

SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI

ORDER

UNDER SECTIONS 11(1), 11(4) AND 11B(1) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992.

IN RESPECT OF –

Sr. No.	NOTICEE	PAN
1.	PRAMOD KUMAR TRIPATHI	BAMPT6991E

IN THE MATTER OF SHRI FINANCIAL ADVISORY PVT. LTD.

1. Securities and Exchange Board of India (“SEBI”) received a complaint on December 28, 2018, against Pramod Kumar Tripathi, Owner of Shri Financial Advisory Pvt. Ltd. (“Noticee”), from one Ganesan Kandeepan (“Complainant”) wherein it was *inter alia* alleged that the Noticee was offering financial investment plans with assured returns to the Complainant.
2. SEBI forwarded a copy of the aforementioned complaint to the Special Task Force, Madhya Pradesh Police vide letter dated January 7, 2019. Simultaneously, SEBI conducted an examination in the matter and thereafter, issued a *Show Cause Notice dated March 30, 2022* (“SCN”), against the Noticee on the basis of findings contained in the examination report, *inter alia* alleging that:
 - i. The Noticee carried out investment advisory activities and held himself out as an ‘*investment adviser*’ without obtaining a Certificate of Registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act, 1992 (“SEBI Act”) read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (“Investment Advisers Regulations”).
3. Vide the SCN, the Noticee was also called upon to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, should not be issued against him for the violations alleged in the SCN. The Noticee replied to the SCN vide a letter dated April 19, 2022.

4. Subsequently, an opportunity of hearing was granted to the Noticee on July 6, 2022. The Noticee appeared in person for the hearing and made oral submissions on merit. Upon completion of hearing, the Noticee was granted one week's time to file written submissions. Accordingly, vide letter dated July 12, 2022, the Noticee filed his written submissions.

FINDINGS:

5. I have considered the SCN, the Noticee's replies along with all the material available on record. As per the SCN, it is alleged that the Noticee held himself out as an '*investment adviser*' without obtaining registration from SEBI in violation of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations. The aforementioned provisions of law read as under:

Provisions of the SEBI Act:

"Section 12 of the SEBI Act – Registration of stock brokers, sub-brokers, share transfer agents, etc.

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

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.”

Provisions of the Investment Advisers Regulations:

“Regulation 3 of the Investment Advisers Regulations – Application for grant of certificate.

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

5.1 In the instant proceedings, the Noticee through his replies, admitted to having offered investment advisory services and also confirmed receipt of money from the Complainant. The Noticee also admitted that he stopped all such activities subsequent to becoming aware of the SEBI requirement mandating obtaining of registration for offering investment advisory services. As noted from the material available on record,

i. The Noticee’s website, *www.shrifin.com* (the website is no longer active; however, archived pages of the website were downloaded from *web.archive.org*), contained the following information /assertions:

- *“Get exclusive trading tips with Shri Financial Advisory Pvt. Ltd. (“SFAPL”). Detailed and research based trading tips service. Give missed call on 9977005200.*
- *Since 1999, we have helped create programs and portfolios to meet long term financial goals. Have questions about investments, taxes, retirement and /or estate planning? One of our credentialed professionals would be glad to guide you.*
- *We start by clarifying our fee structure and explaining the different ways we help. Then we analyse your goals and compare them to your current portfolio. Then we recommend an investment strategy designed to meet your risk tolerance.*
- *High quality stock recommendation by top Indian SEBI registered investment advisor – Registration no. INA000001351.”*

- ii. From the documents /evidence submitted by the Complainant to SEBI, it is noted that vide an e-mail dated July 11, 2017, the Noticee informed the Complainant that: “We (Noticee and SFAPL) are SEBI registered ISO certified Company. Basically, we provide BSE, NSE, MCX, NCDEX and MSEI trading recommendation tips to trade ...”

5.2.1 As per the information obtained by from PayU Money, HDFC Bank and Punjab National Bank, it is observed that two bank accounts were operated by the Noticee (linked to the *PayU Money Payment Gateway*), viz. (i) HDFC Bank account no. 50100184161620 (payments to this account were made by the Complainant) and (iii) Punjab National Bank A/c No. 0536001700131047. As per the SCN, the total credits received in the aforesaid bank accounts for the period from February 6, 2015 to June 10, 2020, amounted to **₹9,82,506** (alleged in the SCN as being consideration received by the Noticee in lieu of ‘*Investment Advice*’ offered through investment advisory services), as detailed below:

BANK	A/C OPERATED BY	PERIOD	AMOUNT IN ₹
HDFC BANK A/C No. 50100184161620 BRANCH: TRADE HOUSE INDORE	PRAMOD KUMAR TRIPATHI – OWNER OF SHRI FINANCIAL ADVISORY PVT. LTD.	18.10.2016–3.09.2018	5,62,117
PUNJAB NATIONAL BANK A/C No. 0536001700131047 BRANCH: A. B. ROAD, DISTRICT RAJGARH		6.02.2015–10.06.2020	4,20,389
TOTAL			9,82,506

5.2.2 In his replies, against the total credits of ₹9,82,506, the Noticee admitted to having received consideration /fees amounting to ₹2,52,976, in his HDFC Bank and Punjab National Bank accounts, from fourteen clients /investors, viz. (a) the Complainant, Ganesan Kandeepan (b) Mo Jahid, (c) John Barla, (d) Subbbih, (e) Bata Krishna, (f) KPC, (g) Sunaram Murmu, (h) RKS, (i) Hemant Nikhra, (j) Nay Choudhary, (k) Shridharjha, (l) Manish Mishra, (m) Mukesh, son of Pradeep Singh Yadav and (n) Dev Brat, in lieu of ‘*Investment Advice*’ offered. Out of the aforesaid amount of ₹2,52,976, the Noticee further submitted that an amount of ₹1,18,200 has been refunded by him to some of the aforementioned clients /investors, as under:

NAME OF CLIENT /INVESTOR	PAYMENT ID	DATE	AMOUNT IN ₹
GANESAN KANDEEPAN	HDFC BANK		60,000
MO JAHID		25.2.2018	3,200
		23.3.2018	6,000
		4.4.2018	10,000
		4.4.2018	4,000
MANISH MISHRA		2.1.2018	10,000
		6.1.2018	15,000
TOTAL AMOUNT REFUNDED BY THE NOTICEE			1.18,200

- 5.2.3 The Noticee submitted that for the period from July 2019–March 2021, he was employed with AU Small Finance Bank earning a monthly salary of ₹13,000. However, the Noticee has failed to substantiate his assertions through evidentiary documents such as relevant bank statements of the bank accounts operated by him, etc. In addition, from the bank statements relied upon by SEBI in the SCN, no such narration pertaining to salary purported to have been received by the Noticee during the period July 2019 to June 2020, is observed. In the absence of any documentary evidence, I am not inclined to accept the Noticee’s aforesaid submission.
- 5.2.4 The bank statements relied upon by SEBI in the SCN when viewed in light of the Noticee’s replies appear to indicate that amounts totaling ₹5,78,255 (₹3,48,734 in Punjab National Bank and ₹2,29,521 in HDFC Bank) were received by the Noticee either through self–deposits or transfers from his family members. In this context, I am inclined to treat the aforesaid amount as not being part of the consideration received by the Noticee in lieu of ‘*Investment Advice*’ offered.
- 5.2.5 In view of the above and having regard to the Noticee’s conduct in these proceedings wherein he has co–operated with SEBI and also provided information regarding his investment advisory services, I am inclined to accept his submission that an amount of ₹2,52,976 was collected from investors /clients, as consideration in lieu of ‘*Investment Advice*’ offered. Having accepted such submission, I also find that an amount of ₹1,66,776 (as submitted by the Noticee in his reply dated July 12, 2022), is outstanding and has to be refunded by the Noticee to his investors /clients.
- 5.3 The definition as given in Regulation 2(m) of the Investment Advisers Regulations states that ‘*Investment Adviser*’ shall mean “any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called”. Further, Regulation 2(l) of the Investment Advisers Regulations defines ‘*Investment Advice*’ as “advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning.” The aforementioned definitions when viewed in light of the observations contained in the preceding paragraphs lead me to conclude that the Noticee had

indeed held itself out as '*Investment Adviser*' by offering to give '*Investment Advice*' related to investing in, purchasing and selling of securities in lieu of consideration received from investors /clients.

5.4 Section 12(1) of the SEBI Act *inter alia* provides that no investment adviser shall buy, sell or deal in securities except under, and in accordance with, the conditions of a Certificate of Registration obtained from the Board. Further, Regulation 3(1) of the Investment Advisers Regulations provides that no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a Certificate of Registration from the Board. It is pertinent to mention that the Noticee was never registered with SEBI, in any capacity as an intermediary, despite having represented himself as such on SFAPL's website, www.shrifin.com. Incidentally, a search of SFAPL on the Ministry of Corporate Affairs' website i.e. www.mca.gov.in/MCA21 returned the message "*No record(s) found*". By operating as '*Investment Adviser*' as defined under Regulation 2(m) of the Investment Advisers Regulations, without obtaining registration from SEBI, I find that the Noticee violated Section 12(1) of SEBI Act read with Regulation 3(1) of the Investment Advisers Regulations.

6. The Noticee claimed that the complaint of Ganesan Kandeepan has been addressed and full payment has been made to him. Upon perusal of Noticee's reply dated July 12, 2022, I note that the same indicates that the Complainant has been refunded by the Noticee. However, as the aforementioned refunds have been made after the initiation of proceedings by SEBI against the Noticee, I am of the considered view that he cannot be escape from the liabilities arising out of the violations found to have been committed by him in these proceedings.

7. The SCN had *inter alia* called upon the Noticee to show cause as to why suitable directions under Sections 11(1), 11(4) and 11B(1) of the SEBI Act, should not be issued against it. In the instant proceedings, the amount of fees /consideration collected by the Noticee as a result of providing unregistered '*Investment Advice*' to investors, amounted to **₹1,66,776** (as submitted by the Noticee in his reply dated July 12, 2022). In light of the findings at paragraph 5.1–5.4, I am of the considered view that the Noticee is liable to refund the aforementioned amount collected as fees in lieu of unregistered '*Investment Advice*' offered to its clients /investors, and accordingly, a direction to the Noticee to refund such amount will be in the interest of investors in the securities market. I however, note that the SCN does not identify any particular investor or any specific

group of investors who have suffered losses due to unauthorized activity carried out by the Noticee.

ORDER:

8. In view of the foregoing, I, in exercise of the powers conferred upon me in terms Sections 11(1), 11(4) and 11B(1) read with of Section 19 of the SEBI Act, hereby direct that:
- (a) The Noticee, **Pramod Kumar Tripathi**, shall within a period of three months from the date of coming into force of this Order, refund the money received from any Complainants /investors /clients, as fees /consideration or in any other form, in respect of his unregistered investment advisory activities.
 - (b) The Noticee shall cause to effect a public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, inviting claims from Complainants /investors /clients within a period of fifteen (15) days from the date of this Order. The said public notice shall detail the modalities for refund, including the details of the contact persons such as names, addresses and contact details. A period of two (2) months from the date of the publication of the public notice shall be provided to the Complainants /investors /clients for submitting their claims.
 - (c) The repayments to the Complainants /investors /clients shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments.
 - (d) The Noticee is prevented from selling his assets, properties and holding of mutual funds /shares /securities held by him in demat and physical form except for the sole purpose of making the refunds as directed above. Further, banks are directed to allow debit only for the purpose of making refunds to the Complainants /investors /clients who were availing the unregistered investment advisory services from the Noticee, as directed in this Order, from the bank accounts of the Noticee.

- (e) After completing the aforesaid repayments, the Noticee shall file a report of such completion with SEBI addressed to the *“Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department, SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai-400051”*, within a period of 15 days, after completion of three months from the coming into force of this Order, duly certified by an independent Chartered Accountant and the direction at paragraph 8(d) shall cease to operate upon filing of such report on completion of refunds to Complainants /investors /clients.
- (f) The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/complainants/investors who were availing the investment advisory service from the Noticee. Thereafter, remaining amount if any will be deposited in the Investor Protection and Education Fund maintained by SEBI.
- (g) The Noticee is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of **1 (one) year** from the date of this Order or till the expiry of **1 (one) year** from the date of completion of refunds to Complainants /investors /clients as directed in paragraph 8(a) above, whichever is later.
- (h) The Noticee shall not undertake, either during or after the expiry of the period of debarment /restraint as mentioned in paragraph 8(g), either directly or indirectly, investment advisory services or any activity in the securities market without obtaining a Certificate of Registration from SEBI as required under the securities laws.
9. The above direction for refunds /repayment to clients /investors as given in paragraph 8(a) above, does not preclude such Complainants /investors /clients to pursue other legal remedies available to them under any other law against the Noticee for refund of money or deficiency in service.
10. This Order shall come into force with immediate effect.

11. A copy of this Order shall be served upon the Noticee. A copy of this Order shall also be forwarded to the recognised Stock Exchanges, Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions and also the Government of Madhya Pradesh for its information.

Place: Mumbai
Date: October 13, 2022

ASHWANI BHATIA
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA