsapp chat with Farheen Aamir, it was observed that she was told that she will get good returns and was told to pay 40k today to get a profit of*

50k tomorrow. She was also told to expect 20k to 30k returns daily, and any losses will be recovered on that day itself.

5. *In respect of whatsapp chat with the client Param Shivam, it was observed that he was assured that an investment of Rs 200000/- will fetch 45k for intraday and return of 22% for intraday and sometimes more than that.*
6. *In respect of whatsapp chat with Sasidhara Rao, he was told that he can expect minimum 10-15% return every day.*
7. *In respect of whatsapp chat with Amanganti Srinivas, it was observed that when Amanganti Srinivas messaged SE saying he thought of getting good returns but instead got only 2800, in turn SE told that you get good returns and messaged a profit screenshot of around Rs. 16 Lakhs.*
8. *In respect of whatsapp chat with Kundan Kumar SG, it was observed that he was told to arrange capital to book good returns.*
9. *In respect of whatsapp chat with Vinita Kassel, he was told that in future only plan you get good returns.*
10. *In respect of whatsapp Chat with Mayur P Kaku pertaining to loss trades are not shown in the performance chart, it was observed that Noticee told that he will provide the trade for recovery. In this regard, Noticee in his replies had, inter alia, stated that the issue was that loss calls also to be posted under the heading SUCCESSFUL CALLS OF THE DAY which is technically not correct. Also, the customer has been warned of fake telegram channels that posts Profit Screenshots.*

- *It was further observed from the PIA that despite Noticee's claim of check on employees and option to customer to express if any "FAKE COMMITMENTS/ GUARANTEED RETURNS/ ASSURED PROFITS" by any sales executives, SEs of Noticee were found to be assuring returns/loss recovery to the clients on whatsapp. Therefore, it was noted that Noticee had no control over the communications/conversations between his clients and employees and thereby Noticee failed to exercise due diligence by not having any control over employees who are engaging with the clients.*

- *In view of the above, it was alleged in the PIA that the SEs of Noticee had assured returns/loss recovery to the clients on whatsapp and in some cases, showed screenshots of profit achieved/past performances to lure them to take the subscriptions. Therefore, it was alleged that Noticee had provided assurance of returns/loss recovery to his clients and thereby knowingly misled/induced his clients which was likely to influence the decision of clients dealing in securities and engaged in mis-selling his services.*

- *In view of the above, it was alleged that Noticee had violated the provisions of regulations 3(a), (b), (c), (d), 4(1), and 4(2)(k), (o) and (s) of the PFUTP Regulations read with sections 12A(a), (b), and (c) of the SEBI Act, and clauses 1 and 7 of the Code of Conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations.*

(b.) ***Reference to past performance in social media "X"***

- *It was observed from the IR that in social media "X", Noticee, in his handle "@streetgains", regularly posts the top five research calls of the day showing positive returns of the day. On a sample basis, one post posted by Noticee on February 29, 2024 is placed below:*

Table 1

Service	Symbol	ROI in %	Gains
Index options	BNF24FEB45800PE	24.06%	57600
Index options	BNF24FEB46000PE	167.86%	21150
Index options	BNF24FEB46200PE	126.42%	20100
Index options basic	Nifty 24FEB21900PE	29.21%	10400
Stock Futures	BHARATIATRL 24FEB FUT	0.72%	7600

- *In this regard, it was observed from the PIA that with respect to the aforementioned findings in the IR, Noticee had, inter alia, stated in his replies that the daily top research calls have been shared on social media, which is of daily statistics regarding the successful research calls of the day. The top five research calls are anything similar to those of the top gainers, which are being displayed on the NSE website post market hours. No guaranteed returns/promise of such profits is posted to gain the customers. Noticee further claimed that, as per the advertisement code, these posts are in compliance as the five best research calls of the day are posted only after those have been achieved and not before that.*

- *In this regard, it was observed from the PIA that though the said post does not show any promise or guarantee of assured or risk free return to the investors, by publishing RoI percentage (return on investment) and gains in Rs. in respect of five best research calls of the day, Noticee had made a reference to his past performance in respect of his research call on social media. Therefore, it was alleged that Noticee had violated the provisions of clause 1(c)(xii) of the SEBI Circular dated April 05, 2023, read with clause 8.1(c)(xii) of the SEBI Master Circular dated May 21, 2024.*

(c.) ***Incentives to sales executives***

- *It was observed from the IR that Noticee gives incentives to his SEs who achieve more than the minimum sale of Rs. 2,00,000/-. It was further observed from the IR that in order to achieve the target or to get incentives, the SEs of Noticee had assured returns and encouraged sales of products not suiting the risk profile of their clients. In the sample whatsapp chats of the SEs of Noticee with his clients, it was observed that SE had advised client Ramachandran to trade in an index option and also asked him to upgrade to the 500 profit plan to earn "good returns". It was further observed from the chat that Shri Ramachandran is an old man, and for him, the SE recommended equity intraday trading and index option trading. Hence, it*

was alleged that the SE had encouraged the client to take undue risk, which does not suit their age and risk profile.

- *In this regard, it was observed from the PIA that with respect to the aforementioned findings in the IR, Noticee in his replies had, inter alia, stated that "incentives slab was introduced from January, 2024 due to many customer's dissatisfactions that they have not been followed up even after several requests raised by the customer itself. It is to ensure that the employees are active and ensure productivity." However, from the whatsapp chat of SE with the client Ramachandran, it was observed that the SE had advised him to try the index option and also asked him to upgrade the service. It was further observed from the chat that Shri Ramachandran is an old man, and for him, SE recommended index option trading, which may not suit the age of the client. Therefore, it was alleged in the PIA that SE of Noticee had encouraged the client to take undue risk, which does not suit their age and risk profile. Hence, it was alleged that Noticee had encouraged sales of products not suiting the risk profile of the clients through incentives given to his sales executives and thereby violated the provisions of clause 4(xi) of the SEBI Circular dated August 27, 2013, read with clause 12.4(xi) of the SEBI Master Circular dated May 21, 2024.*

(d.) ***Failed to maintain proper rationale for arriving at research recommendation; Failed to maintain research report (electronic form) digitally signed***

- *It was observed from the PIA that Noticee was preserving the records, such as the research report in electronic form. However, the same was not digitally signed. It was further observed from the PIA that in the Customer Relationship Management (CRM), Noticee was providing rationale for recommendation, and in this regard, Noticee had created a template of four rationales for giving recommendations, which is as under:*
  "The call is generated based on either of the following technical conditions:

  a) The stock is either open low or price is above previous day high.
  b) Intraday pivot levels broken on 5 minutes or 15 minutes candle
  c) Stock has seen a price volume action on the buy side
  d) Stock is in the news for a reason"

- *It was observed from the PIA that the aforesaid rationales are attached to all the recommendations without any further reasoning. In this regard, Noticee in his replies had stated that stock specific rationale had been maintained only if there is a valid reason other than the said conditions. In this regard, it was observed from the PIA that in the recommendation under the "why this call" header, the reason mentioned is "intraday price volume breakout" whereas under "call description", all the four abovementioned parameters are mentioned. Therefore, it was alleged that providing a rationale along with some other general rationales and not specific to*

the particular stock recommendation cannot be said to be the proper rationale for arriving at the research recommendation.

- *It was further observed from the PIA that an inspection of Noticee was carried out by SEBI earlier in February 2022 for the period April 01, 2020, to March 31, 2021. Pursuant to inspection, an administrative warning was issued to Noticee for not complying with regulation 25 of the RA Regulations. It was alleged in the PIA that despite the issuance of an administrative warning, Noticee was still in non-compliance of regulations 25(1)(iii) and 25(2) of the RA Regulations for the same violations.*

- *In view of above, it was alleged in the PIA that Noticee had failed to maintain proper rationale for arriving at a research recommendation and failed to maintain a research report (electronic form) digitally signed and thereby violated the provisions of regulations 25(1)(i) and (iii) read with 25(2) and clauses 1, 2, 6 and 7 of the Code of Conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations."*

6. Noticee vide e-mail dated November 25, 2024, *inter alia*, submitted the following reply to the SCN which is reproduced in verbatim as follows:

"At the outset, the Noticee would like to state that nothing contained in the said Notice shall be deemed to be admitted by virtue of it not having been specifically denied herein unless the same has been expressly admitted.
Further, the Noticee would also like to clarify that the Noticee is registered with the SEBI as a Research Analyst and not as an Investment Adviser who renders investment advice to the investors. The Noticee being a Research Analyst provides his research recommendations to the clients and do not provide any investment advice as falsely alleged/stated in the various clauses of the SCN. Hence, the SEBI has made various such statements which are factually incorrect and shall be dismissed.

A. Assurance of returns/loss recovery:
It has been alleged that the Noticee has violated Regulations 3 (a), (b), (c), (d), 4 (1) and 4 (2)(k), (o) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003
In response to SEBI's allegation regarding assured return, the Noticee categorically deny any such claims. Moreover, with regard to the claim of the SEBI that "employees of the Noticee who were neither research analysts nor holding requisite NISM Certificates had given advice to the clients of the Noticee to achieve good returns", the Noticee would like to state that the Noticee is registered with the SEBI as a Research Analyst and not as an Investment Adviser. Hence, the statement of the SEBI that employees had given advice is factually incorrect. Moreover, SEBI (Research Analysts) Regulations, 2014 nowhere requires the employee of the Research Analyst to hold NISM certificates.

Further, the SEBI has provided WhatsApp chats as evidence, for which below is the Noticee's response to each client interaction:

1. Client Muthuram: From the said chat, it is clearly understood that the employee had just stated that 'you can't take more profit in basic plan', which is a fact, as in the basic plan risk- reward ratio is limited and is suitable for small traders. If the client was looking for bigger profit, then the employee had rightly stated to the client to upgrade his services to the premium category, wherein he can achieve higher returns as the premium service is designed accordingly with a better risk- reward ratio and also the number of recommendations provided are more than that in the basic plan. Moreover, the employee had not pressurized the client to shift to the premium plan, she had just presented the facts of the premium services, which is no harm in doing it and hence no assurance of returns was made to the said client.

2. Client Veenashitya: From the said chat, one can easily identify that the client was hesitant to take the services as she felt that the service was expensive, so the employee explained the client that the service is for a period of 4 years and no additional payment will be charged from the client and the client can well recover this amount by earning good returns from the market, which is also in no manner is any assurance of profit/return.

3. Client Vaibhav Ultap: From the chats of the client, it can be clearly seen that the client itself had asked that 'what's the guarantee of the profit', for which the employee had replied that he will get good returns. It may be noted that the employee had not explicitly assured any profit, he just had responded to the client's question. Further, by stating 'good returns', nowhere assures any profit.

4. 9100610200: The said prospect client had initiated the conversation with the employee by inquiring regarding some issues in the research recommendations, for which the employee had reverted that there was some technical issue and had provided the report containing research recommendations provided by the Noticee for the information of the client. It was by no mean any assurance of profit given by the employee of the Noticee.

5. Client Farheen Amir: With regard to the said WhatsApp chat, the Noticee would like to state that, the employee had clearly used the phrase 'you can expect', which in no way assures any returns, further, the employee had made this statement only after the client had enquired that how much profit he can make with 4 lakhs capital. Furthermore, the employee had also stated that 'we will try to your P&L to be green', it is clearly evident that the employee has stated that they will try which also in manner assures any profit guarantee.

6. Client Param Shivam: In the said WhatsApp chat, the client had, based on the performance of that day, inquired whether the returns of 22% can be made, for which the employee had replied affirmatively.

7. Client Sasidhara Rao: In the said WhatsApp chat, it can be clearly seen that client had inquired regarding how much returns he can make, for which the employee had stated that 'he can expect 10-15%', which also in no manner assures any returns or guarantee any profits.

8. Client Amanaganti Srinivas: In the said WhatsApp chat also, the client had on call inquired how was the performance for the day, for which the employee had shared the

snaps of the research provided by the Noticee on that day, which by any means does not comes in the purview of luring the clients, as based on the request of the client, the performance of the said was shared, which was factually correct data.

9. Client Kundan Kumar SG: In the said WhatsApp chat, the employee expected market to be on a positive side, so accordingly he recommended the client to deploy more capital in order to trade in the market. Also, he had used the word 'can', where "can" denotes possibility, not certainty. These acts also by any means do not get covered in the scope of guaranteeing returns by any means.

10. Client Vinita Kassel: In the said WhatsApp chat, it can be clearly seen that, the client had only enquired about the better suitable services, for which the employee has just given his opinion with respect to the services. Again, this also by any means do not get covered in assuring return or guaranteeing any profit to the clients.

11. Client Mayur P Kaku: The allegation made by the SEBI in the instant case is factually incorrect as it can be clearly evident from the said chats that the employee had not used this phrase: 'Why should I', it was used by client for which the employee had replied upon and had also stated that 'yesterday one call was stoploss hit that was mentioned'. Hence, it is crystal clear that the SEBI had instead of going through the entire chat discussion, had just picked up few phrases and has misinterpreted them.

In all the cases illustrated above, one thing can be noted that in none of the cases, the employee stated that expected results upfront, it has been mentioned only after the client had enquired regarding the same. Furthermore, the words such as 'try', 'can', 'expect', were used, which do not assures/guarantees any returns.

Also, the SEBI itself in an Order passed by the Whole-Time Member in the matter of "GRS Solution" had recognized similar statements to be merely marketing gimmicks rather than being an actual promise of assured returns, leading to the dismissal of such allegations.

Also, the Noticee had taken corrective action and had warned the employee involved in such type of practices, warning issued to the employee is enclosed herewith in Exhibit-A.

Further, the Noticee would also like to state that there is no concept of vicarious liability in such cases and the company shall not be held responsible for the acts of these individual which have been done in isolation without any connivance and nexus of Noticee. These employees of the company, who abused and misused their information and relationship with company and client and thus their act is a criminal breach of trust, but it does not depict any nexus of the company with these individuals.

Moreover, the Noticee while onboarding the client has a practice of getting 'client acceptance' form signed from the client, which all the above-mentioned client had also signed and it clearly states that:

➢ Ensure that the company and its executives have not promised any guaranteed returns or any other false commitments made to you orally or in written communications. As a responsible organization, we do not encourage any such acts. If you find anything, please report it immediately to the concerned. You can email the details to research@streetgains.in

➢ The subscriber is aware of the standard disclaimer, which includes essential information about the risks and responsibilities associated with stock market trading. It is important to read and understand this disclaimer before making investment decisions.

➢ Remember, investments in the securities market are subject to market risks. You must read all the related documents carefully and consider these risks before making investment decisions.

➢ The subscribers are consenting to communicate with the company's executives through its business WhatsApp, which helps them maintain constant communication during live markets. The communication shall not be considered Research Recommendations. The material shared through WhatsApp shall not come under the 'Research' category but under 'Customer Support.'

➢ We have obtained important regulatory approvals, such as registration granted by SEBI, certification from NISM, and membership of BASL. However, these do not guarantee the intermediary's performance or provide any assurance of returns to investors.

➢ The performance data shows the actual returns generated by our Research recommendations. Past performance doesn't guarantee future success, and the securities mentioned do not constitute a recommendation. The returns displayed or shared with you are for informational purpose only and should not be considered advertisements or promotions influencing your subscription decisions.

Also, the Noticee's website explicitly outlines the inherent risks associated with stock market investments and the absence of guaranteed returns as the following disclosures/disclaimers are made in several pages:

➢ Investments in the securities market are subject to market risks. Read all the related documents carefully before investing.

➢ Registration granted by SEBI, certification from NISM, and membership of BASL does not guarantee the intermediary's performance or provide any assurance of returns to investors.

Sample of the client acceptance form and screenshot of the website of the Noticee is enclosed in Exhibit-B and Exhibit-C, respectively.

It is clearly evident that the Noticee everywhere informed his clients that they do not provide any guarantee/assured returns and the investments in the securities markets are subject to the market risk. Therefore, the Noticee had exercised due diligence from his part.

Moreover, the Noticee would also like to state that the SEBI had just relied upon the WhatsApp chats, which is no more a Res- Integra that WhatsApp chats cannot be relied upon unless they are coupled with a certificate under section 65B of Evidence Act because there are a number of applications of play store and apple store wherein fake WhatsApp chats can be created and they look completely like original ones. For the aforesaid reasons of creation of fake WhatsApp chat, it is important that their

veracity be verified by a government officer if not through Forensic Science Laboratory Report. Thus, any such chat unless coupled with a Certificate under section 65B of Evidence Act and verified with a FSL report cannot be relied upon. These fake WhatsApp chat applications work exactly like original ones and any fake chat including attachments, photos etc. can be created and thus unless the veracity is verified, they cannot be held against the Noticee.

Further, with regard to the allegation that the Noticee has committed fraud and have violated the PFUTP Regulations. In that regard the Noticee would like to state that if his intention was of defrauding the clients then he would not have opted SEBI registration and followed the requisite applicable compliances. Also, the definition of "fraud" as defined in regulation 2(1)(c) of the PFUTP Regulations which provides as under:

"(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;

(2) suggestion as to a fact which is not true by one who does not believe it to be true;

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

(4) a promise made without any intention of performing it;

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

(6) any such act or omission as any other law specifically declares to be fraudulent,

(7) deceptive behaviour by a person depriving another of informed consent or full participation,

(8) a false statement made without reasonable ground for believing it to be true.

(9) the act of an issuer of securities giving out misinformation that affects the market price of the security, resulting in investors being effectively misled even though they did not rely on the statement itself or anything derived from it other than the market price.

And "fraudulent" shall be construed accordingly ….."

Based upon the above definition, it can be construed that the definition of "fraud" under regulation 2 (c), is very wide and general in nature. The definition of "fraud" alone does not bring an act within the purview of PFUTP Regulations. There has to be "dealing in securities" as defined under regulation 2(1)(c) of PFUTP Regulations. Further, there is no proof to show that the Noticee have committed fraud while "dealing in security" as contemplated under the PFUTP Regulations. Hence, the serious violations of the provisions of Section 12A(a), (b) and (c) of the SEBI Act read with Regulations 3(a) to (d) of the PFUTP Regulations shall be removed upon from the Noticee.

Also, the Supreme Court in the case of SEBI Vs. Kanaiyalal Baldevbhai Patel (2017) 15 SCC 1 while interpreting the definition of "fraud" held that to constitute fraud under definition of fraud only "inducement" while dealing in securities is required.

Further, the Noticee would also like to place the reliance on the following decision of the SEBI: Order in the matter of Star World Research; wherein in the exact same case it was held that "With respect to the definition of "fraud" under regulation 2 (c), I am of the view that the same is very wide and general in nature. The definition of "fraud" alone does not bring an act within the purview of PFUTP Regulations. There has to be "dealing in securities" as defined under regulation 2(1)(c) of PFUTP Regulations. There is no proof to show that the IA has committed fraud while "dealing in security" as contemplated under the PFUTP Regulations. In view of this, the misleading representations made by the IA to its clients and the wrong categorization of clients and selling high risk products to unsuitable clients or levying GST after cancellation of its GSTN, etc., would not bring the Noticee`s acts within the prohibition under the PFUTP Regulations. These are violations of the prescriptions laid down in various provisions of the IA Regulations and the Code of Conduct. I am, therefore, inclined to drop the allegation of fraudulent and unfair trading in favour of the Noticee."

Also, the SEBI had in its Order in the matter of Niveshicon Investment Advisor had also held similar interpretation and the alleged violation of Regulation 3(a), (b), (c) and (d) of PFUTP Regulations read with Section 12A (a), (b) and (c) of SEBI Act, 1992 were removed upon.

Further, no evidence on record has been established by the SEBI which evidences any fraud committed by the Noticee. In that regard, the Noticee would like to refer the Order of Hon'ble Securities Appellate Tribunal dated January 04, 2022 in the matter of Ms. Suhanika Chourey, wherein the findings of PFUTP violations were set aside as there was no evidence brought out on record.

Hence, by following the principle of doctrine of Stare Decisis, the SEBI shall consider its judgements issued under similar issues or facts and such allegations shall be remove upon from the Noticee.

There is no proof to show that Noticee has committed fraud while "dealing in securities" as contemplated under the PFUTP Regulations. Hence, in view of the aforesaid and the prudent view that the allegation of fraud is serious offence which requires high level of proof, the violation of provisions of Regulations 3 (a-d), 4 (1) and 4 (2)(k), (o) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 shall be removed upon from the Noticee.

B. Reference of past performance in social media "X"

It has been alleged that the Noticee has violated the provisions of Clause 1(c)(xii) of the SEBI Circular dated April 05, 2023.

With regard to the said alleged violation of the SEBI Circular dated April 05, 2023, the Noticee at the outset would like to reproduce the definition of the advertisement as mentioned in the said Circular:

"Advertisement shall include all forms of communications, issued by or on behalf of IA/RA, that may influence investment decisions of any investor or prospective investor"

The post which the SEBI is referring to in the said SCN, does not get covered into the above-mentioned definition of the advertisement. As the said post doesn't invite or

lures the investors to subscribe to the services of the Noticee and also nowhere it specifies that the investor can approach/subscribe to the services of the Noticee. The said post just provides information of the top research calls which is similar to the 'Top Gainers', being displayed on the website of the NSE. Hence, the said post doesn't get covered in the definition of the advertisement and therefore the said provision of advertisement is not applicable to said post as referred in the SCN and consequently the allegations related to the advertisement provision are unfounded and shall be dismissed as provisions of the Circular are not applicable in the instant matter.

C. Incentives to sales executives.
It has been alleged that the Noticee has violated provisions of Clause 4(xi) of the SEBI Circular dated August 27, 2013
In response to the said allegation, the Noticee would like to humbly state that offering incentives to sales executives to enhance their performance is in no manner violation of any rules or regulations.
Further, with respect to the allegation of the SEBI that the Noticee had encouraged sales of products not suiting the risk profile of their clients, the Noticee would like to state that the Noticee is a SEBI registered Research Analyst and not an Investment Adviser. Conducting risk profiling and advising suitable product as per the risk profiling of the client is a job of an Investment Adviser. Scope of Research Analyst includes conducting research in the securities market and then accordingly recommending the stock to the investors. The Research Analyst is not authorized to conduct risk profiling or tailor recommendations to individual client needs.
The Noticee's obligations do not extend to considering the age, income, or other specific circumstances of individual investors. As a Research Analyst, the Noticee provides general recommendations to all clients without customization. Therefore, the Noticee has not violated any provisions. Thus, it also proves that the inspection has not been done in an ideal manner and inaccurate findings have been made against the Noticee.
Moreover, the violations of the provisions of the Circular dated August 27, 2013, that has been alleged against the Noticee, the said Circular was effective from August 27, 2013 and the Research Analysts Regulations has came into force from September 01, 2014. Hence, the SEBI had levied the allegations of the violations of the Circular which was not even applicable to the Research Analysts, and therefore the said allegation is completely baseless and shall be dismissed.

D. Failed to maintain proper rationale for arriving at research recommendation; failed to maintain research report (electronic form) digitally signed
It has been alleged that the Noticee has violated the provisions of Regulation 25(1)(i) and (iii) of RA Regulations
In response to SEBI's allegation, the Noticee categorically deny any such claims. The Noticee is not indulged in providing any research report rather, he is just providing research recommendations as per the Regulation 2(u)(iii) of the RA Regulations. It is nowhere being mandated that the Research Analysts shall publish the research

report. The Research Analysts may be primarily responsible for just providing the 'buy/sell/hold' recommendations.

Further, mere sending of research recommendation through SMS or WhatsApp or Customer Relationship Management (CRM) does not constitute to be a research report as it is just used as a medium to disseminate the research recommendations to the clients.

Moreover, the SEBI has recently issued a Consultation Paper on August 06, 2024 titled: 'Review of Regulatory Framework for Investment Advisers and Research Analysts' which aims to provide certain clarifications regarding the activities of Investment Advisers and Research Analysts which amongst others included clarification relating to the Research report as in the clause 13 it is stated that:

'It has been argued that RA Regulations do not explicitly mention that every research service should be supported by research report that provide the necessary data and analysis. In this regard, in order to ensure the credibility of research services provided by a RA, it is proposed to also clarify that any research service by a RA shall be corroborated by research report containing the relevant data and analysis forming the basis for such research service. RA shall maintain record of such research report.'

Copy of the said Consultation paper is enclosed herewith in Exhibit-D (kindly refer Page No.18). Hence, the provision which is still in draft stage for consultation cannot be construed as a violation.

Moreover, the SEBI Circular dated December 13, 2021, (SEBI/HO/ IMD/IMD-IICIS/P/CIR/2021/0685) regarding publishing of Publishing of Investor Charter; clearly distinguishes between research report and research recommendations. The copy of said Circular is also annexed as Exhibit-E.

Furthermore, regarding the allegation of failing to maintain proper rationales, the Noticee asserts that it has consistently adhered to regulatory requirements.

The template referenced in the SCN was intended as a sample or demonstration for a specific service, not as a rigid format for all services and research. Rationale templates ensure consistency in technical parameters, which remain relatively stable. For instance, intraday price-volume breakouts and premium stock selection criteria are technical factors that don't fluctuate daily.

Beyond these technical parameters, specific rationales are provided based on factors like:

- *Strong financial results*
- *Positive management commentary*
- *Regulatory developments*
- *Ratings and reviews*
- *Other fundamental changes*

However, such specific rationales are typically less frequent in the context of intraday stock selection.

Moreover, SEBI has nowhere defined any particular method/format for maintaining rationales. Every other research analyst often employs their unique for maintaining the rationale. As long as the underlying logic is clear and transparent in rationale, then there should not be any problem to the regulator, which in the instant case the Noticee

has duly maintained and the sample of the same have been enclosed herewith Exhibit-F.
Furthermore, as mentioned in the clause 6.4.6 regarding administrative warning issued, in that regard, the Noticee would like state that the Noticee has not received any letter of administrative warning, as stated therein either through e-mail or in physical.

PRAYER
Based on the above-mentioned submissions, it is crystal clear that the Noticee has not violated any provisions. Further, there might be some instances wherein SEBI observed non-compliances, but if they look into the records shared by the Noticee along-with this reply, it is very clear that the Noticee has complied with the SEBI Regulation in the true letter and spirit of the law.

Also, the Noticee would like to refer the Order of Hon'ble Securities Appellate Tribunal dated 16.06.2011, in the matter of Religare Securities Limited Vs. SEBI (Appeal No. 23 of 2011), it was held that "5. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/ deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent. For the reasons recorded above, the appeal is allowed and the impugned order set aside with no order as to costs."

Also, the Noticee would like to refer the order of the Hon'ble SAT in Piramal Enterprises Limited v. SEBI (Appeal No. 466 of 2016, date of Order – May 15, 2019) wherein the Hon'ble SAT has observed that imposition of penalty even meagre will leave an indelible mark and leave a blot on the appellant's spotless image. The Hon'ble SAT also observed that if there is an infraction of a rule, remedial measures should be taken in the first instance and not punitive. Similarly, in the present matter, the Noticee has not committed grave and serious violations hence shall be issued a warning.

It is humbly submitted that since the Noticee is in practice from past 8 years and has served thousands of clients and in return has received very complaints against him and also, he has not been involved in any fraudulent activity and has not violated any provisions and therefore is not liable for any monetary penalty under the provisions of Section 15 HA and 15EB of the SEBI Act."

7. Noticee, vide e-mail dated December 06, 2024, informed about filing of a settlement application in the present matter. After receipt of the reply of Noticee, in compliance with the principle of natural justice, an opportunity of personal hearing was granted to him before the erstwhile AO on December 17, 2024. Noticee along with his authorised representative (hereinafter referred to as "**AR**"), Mr. Abhishek Mishra attended the hearing on December 17, 2024 wherein they reiterated the submissions made by Noticee vide e-mail dated November 25, 2024.

8. It is noted from the material on record that the settlement application of Noticee was rejected on January 30, 2025. Thereafter, pursuant to the appointment of the undersigned as AO, another opportunity of personal hearing was granted to Noticee. The said hearing was held on May 20, 2025 wherein AR of Noticee, Mr. Abhishek Mishra appeared and reiterated the submissions made vide e-mail dated November 25, 2024. Further, Noticee was granted time until May 27, 2025 to make additional submissions in the matter. Noticee submitted his additional reply vide e-mail dated May 26, 2025 which is reproduced as under:

"A. Reference Point: Assurance of Return/Loss Recovery
With reference to para 6.1.1 of the Show Cause Notice, it has been alleged that the sales executives, who were neither SEBI-registered Research Analysts nor NISM-certified, had given advice to clients to achieve good returns.
Submission:
I, the noticee, hereby declare that all research recommendations have solely originated from my end as a SEBI-registered Research Analyst, and no sales executive has issued any recommendation independently. Their role was strictly limited to communicating the recommendations provided by the Noticee to the clients, and they had no authority or involvement in making or modifying any recommendations on their own.
Therefore, the question of their being NISM-qualified or registered as a Research Analyst does not arise.
Additionally, it is humbly submitted that the inspection forming the basis of this SCN pertains to the period from April 01, 2022 to March 14, 2024, and the SCN itself was issued on 05th November, 2024. During this entire period, no regulation or guideline mandated that client-facing persons or sales executives be NISM qualified.
In fact, the specific Amendment that introduced the requirement for client- facing staff of Research Analysts to be NISM qualified was issued only recently, i.e., on 16th December, 2024, under the SEBI (Research Analysts) (Third Amendment) Regulations, 2024.

The relevant extract of the Amendment, 2024 has been attached herewith as Exhibit A. Please refer on Page No. 19, Point 2 (ne) - persons associated with research service.

It is humble understanding that such a requirement cannot be applied retrospectively, as the compliance obligation did not exist during the inspection period. The application of a newly introduced guideline to a past period — especially where no such requirement was in force — would amount to retroactive application, which is not in line with principles of natural justice and legal certainty.

I respectfully submit that the allegations, to the extent they pertain to this aspect, should be kept aside and not treated as a non-compliance or constitute a part of violation, especially when no such obligation was in force during the relevant period.

B. Reference Point: Incentive to Sales Executive

With respect to the para 6.3.3 of the SCN, which alleges that noticee has sold products not suiting the risk profiling of the clients and have violated clause 4(xi) of the SEBI Circular dated August 27, 2013

Submission:

It is respectfully reiterated that under the SEBI (Research Analyst) Regulations, 2014, there is no regulatory mandate requiring Research Analysts (RA) to carry out risk profiling or suitability assessments of clients.

The services offered by a SEBI-registered Research Analyst are standardized, general in nature, and intended for a broad audience. They are not tailored to the individual requirements or financial situations of specific clients.

As per Regulation 2(u) and Regulation 4 of the SEBI (Research Analyst) Regulations, 2014, the scope of a Research Analyst is confined to:

• Analyzing listed securities, and

• Providing buy/sell/hold recommendations, or

• Issuing public communications based on market trends, sectoral outlook, or company performance.

This regulatory framework does not authorize Research Analysts to conduct financial suitability assessments or provide customized advice.

By contrast, the SEBI (Investment Advisers) Regulations, 2013 explicitly mandate the process of risk profiling and suitability, which are entirely outside the scope of the RA Regulations.

Please find attached herewith Exhibit B highlighting Regulation 16 and Regulation 17 of the SEBI (Investment Advisers) Regulations, 2013, which state as under:

• Regulation 16 (Risk Profiling):

"Investment adviser shall ensure that it has a process for assessing the risk a client is willing and able to take, which shall include the client's income, age, financial situation, investment objective, etc."

• Regulation 17 (Suitability):

"Investment adviser shall ensure that the advice is suitable to the client based on the risk profiling conducted…"

It is evident that the Research Analyst Regulations are silent on such requirements, and the present observation in the SCN appears to incorrectly apply IA obligations to a Research Analyst.

Further, the activities attributed to the sales executive in the SCN — such as providing risk-based or suitability-based suggestions — are not within the permitted scope of an RA's responsibilities under the SEBI framework. There exists no clause under the SEBI RA Regulations, 2014 or any of its associated circulars that mandates such practices for Research Analysts.

It is humbly submitted that the SEBI (Research Analyst) Regulations, 2014 are completely silent on the requirement of conducting risk profiling or suitability assessments. In the absence of any explicit regulatory mandate, such compliance cannot be expected from a Research Analyst.

We respectfully request that this point may not be treated as a violation, as it pertains to an obligation that is not prescribed under the applicable regulatory framework. Had the Regulations mandated such an obligation; we would have duly complied with it. However, where the law is silent, compliance cannot be presumed or inferred.

C. Reference Point: Failed to maintain Research Report (electronic form) digitally signed

With respect to the point (6.4) in the SCN - The allegation pertains to failure in maintaining digitally signed Research Reports.

Submission:

The Noticee respectfully submits that this issue has already been addressed in detail in our earlier submission, wherein it was clearly stated that during the inspection period, there was no mandate under the SEBI (Research Analyst) Regulations, 2014 requiring Research Analysts to publish or issue research reports. The only requirement was to provide research recommendations along with maintaining the records and rationale for the same, which the Noticee has duly complied with.

The Noticee wishes to place on record that the mandatory requirement to issue research reports to clients along with the recommendations has been introduced only recently via SEBI circular dated 08th January 2025 titled Guidelines for Research Analyst.

A copy of the said guidelines is enclosed herewith as Exhibit C, with the relevant part highlighted, which now explicitly states that any research service shall be corroborated by a research report containing data and analysis forming the basis of the recommendation.

This requirement did not exist during the inspection period, and hence, the Noticee cannot be expected to comply with a provision that was not in force at that time. Regulatory expectations must be aligned with the applicable provisions in effect during the period of inspection. Any attempt to apply newly introduced compliance norms retrospectively would be unjustified.

Further, it is reiterated that the Noticee has duly maintained the records of research recommendations provided and its rationale for each recommendation issued during the period under review, in line with the then- prevailing regulatory requirements. These rationales were based on technical analysis.

Hence, we sincerely request that the allegation of non-maintenance of research reports may kindly be dropped, as there was no such mandate during the relevant time. The Noticee has complied in good faith with the prevailing regulations, and the new circular should not be construed to impose retrospective obligations."

CONSIDERATION OF ISSUES AND FINDINGS

9. After careful perusal of the material on record, I note that the issues that arise for consideration in the present case are as follows:

I. Whether Noticee provided assurance of returns/loss recovery to his clients that misled/induced his clients to deal in securities, engaged in mis-selling and failed to exercise due diligence by not exercising any control over employees who were engaging with his clients, thereby violating the provisions of regulations 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of the PFUTP Regulations read with sections 12A(a), (b), and (c) of the SEBI Act, and clauses 1 and 7 of code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations?

II. Whether Noticee advertised his past performance in respect of his research call on social media and thereby violated the provisions of clause 1(c)(xii) of SEBI Circular dated April 05, 2023 read with clause 8.1(c)(xii) of the SEBI Master Circular dated May 21, 2024?

III. Whether Noticee encouraged sale of products not suiting the risk profile of the clients through incentives given to his sales executives and thereby violated the provisions of clause 4(xi) of the SEBI Circular dated August 27, 2013 read with clause 12.4(xi) of the SEBI Master Circular dated May 21, 2024?

IV. Whether Noticee failed to maintain proper rationales for arriving at research recommendations and also failed to digitally sign the research report maintained in electronic form and thereby violated the provisions of regulations 25(1)(i) and (iii) read with 25(2), and clauses 1, 2, 6, and 7 of the code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations?

V. Does the violation, if any, on the part of Noticee attract monetary penalty under sections 15EB and 15HA of the SEBI Act?

VI. If so, what would be the quantum of monetary penalty that can be imposed on Noticee after taking into consideration the factors stipulated in section 15J of the SEBI Act?

10. Before proceeding further, it is pertinent to refer the relevant provisions of law, allegedly violated by Noticee. The same are reproduced hereunder:

*"**SEBI Act***
12A. No person shall directly or indirectly—
(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

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

PFUTP Regulations
3. Prohibition of certain dealings in securities
No person shall directly or indirectly—
(a) buy, sell or otherwise deal in securities in a fraudulent manner;
(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;
(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;
(d) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in

contravention of the provisions of the Act or the rules and the regulations made there under.

4. Prohibition of manipulative, fraudulent and unfair trade practices

(1) Without prejudice to the provisions of regulation 3, no person shall indulge in a manipulative, fraudulent or an unfair trade practice in securities markets.

Explanation.– For the removal of doubts, it is clarified that any act of diversion, misutilisation or siphoning off of assets or earnings of a company whose securities are listed or any concealment of such act or any device, scheme or artifice to manipulate the books of accounts or financial statement of such a company that would directly or indirectly manipulate the price of securities of that company shall be and shall always be deemed to have been considered as manipulative, fraudulent and an unfair trade practice in the securities market.

(2) Dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves any of the following:—

……..

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

……..

(o) fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income;

……..

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

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

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

(ii) knowingly concealing or omitting material facts, or

(iii)knowingly concealing the associated risk, or

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

RA Regulations

General responsibility.

24.

(2) Research analyst or research entity shall abide by Code of Conduct as specified in Third Schedule.

Maintenance of records.

25. *(1) Research analyst or research entity shall maintain the following records:*

(i) research report duly signed and dated;

……

(iii)rationale for arriving at research recommendation;

……

(2) All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:

Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

THIRD SCHEDULE

[See sub-regulation (2) of regulation 24]

CODE OF CONDUCT FOR RESEARCH ANALYST

1. Honesty and Good Faith

Research analyst or research entity shall act honestly and in good faith.

2. Diligence

Research analyst or research entity shall act with due skill, care and diligence and shall ensure that the research report is prepared after thorough analysis.

……

6. Professional Standard

Research analyst or research entity or its employees engaged in research analysis shall observe high professional standard while preparing research report.

7. Compliance

Research analyst or research entity shall comply with all regulatory requirements applicable to the conduct of its business activities.

SEBI Circular dated April 05, 2023

1. Securities and Exchange Board of India (Investment Advisers) Regulations, 2013 and Securities and Exchange Board of India (Research Analysts) Regulations, 2014 provide for code of conduct to be followed by IAs and RAs respectively. In order to further strengthen the conduct of IAs and RAs, while issuing any advertisement, it is directed that IAs/RAs shall ensure compliance with the advertisement code as prescribed below:

……

c. Prohibitions in the advertisement:

The advertisement shall not contain:

……

xii. Reference to past performance of the IA/RA.

SEBI Master Circular dated May 21, 2024.

8.1. Research Analysts shall ensure compliance with the advertisement code as prescribed below:

……

c. Prohibitions in the advertisement:

The advertisement shall not contain:

……

xii. Reference to past performance of the RA.

……

12.4. Intermediaries and their associated persons shall,

……
xi. not have an incentive structure that encourages sale of products not suiting the risk profile of their clients;

SEBI Circular dated August 27, 2013
4. Such entities and their associated persons shall,
……
xi. not have an incentive structure that encourages sale of products not suiting the risk profile of their clients;"

11. I now proceed to decide the issues at hand.

Issues I: Whether Noticee provided assurance of returns/loss recovery to his clients that misled/induced his clients to deal in securities, engaged in mis-selling and failed to exercise due diligence by not exercising any control over employees who were engaging with his clients, thereby violating the provisions of regulations 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of the PFUTP Regulations read with sections 12A(a), (b) and (c) of the SEBI Act, and clauses 1 and 7 of code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations?

12. From the material on record, it is observed that WhatsApp chats of employees/sales executives (SEs) of Noticee with his clients were perused by inspection team on sample basis. From the perusal of the WhatsApp chats, it was observed that SEs of Noticee had assured returns/loss recovery to the clients on WhatsApp and in some cases, showed screenshots of profit achieved/past performances to lure them to take the subscriptions. Therefore, it was alleged in the SCN that Noticee provided assurance of returns/loss recovery to his clients that misled/induced his clients to deal in securities, engaged in mis-selling and failed to exercise due diligence by not having any control over employees who were engaging with his clients. Copy of sample WhatsApp chats relied upon in the present proceedings were provided to Noticee as Annexure 6 to the SCN.

13. Noticee, in his replies, submitted that WhatsApp chats cannot be relied upon since they are not coupled with a certificate under section 65B of Indian Evidence Act, 1872 or verified with Forensic Science Laboratory Report.

14. In this regard, it is noted that as per section 1 of the Indian Evidence Act, 1872, the said Act applies to *"all judicial proceedings in or before any Court*" whereas the extant proceedings are quasi-judicial in nature. The ambit of Indian Evidence Act is clarified by Hon'ble Supreme Court's in the matter of *Tata Consultancy Services Limited v. Cyrus Investments Pvt. Ltd.* (2021 INSC 217), wherein it held that "*It is true that the rigors of Code of Civil Procedure and the Evidence Act are not applicable to Tribunals/Quasi-Judicial Authorities. These rigours do not even apply to Courts dealing with constitutional matters (refer the Explanation Under Section 141 Code of Civil Procedure*)." In similar lines, Hon'ble Madras High Court in the matter of *LKS Gold House Private Limited v. The Deputy Commissioner of Income Tax*, MANU/TN/2304/2024 further clarified the applicability of section 65B on quasi-judicial authorities as under:

> *"75. The Assessment proceedings under the Income Tax Act, 1961 before an Assessing Officer is not a judicial proceeding. It is a Quasi judicial proceeding before a Quasi judicial officer. Therefore, the provisions of The Evidence Act, 1872 particularly special provisions relating to evidence relating to Section 65A, Section 65B and Section 66 are not relevant."*

15. Thus, section 65B pertaining to admissibility of electronic records before a court of law, is not applicable to quasi- judicial proceedings before SEBI. Besides, Noticee has not disputed any of the contents of the WhatsApp chats relied upon in the present proceedings rather he has attempted to explain that the said chats made by his employees were in good faith and they did not promise any assured return or recovery of loss. Hence, I do not find any merit in the aforesaid contention of Noticee and reject the same.

16. Noticee, in his replies, provided his justification for each of the instances of chats with the clients cited in SCN. I would like to deal with the same in the following Table:

Table 2

Noticee's submissions	Observations
Muthuram- Noticee stated that if the client was looking for bigger profit, then the employee had rightly asked the client to upgrade his services to the premium category, wherein he can achieve higher returns as the premium. Further, the employee had not pressurized the client to shift to the premium plan, she had just presented the facts of the premium services, which is of no harm and hence no assurance of returns was made to the said client.	However, after examining the Whatsapp Chat, I note that while Noticee argues that this merely explains the comparative risk-reward ratio of the premium plan, the chat in question only highlights the potential reward without disclosing any associated risk, nor does it explains the basis of such 'good returns' expectations. Further, screenshots of that day's profit were shared with the client by the Noticee's employee to reinforce the potential benefits. Accordingly, the employee's statements convey an assurance of return and Noticee's submissions on this count are not acceptable.
Veenashitya: As the client was hesitant to take the services being expensive, the employee explained to the client that the service is for a period of 4 years and no additional payment will be charged and the client can well recover this amount by earning good returns from the market, which is also in no manner is any assurance of profit/return.	It is observed that the client expressed hesitation to enroll for the subscription. In response, the employee repeatedly emphasized on "*earning good returns*" without parallel disclosure of risks constitutes an attempt to lure the client with profit expectations. Hence, Noticee's submission that no assurance was made lacks merit.
Vaibhav Ultap: The client had asked that 'what's the guarantee of the profit', for which the employee had replied that he will get good returns. It may be noted that the employee had not explicitly assured any profit, he just responded to the client's question. Further, by stating 'good returns', nowhere assures any profit.	Here I note that the client after incurring a loss had questioned the guarantee of returns. The employee replied, "*Sure sir… you will get good returns sir".* Though Noticee contends this was merely a response to the client's query and not an assurance, the context, especially after the client had suffered prior loss indicates that such a statement likely instilled confidence of future gains. Therefore, this amounts to an assurance of returns, and Noticee's submission cannot be accepted.
91XXXXXX200: The client had initiated the conversation by inquiring some issues in the research recommendations, for which the employee had reverted that there	In this regard, from the perusal of Whatsapp chats, I note that SEs/employees of Noticee had, *inter alia*, stated to potential client that, *"….take subscription u ll get good returns*". Further, the SEs/employees of Noticee had

Noticee's submissions	Observations
was some technical issue and provided the report containing research recommendations for the information of the client. It was by no mean any assurance of profit given by the employee of the Noticee.	also shared the screenshot of that day's profit in the index option. Hence, the submission of Noticee is not tenable.
Farheen Amir: The employee had clearly used the phrase 'you can expect', which in no way assures any returns, further, the employee had made this statement only after the client had enquired that how much profit he can make with Rs. 4 lakh capital. Furthermore, the employee had also stated that 'we will try to your P&L to be green', it is clearly evident that the employee has stated that they will try which also in manner assures any profit guarantee.	I note that the client had enquired about the return expectations on an investment of ₹4 lakh, to which the SE/employee responded, *"Daily you can expect 20K to 30K return",* and later stated, *"Loss also we will recover on that day itself".* Additionally, the phrase *"You will miss good profits—that much I can assure you*" was used. Quantification of returns, assurance of recovery of losses, and the definitive tone of such statements clearly indicate a promise of return. Accordingly, Noticee's submissions are not accepted.
Param Shivam: The client had, based on the performance of that day, inquired whether the returns of 22% can be made, for which the employee had replied affirmatively.	In response to the client's query regarding intraday returns of 22%, the SE/employee affirmed, *"Yes… sometimes more return you will get sir"*. To the further query about a minimum 15% return irrespective of capital, the employee responded, "*Ya sure sir*". These statements amount to a clear assurance of return and therefore, Noticee's claim that no such assurance was given is rejected.
Sasidhara Rao: Client had inquired regarding how much returns he can make, for which the employee had stated that 'he can expect 10-15%', which also in no manner assures any returns or guarantee any profits.	The SE/employee responded to a query about average returns with *"You can expect minimum on an average 10–15% return".* The use of "minimum" implies a baseline assurance of return, which goes beyond general expectation and conveys certainty. Thus, the submission of Noticee lacks merit.
Amanaganti Srinivas: Client had inquired how was the performance for the day, for which the employee had shared the snaps of the research provided by the Noticee on that day, which by any means comes in the purview of luring the clients, as	Though Noticee contends that the employee merely shared performance details upon client's request, the chats show sharing of profit screenshots (including ₹16 lakh gain) along with statements like *"You have good opportunity sir, make good returns"* and *"Yes sir, you get good return"*. These are

Noticee's submissions	Observations
based on the request of the client, the performance of the said was shared, which was factually correct data.	promotional and persuasive in tone, and suggest an assurance of return. Hence, Noticee's arguments in this regard are not accepted.
Kundan Kumar SG: The employee expected market to be on a positive side, so recommended the client to deploy more capital in order to trade in the market. Also, SE had used the word 'can', where "can" denotes possibility, not certainty. These acts also by any means do not get covered in the scope of guaranteeing returns by any means.	The employee's messages stating *"Tomorrow budget we can do trade tomorrow"* and "*Arrange capital for tomorrow, you can book good returns"* suggest that the client was encouraged to invest more capital with the expectation of assured profits during a highly volatile market event (i.e., budget day). Importantly, the inherent risks of trading on such days were not disclosed. Accordingly, Noticee's submission is found to be without merit.
Vinita Kassel: The client had only enquired about the better suitable services, for which the employee has just given his opinion. Again, this also by any means do not get covered in assuring return or guaranteeing any profit to the clients	While Noticee contends that the employee merely gave an opinion on the service type, the chat shows the employee stated, *"Futures only better sir, there will be good return"*. This directly links the type of service to the assurance of good return, without mentioning associated risks of derivative trading. Moreover, the RA's employee here is not expected to express personal views that influence investment decisions. Hence, the explanation offered by Noticee is unacceptable.
Mayur P Kaku: The allegation is factually incorrect as the employee had not used this phrase: 'Why should I', it was used by client for which the employee had replied upon and had also stated that 'yesterday one call was stoploss hit that was mentioned'. Hence, it is crystal clear that the SEBI had instead of going through the entire chat discussion, had just picked up few phrases and has misinterpreted them.	The SE, when confronted with a client query as to why loss trades were not shown, admitted that only profitable trades were being shared: *"We are not showing all the calls sir, only biggest profit is shown there"*. Additionally, the employee attempted to pacify the client by stating, "*I will provide you the trade for recovery"*. This indicates an attempt to reassure the client of a recovery through future trades, which effectively constitutes an assurance of return. Thus, Noticee's submission lacks merit.

17. Noticee, in his replies, further submitted that use of words like "can", "expect", or "try" in the WhatsApp chats relied upon by SEBI do not assure/guarantee any returns. In

this regard, it is pertinent to note that there is an inherent risk associated with the returns in the securities market. As a registered RA, Noticee is required to convey the fundamental principle of the securities market that all investments in the securities market are subject to market risks, and that the returns can never be assured, regardless of the amount or duration of the investment. The claims made by the sales representative of Noticee with respect to returns without disclosing the associated risks, can only be seen as acts of enticing the client to avail the services of Noticee. Further, as observed in the aforesaid table, statements such as "*if u traded with premium trades u ll get good returns sir*", "*Loss also we ll recover on that day itself", "U ll miss good profits that much I can assure U", "U can expect min on and average 10 to 15% return", "I will provide you the trade for recovery"* had been used in communication with the clients which clearly show that assurance of returns and loss recovery was given. Hence, the submission of Noticee in this regard cannot be accepted.

18. Noticee had also relied on SEBI order in the matters of GRS Solution dated February 08, 2022 and submitted that similar statements were held to be marketing gimmicks rather than actual promise of assured returns. From a perusal of the said SEBI order in the matter of GRS Solution as cited by Noticee and the aforesaid WhatsApp chats relied upon in the present matter, it is noted that the statements made by Noticee's sales representatives are not comparable to those in the GRS Solution case. The said order speaks about phrases used on the website of an investment adviser (IA) do not amount to assurance of returns. However, in the instant case, as mentioned above such statements were used in one-to-one communication with the clients which shows that clear assurances of returns and loss recovery were given. Therefore, the present case is materially different from the one relied upon by Noticee and the reliance placed by Noticee on the said case is misplaced.

19. Noticee, in his replies, further submitted that he had taken corrective action and warned the employee involved in such practices. Noticee also provided a copy of the warning letter issued to the employee in support of his submissions. Upon perusal of the said warning letter, it is noted that it pertains to unsatisfactory customer resolution,

and not to the assurance of returns or loss recovery given by his employees to clients. Hence, the warning letter issued by Noticee, as claimed in his replies, cannot be considered as a corrective action in the present proceedings.

20. Noticee has also submitted that clients were made aware of market risks through a signed 'client acceptance' form and website disclaimers, which clarified that no guaranteed returns were promised and that communications via WhatsApp were for customer support, not research recommendations. It was further submitted that regulatory credentials were disclosed with due caution and adequate due diligence was exercised to ensure transparency and he cannot be held responsible for the acts done by his employees. In this regard, it is relevant to note that code of conduct for RA, *inter alia*, states as under:

> *"Research analyst or research entity shall comply with all regulatory requirements applicable to the conduct of its business activities.*
> *The senior management of research analyst or research entity shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures."*

21. While Noticee has relied upon standard disclaimers in the client acceptance form and on its website to claim that no guaranteed returns were promised, such general disclosures cannot override or neutralize specific assurances of returns made by his employees during client interactions. Material on record, i.e., WhatsApp communications, clearly indicate that return assurances were provided without simultaneously disclosing the inherent risks associated with it. Providing selective information such as highlighting potential returns without adequate risk disclaimers creates a misleading impression. The responsibility to ensure fair, balanced and non-misleading communication lies squarely with Noticee. Furthermore, obtaining a client's signature on a general disclaimer does not absolve Noticee of his regulatory obligation to supervise his employees and to ensure that all his employees abide by all regulatory requirements applicable to the conduct of his business activities. Accordingly, Noticee remains liable for the conduct of his employees, particularly when such conduct was carried out in the course of business and for his benefit.

22. Noticee, in his replies, further submitted that being registered as a RA and not as an IA, his employees were not giving investment advice. It further submitted that the RA Regulations do not require employees to hold NISM certifications during the IP and the requirement for client-facing staff of RA to be NISM qualified was issued only recently, i.e., on December 16, 2024.

23. In this regard, it is pertinent to note that the core allegation in the present proceedings is not about the lack of NISM certification but about the act of providing assurance of returns to clients, which is inherently misleading and contrary to regulatory principles. Further, Noticee's attempt to shift focus by stating that it is registered as a RA and not an IA does not absolve it of responsibility. Regardless of registration category, Noticee is accountable for the conduct of his employees, especially when such conduct includes assuring returns that could mislead his clients.

24. Noticee, in his replies, further submitted that there has to be "dealing in securities" as defined under regulation 2(1)(c) of the PFUTP Regulations to bring an act within the purview of the PFUTP Regulations and in the instant case there is no proof to show that Noticee has committed fraud while "dealing in securities" as contemplated under the PFUTP Regulations. Noticee had also relied upon the order of Hon'ble Supreme Court in the matter of *SEBI v. Kanaiyalal Baldevbhai Patel*[1] to emphasize that "dealing in securities" is required and the order of Hon'ble Securities Appellate Tribunal (SAT) in the matter of *Ms. Suhanika Chourey*[2] and orders of SEBI in the matter of *Star World Research and Niveshicon Investment Advisor* claiming that allegation of the PFUTP Regulations was dropped due to absence of "dealing in securities" or evidence in the said cases.

25. In this regard, it is noted that the term "dealing in securities" has been defined under regulation 2(1)(b) of the PFUTP Regulations which is reproduced below:

"2(1)(b) "dealing in securities" includes:

[1] *(2017) 15 SCC 1*
[2] *Appeal No.765 of 2021 dated January 04, 2022*

(i)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 by any persons including as principal, agent, or intermediary referred to in section 12 of the Act;
(ii)such acts which may be knowingly designed to influence the decision of investors in securities; and
(iii)any act of providing assistance to carry out the aforementioned acts."

26. From the aforesaid definition, it is noted that "dealing in securities" also includes the acts which are designed to influence investors' decisions. Therefore, rendering RA service that influences investors to invest in securities constitutes "dealing in securities". Moreso, any act of providing assistance to carry out the aforementioned acts also amounts to 'dealing in securities'. It is also pertinent to note that the definition of "dealing in securities" was amended with effect from February 01, 2019 based on the recommendation of the Fair Market Conduct Committee in its report dated August 08, 2018[3] wherein the Committee had, *inter alia*, held that:

"Fraudulent, manipulative or unfair trade practices may be carried out with the aid and assistance of persons other than the parties who are transacting in the securities market, including intermediaries who may have contributed to such dealings. The prohibition of fraudulent and unfair trade practices is in the context of dealing in securities. Hence, the definition of 'dealing in securities' should also include those who assist in and indeed often orchestrate or control the dealings in securities, or those who knowingly influence the decisions to invest in securities."

27. Thus, the definition of "dealing in securities" under regulation 2(1)(b) of the PFUTP Regulations is intended to cover acts of intermediaries, such as Noticee, that are designed to influence investment decisions. In addition, clause (iii) of regulation 2 (1) (b) is wide enough to bring activities of all intermediaries within the ambit of the term "dealing in securities". Accordingly, I find that rendering RA service amounts to "dealing in securities".

28. Noticee has also relied on the order of the Hon'ble SAT in the matter of Suhanika Chourey (supra) wherein the findings of violation of PFUTP Regulations were set aside as there was no evidence brought out on record. However, in the instant case,

[3] https://www.sebi.gov.in/reports/reports/aug-2018/report-of-committee-on-fair-market-conduct-for-public-comments_39884.html

WhatsApp communications between the employees of Noticee and clients are available on record, supporting the allegation of assured returns/loss recovery. Therefore, the said decision relied on by Noticee does not aid his case.

29. In view of the discussions in the preceding paragraphs, it is established that Noticee provided assurance of returns/loss recovery to his clients that misled/induced his clients to deal in securities, engaged in mis-selling and failed to exercise due diligence by not exercising any control over employees who were engaging with his clients and thereby violated the provisions of regulations 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of the PFUTP Regulations read with sections 12A(a), (b) and (c) of the SEBI Act, and clauses 1 and 7 of code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations.

Issue II: Whether Noticee advertised his past performance in respect of his research call on social media and thereby violated the provisions of clause 1(c)(xii) of SEBI Circular dated April 05, 2023 read with clause 8.1(c)(xii) of the SEBI Master Circular dated May 21, 2024?

30. It was observed that on the social media platform "X", Noticee, through his handle "@streetgains", regularly posted the "Top 5 Research Calls of the Day" showing positive returns. Accordingly, it was alleged in the SCN that Noticee had advertised his past performance in respect of research calls through such social media posts. From the material on record, it is noted that Noticee had posted the following on February 29, 2024:

Table 3

Service	Symbol	ROI in %	Gains
Index options	BNF24FEB45800PE	24.06%	57600
Index options	BNF24FEB46000PE	167.86%	21150
Index options	BNF24FEB46200PE	126.42%	20100
Index options basic	Nifty 24FEB21900PE	29.21%	10400
Stock Futures	BHARATIATRL 24FEB FUT	0.72%	7600

31. Noticee did not dispute the findings of the inspection, i.e., top five research calls of the day showing positive returns was posted in his social media handle "@streetgains" on

platform “X”. However, Noticee submitted that social media post highlighting "Top 5 Research Calls of the Day" does not constitute an advertisement because it doesn’t invite or lures the investors to subscribe to his services. In this regard, reference is drawn to the definition of “advertisement” as provided in SEBI Circular dated April 05, 2023:

> *“Advertisement shall include all forms of communications, issued by or on behalf of IA/RA, that may influence investment decisions of any investor or prospective investor.*
>
> *The forms of communications, to which the advertisement code shall be applicable, shall include pamphlets, circulars, brochures, notices, research reports or any other literature, document, information or material published, or designed for use in any publication or displays (such as newspaper, magazine, sign boards/hoardings at any location), in any electronic, wired or wireless communication (such as electronic mail, text messaging, messaging platforms, social media platforms, radio, telephone, or in any other form over the internet) or over any other audio-visual form of communication (such as television, tape recording, video tape recordings, motion pictures) or in any other manner whatsoever.”*

32. In view of the above, Noticee’s social media post, made from his official handle "@streetgains", clearly qualifies as a form of communication “issued on behalf of the RA” and is published on a social media platform, which is explicitly covered under the definition. Further, by showcasing only profitable research calls, the post is designed to highlight the success of Noticee's services, which could reasonably influence the investment decisions or perceptions of current or prospective investors. Hence, the post squarely falls within the ambit of “advertisement” under the SEBI framework and thereby Noticee’s argument is misplaced.

33. Noticee further submitted that social media post highlighting "Top 5 Research Calls of the Day" is similar to the “Top Gainers” being displayed on the website of National Stock Exchange of India Limited (NSE). In this regard, it is pertinent to note that the "Top Gainers" list by NSE is market data being displayed independently and not attributable to any particular advisory or research source. On the other hand, Noticee’s post highlights only the positive returns of his own recommendations, thereby implicitly promoting his expertise and success rate. The said post of the Noticee is deliberately

silent on the bottom 5 Research Calls which he made where his clients may have lost money. Hence, the analogy drawn to NSE by Noticee is inaccurate and cannot be accepted.

34. In view of the discussions in the preceding paragraphs, it is established that Noticee advertised his past performance in respect of his research call on social media and thereby violated the provisions of clause 1(c)(xii) of SEBI Circular dated April 05, 2023 read with clause 8.1(c)(xii) of the SEBI Master Circular dated May 21, 2024.

Issue III. Whether Noticee encouraged sale of products not suiting the risk profile of the clients through incentives given to his sales executives and thereby violated the provisions of clause 4(xi) of the SEBI Circular dated August 27, 2013 read with clause 12.4(xi) of the SEBI Master Circular dated May 21, 2024?

35. From the material available on record, it was observed that Noticee was maintaining an incentive structure wherein SEs were provided incentives based on the sales achieved by them. As per the said structure, a minimum sales target of ₹2 lakh was required to qualify for receiving a monthly salary. A copy of this incentive structure was provided to Noticee along with the SCN as Annexure 8.

36. Further, from the sample WhatsApp communications between the SEs of Noticee and clients, it is observed that an SE had recommended an Index Option plan to a client named Mr. Ramachandran, an elderly individual. A copy of the said WhatsApp chats was given to the Noticee as Annexure 6 of the SCN.

37. Based on the above, it was alleged that Noticee, by offering incentives linked to sales performance, encouraged the sale of products not suited to the clients' risk profile.

38. In this regard, Noticee, in his replies, admitted the findings of the inspection, i.e., the aforementioned incentive structure maintained by him and the WhatsApp communication between the SEs of Noticee and clients.

39. However, Noticee submitted that offering incentives to sales executives for performance enhancement is in no manner violation of any rules or regulations. In this case, incentives were directly linked to achieving sales targets (e.g., ₹2 lakh/month to qualify for salary), which can create undue pressure on sales executives to push products without regard to their suitability for clients and as aforementioned above, index option plan was recommended to one of the client who was elderly individual. However, SEBI circular dated August 27, 2013, explicitly prohibits intermediaries from having an incentive structure that encourages sale of products not suiting the risk profile of their clients and Noticee being an intermediary is obliged to comply with the same. Hence, the submission of Noticee in this regard cannot be accepted.

40. Noticee further submitted that he is registered as a RA, not as an IA and conducting risk profiling to advise suitable products as per risk profile of the client is the job of an IA. In this regard, it is pertinent to note that the charge in the present proceedings is not that Noticee failed to conduct client risk profiling (an obligation applicable specifically to IAs) but rather that Noticee had adopted an incentive structure which promotes the sale of unsuitable products to clients. Such conduct, compromising investor suitability, is not limited to IAs and is impermissible for all registered intermediaries. Accordingly, Noticee's submission is misplaced and untenable.

41. Noticee further submitted that the provisions of SEBI Circular dated August 27, 2013 is not applicable on him since the RA Regulations has come into force from September 01, 2014. In this regard, I would like to refer to the following provisions of RA Regulations:

> *"Liability for action in case of default.*
> *32. Research analyst or research entity who:*
> *(i) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder;*
> *shall be dealt with in the manner provided under the Act or the Securities and Exchange Board of India (Intermediaries) Regulations, 2008. (underline supplied)*
>
> *CODE OF CONDUCT FOR RESEARCH ANALYST*
> *7. Compliance*

Research analyst or research entity shall comply with all regulatory requirement applicable to the conduct of its business activities." (underline supplied)

42. It is also pertinent to note that RA is also required to provide a declaration while submitting an application for grant of certificate of registration which states as under:

"FORM A
Securities and Exchange Board of India
(Research Analysts) Regulations, 2014
See Regulation 3
Application for grant of certificate of registration

……
I/ We further agree that I/ we shall comply with, and be bound by the Securities and
Exchange Board of India Act, 1992, and the Securities and Exchange Board of India
(Research Analysts) Regulations, 2014, guidelines/instructions as may be issued by the Securities and Exchange Board of India from time to time.
I/ We further agree that as a condition of registration, I/ we shall abide by such operational instructions/directives as may be issued by the Securities and Exchange Board of India from time to time."

43. From the aforesaid and considering the fact that SEBI Circular dated August 27, 2013 was issued under section 11 of the SEBI Act, Noticee is bound to comply with the said circular. In this regard, reference is drawn to the Hon'ble SAT's ruling in the matter of *Manish Goel v. SEBI (Appeal No. 730 of 2023 decided on February 14, 2025)* wherein the Hon'ble SAT upheld the adjudication order dated August 11, 2023 and enquiry order dated October 30, 2023 where one of the violation established was violation of the provisions of SEBI Circular No. ISD/CIR/RR/AML/1/06 dated January 18, 2006, i.e., circular issued prior to the enactment of the RA Regulations.

44. In view of the aforesaid discussions, submission of Noticee that SEBI Circular dated August 27, 2013 is not applicable to him is without merit.

45. In view of the discussions in the preceding paragraphs, it is established that Noticee had violated the provisions of clause 4(xi) of the SEBI Circular dated August 27, 2013 read with clause 12.4(xi) of the SEBI Master Circular dated May 21, 2024.

Issue IV. Whether Noticee failed to maintain proper rationales for arriving at research recommendations and also failed to digitally sign the research report maintained in electronic form and thereby violated the provisions of regulations 25(1)(i) and (iii) read with 25(2), and clauses 1, 2, 6, and 7 of the Code of Conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations.

46. From the material on record, it was observed that Noticee sent his research recommendations through SMS/WhatsApp/Customer Relationship Management (CRM). However, Noticee affixed a template of four rationales in all his recommendations. Hence, it was alleged in the SCN that Noticee failed to maintain a proper rationale for arriving at research recommendations. It was further alleged that research reports maintained in electronic form by Noticee were not digitally signed.

47. With respect to aforesaid allegation, Noticee, in his replies, submitted that they did not publish research reports, only provided research recommendations via SMS/WhatsApp/CRM as permitted under regulation 2(u)(iii) of RA Regulations which, according to Noticee, does not constitute a research report. Noticee further submitted that SEBI Circular No. SEBI/HO/IMD/IMD-IICIS/P/CIR/2021/0685 dated December 13, 2021, distinguishes between research report and research recommendations. Noticee further argues that during the IP, there was no mandatory requirement to support every research service with a detailed report which was proposed vide consultation paper dated August 06, 2024 and later introduced vide SEBI Circular dated January 08, 2025. Noticee further submitted that rationale templates ensure consistency in technical parameters, which remain relatively stable and argued that SEBI has not prescribed any particular format to maintain rationale.

48. In this regard, reference is drawn to the definition of “research report” as provided in RA Regulations that, *inter alia*, states as under:

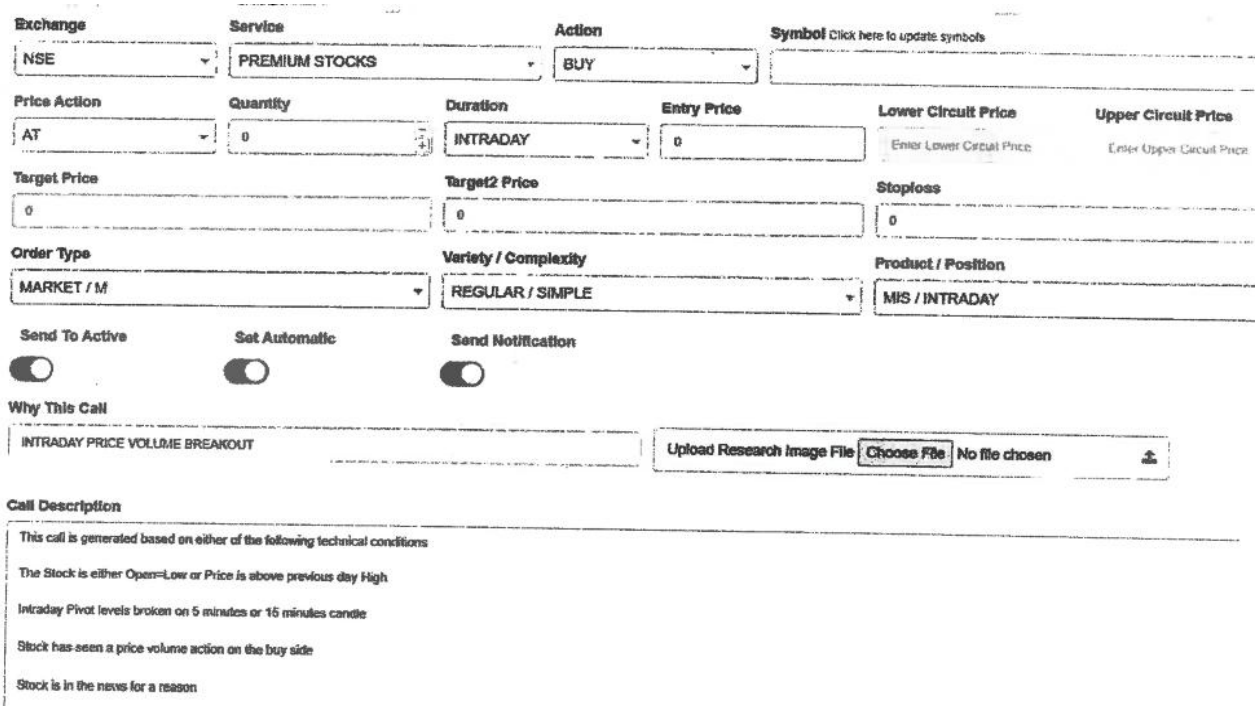
> *“(w) “research report” means any written or electronic communication that includes research analysis or research recommendation or an opinion concerning securities or public offer, providing a basis for investment decision…”*

49. From the aforesaid definition, it can be inferred that research report would include research recommendations sent through SMS/WhatsApp/CRM. It is further noted that the aforesaid definition of "research report" was already in force during the IP. Thus, the research recommendations provided by Noticee have to comply with all the provisions of RA Regulations. In this regard, I would like to refer to the following provisions of RA Regulations in question in the present proceedings and which were in force during the IP:

> "***25.*** *(1) Research analyst or research entity shall maintain the following records:*
> *(i) research report duly signed and dated;*
> *……*
> *(iii)rationale for arriving at research recommendation;(underline supplied)*
>
> ***CODE OF CONDUCT FOR RESEARCH ANALYST***
> ***2. Diligence***
> *Research analyst or research entity shall act with due skill, care and diligence and shall ensure that the research report is prepared after thorough analysis.*
> *……*
> ***6. Professional Standard***
> *Research analyst or research entity or its employees engaged in research analysis shall observe high professional standard while preparing research report."*

50. From the aforesaid, it is evident that RA Regulations mandated that rationale should be maintained for arriving at research recommendations. Further, RAs are required to maintain signed and dated research reports. Additionally, they must exercise due skill, care, and diligence, ensuring that recommendations are the result of thorough analysis, and uphold high professional standards throughout the research process.

51. In this respect, from material on record, snapshot of a sample research recommendation provided by Noticee is given below:



52. From the said research recommendation, it is noted that "BUY" recommendation was provided and under the head "Why This Call", reason was stated as "Intraday Price Volume breakout". Hence, the rationale for his recommendation was provided. However, it is interesting to note here that the said research recommendation simply refers to NSE premium stocks without identifying specific securities. Further, under the call description, a generic template listing four rationales were provided:

"The call is generated based on either of the following technical conditions:

a) The stock is either open low or price is above previous day high
b) Intraday pivot levels broken on 5 minutes or 15 minutes candle
c) Stock has seen a price volume action on the buy side
d) Stock is in the news for a reason"

53. In this regard, I would like to refer regulation 20 of RA Regulations which, *inter alia*, states as under:

> *"20. (1) Research analyst or research entity shall take steps to ensure that facts in its research reports are based on reliable information and shall define the terms used in making recommendations, and these terms shall be consistently used. (underline supplied)"*

54. In view of the aforesaid, it is noted that RA Regulations mandates that the terms used in research recommendation should be clearly defined. However, as noted above, the rationale provided by Noticee for the "BUY" recommendation, i.e., "Intraday Price Volume breakout" is not defined. Instead of giving a clear, stock-specific reason, Noticee used a generic template listing multiple possible conditions under which a call might be made. However, considering the fact that allegation against Noticee in the present proceedings is limited to his failure to maintain proper rationale for his research recommendations, I am inclined to give benefit of doubt to Noticee since rationale for his recommendations were maintained, though not clearly defined. Accordingly, said allegation against Noticee is not established.

55. It was further observed during the inspection that Noticee had maintained his research reports in electronic form, i.e., research recommendations communicated through SMS, Whatsapp, CRM, etc., as explained in para 48 and 49. However, such research reports kept in the CRM in electronic form is not digitally signed. Noticee had not disputed this finding in his replies. In this regard, reference is drawn to the following provisions of RA Regulations:

> *"Maintenance of records.*
> *25. (1) Research analyst or research entity shall maintain the following records:*
> *(i) research report duly signed and dated; (underline supplied)*
> *……*
> *(iii)rationale for arriving at research recommendation;*
> *……*
> *(2) All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:*
> *Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed."*

56. From the perusal of the aforesaid regulations, it is clear that if such research report are maintained in electronic form, they have to be digitally signed. However, as discussed above, the Noticee has admitted that the research reports were not digitally singed and thus Noticee failed to comply with the mandate of the RA Regulations.

57. In view of the aforesaid discussions, it stand established that Noticee had violated the provisions of regulations 25(1)(i) read with 25(2), and clause 7 of the Code of Conduct

as specified in the Third Schedule read with regulation 24(2) of the RA Regulations as he failed to digitally sign the research reports.

58. With respect to the observation that an administrative warning had earlier been issued to Noticee for violation of regulation 25 of the RA Regulations pertaining to the inspection conducted for the period April 01, 2020 to March 31, 2021, Noticee submitted that no such warning was received, either by email or in physical form. In this regard, from the material on record, I note that no proof of delivery (such as emails, acknowledgment of receipt, or tracking reports from India Post/courier) is available. Hence, in the absence of delivery proof, I am inclined to grant the benefit of doubt to Noticee and accept his submission that the administrative warning was not served on him.

Issue V. Does the violation, if any, on the part of Noticee attract monetary penalty under sections 15EB and 15HA of the SEBI Act?

Issue VI. If so, what would be the quantum of monetary penalty that can be imposed on Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act?

59. In the preceding paragraphs, followings violations have been established against Noticee:

Table 4

Sr. No.	Charges (Summarized)	Violations established
1.	Noticee provided assurance of returns/loss recovery to his clients that misled/induced his clients to deal in securities, engaged in mis-selling and failed to exercise due diligence by not exercising any control over employees who were engaging with his clients.	Regulations 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of the PFUTP Regulations read with sections 12A(a), (b), and (c) of the SEBI Act, and clauses 1 and 7 of code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations.
2.	Noticee advertised his past performance in respect of his research call on social media.	Clause 1(c)(xii) of SEBI Circular dated April 05, 2023 read with clause 8.1(c)(xii) of the SEBI Master Circular dated May 21, 2024.
3.	Noticee encouraged sale of products not suiting the risk profile of the clients	Clause 4(xi) of the SEBI Circular dated August 27, 2013 read with clause

Sr. No.	Charges (Summarized)	Violations established
	through incentives given to his sales executives.	12.4(xi) of the SEBI Master Circular dated May 21, 2024.
4.	Noticee failed to digitally sign the research report maintained in electronic form.	Regulations 25(1)(i) read with 25(2), and clause 7 of the Code of Conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations.

60. With respect to this, Noticee in his replies submitted that he had not committed grave and serious violations and therefore shall be issued a warning. Noticee has placed reliance on the orders of Hon'ble SAT in the matter of *Religare Securities Limited v. Securities and Exchange Board of India*[4] (hereinafter referred to as **"Religare"**) and *Piramal Enterprises Limited v. SEBI*[5] (hereinafter referred to as **"Piramal"**).

61. In this regard, upon perusal of both the aforesaid cases, it is noted that the facts, circumstances, and regulatory frameworks in those matters are materially different from the present proceedings. In the Piramal case, the issue pertained to alleged lapses under the SEBI (Prohibition of Insider Trading) Regulations, 1992, particularly concerning the non-closure of the trading window during Unpublished Price Sensitive Information (UPSI) and failure to handle the same. The Hon'ble SAT, considering that the information was shared on a 'need to know' basis, found no evidence of insider trading or misuse of UPSI and treated the lapse as a technical violation. Similarly, in the Religare, the Hon'ble SAT dealt with procedural lapses identified during an inspection of the intermediary's broking and depository operations. The Hon'ble SAT noted that the inspecting team had failed to raise queries or seek clarifications during the inspection and therefore, the benefit of doubt was extended to the intermediary.

62. In contrast, the present case involves a SEBI-registered RA who is found to have committed serious violations under the PFUTP Regulations, RA Regulations and applicable SEBI circulars. The established violations include giving assurance of

[4] *Appeal No. 23 of 2011 decided on June 16, 2011*
[5] *Appeal No. 466 of 2016 decided on May 15, 2019*

returns and loss recovery to clients, thereby inducing them to trade, mis-selling, advertising his past performance in social media, incentivizing the sale of products not suiting clients' risk profiles and failing to digitally sign research records. Moreover, unlike the Religare matter, Noticee was given ample opportunity to respond to the findings made in the inspection prior to the PIA is made. It is noted that Noticee had replied to the findings of the inspection vide e-mails dated April 11, 2024, and April 18, 2024. Further, in the Religare matter, the Hon'ble SAT clearly added a caveat that *"This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of the inspection, the Board should not proceed against the delinquent."* Accordingly, the reliance placed by Noticee on the aforesaid cases is misplaced and not applicable to the facts and circumstances of the present matter.

63. In this background, I find that Noticee is liable for imposition of monetary penalty under the following provisions of the SEBI Act for the violations mentioned in the previous paragraphs:

Table 5

Sr. No.	Violations established	Penalty provision
1.	Regulations 3(a), (b), (c), (d), 4(1), 4(2)(k), (o) and (s) of the PFUTP Regulations read with sections 12A(a), (b), and (c) of the SEBI Act	Section 15HA of the SEBI Act
2.	Clauses 1 and 7 of the code of conduct as specified in the Third Schedule read with regulation 24(2) of the RA Regulations. Clause 1(c)(xii) of SEBI Circular dated April 05, 2023 read with clause 8.1(c)(xii) of the SEBI Master Circular dated May 21, 2024. Clause 4(xi) of the SEBI Circular dated August 27, 2013 read with clause 12.4(xi) of the SEBI Master Circular dated May 21, 2024. Regulation 25(1)(i) read with 25(2) of RA Regulations.	Section 15EB of the SEBI Act

64. Sections 15EB and 15HA of the SEBI Act are reproduced below:

> ***"Penalty for default in case of investment adviser and research analyst.***
> ***15EB*** *Where an investment adviser or a research analyst fails to comply with the regulations made by the Board or directions issued by the Board, such investment adviser or research analyst shall be liable to penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees.*
> ***Penalty for fraudulent and unfair trade practices.***
> ***15HA.*** *If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher."*

65. While determining the quantum of penalty under sections 15EB and 15HA of the SEBI Act, the following factors stipulated in section 15J of the SEBI Act, are taken into account:

> ***"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."*

66. The material available on record has neither quantified the amount of disproportionate gain or unfair advantage, made by Noticee nor the amount of loss, caused to an investor/clients as a result of the default of Noticee. As regard the repetitive nature of default, there is nothing on record to show that the nature of default by Noticee is repetitive.

67. The aforementioned factors have been taken into consideration while adjudging the penalty.

ORDER

68. Having considered all the facts and circumstances of the case, the material available on record, the factors mentioned in preceding paragraphs and in the exercise of powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Rules, I hereby impose a monetary penalty on Noticee as given in the table below**:**

Table 6

Penalty provision	Penalty Amount
Section 15HA of the SEBI Act	Rs. 5,00,000/- (Rupees Five Lakh Only)
Section 15EB of the SEBI Act	Rs. 3,00,000/- (Rupees Three Lakh Only)

69. I am of the view that the said penalty is commensurate with the lapses/omissions on the part of Noticee.

70. Noticee shall remit/pay the said amount of penalty within 45 days 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 AO -> PAY NOW.

71. In terms of the provisions of rule 6 of the Rules, a copy of this order is being sent to Noticee and also to the SEBI.

JAI SEBASTIAN

Digitally signed by JAI SEBASTIAN
Date: 2025.07.31 13:22:58 +05'30'

Date: July 31, 2025 **JAI SEBASTIAN**

Place: Mumbai **ADJUDICATING OFFICER**