BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

(ADJUDICATION ORDER NO: ORDER/BM/RK/2024-25/30335)

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

In respect of:

Name of the Noticee	PAN
ABID ALI (through its website https://trade26research.com)	**DNXPA8873G**

In the matter of "**Trade 26 Research, Unregistered Investment advisory activity carried out by Abid Ali**"

BACKGROUND

1. Securities and Exchange Board of India **("SEBI")** conducted an examination in the matter of unregistered investment advisory activities carried out by Shri Abid Ali of Trade 26 Research (hereinafter referred to as the "**Noticee**"), an Authorized Person (Registration No. AP01061201151994 dated May 17, 2023) of Angel One Limited (hereinafter referred to as the **"AOL"**) to ascertain possible violations of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act"**), Rules and Regulations thereunder.

2. The examination was conducted for the period beginning January 25, 2021 to January 03, 2024 (hereinafter referred to as "**Examination Period/EP**") i.e. from the time period when the Noticee's website got registered till the date when the website

was found to be inactive. During the examination, it was observed that the Noticee was allegedly involved in providing investment advisory services in return of fee, being collected in his bank account without obtaining SEBI Registration.

3. SEBI had, therefore, initiated adjudication proceedings under the SEBI Act against the Noticee to inquire into and adjudge the alleged violations of the provisions of Section 12(1) of the SEBI Act read with Regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (hereinafter referred to as the "**IA Regulations")** and Section 12(A)(a), (b), (c) of SEBI Act and Regulations 3(a), (b), (c), (d), 4(2)(k) and (s) of the SEBI (Prohibition of Fraudulent and Unfair Trading Practices related to Securities Markets) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**) by the Noticee and to impose penalty under Sections 15HA and 15EB of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

4. In this regard, SEBI appointed the undersigned as the Adjudicating Officer **("AO")** vide order dated March 15, 2024, communicated vide communique dated March 15, 2024 under Sub-section 1 of Section 15-I of the SEBI Act read with Rule 3 of the SEBI (Procedure of Holding Inquire and Imposing Penalties) Rules, 1995 (hereinafter referred to as **"Adjudication Rules"**) to inquire into and adjudge under Sections 15HA and 15EB of the SEBI Act for the aforesaid violations alleged to have been committed by the Noticee.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

5. A Show Cause Notice dated March 21, 2024 (hereinafter referred to as '**SCN**') was issued to the Noticee under Rule 4 of the Adjudication Rules, to show cause as to why an inquiry should not be held against him and why penalty, if any, under Sections 15HA and 15EB of the SEBI Act be not imposed upon him. The said SCN was served upon the Noticee via SPAD, which returned undelivered and also through digitally signed email dated March 22, 2024, which was duly delivered on the same day. The proof of service is on record.

6. In the interest of natural justice and in order to conduct an inquiry in terms of Rule 4(3) of the Adjudication Rules, the Noticee was provided with an opportunity of personal hearing on April 19, 2024 vide hearing Notice dated April 15, 2024. Noticee vide email dated April 18, 2024 sought adjournment of the said hearing. Accordingly, vide email dated April 24, 2024, the said Noticee was granted a final opportunity of hearing on May 03, 2024 with an advise to file reply to the SCN in the matter latest by May 01, 2024. In response, Noticee submitted his reply to the SCN vide letter received through email dated May 01, 2024. The said hearing was attended to by the Authorized Representative (AR) of the Noticee who reiterated the submission made vide email dated May 01, 2024. The AR of the Noticee sought time till May 07, 2024 to make additional submission in the matter which was acceded to and accordingly, the Noticee made additional submission vide email dated May 07, 2024

7. The submissions of the Noticee vide his letter received through email dated May 01, 2024 and additional submission dated May 07, 2024 are summarized as under:

Submissions of the Noticee

a) *Noticee submitted that he was unaware of the shares and stock market and runs a small clothing shop to complete family needs. After the spread of COVID pandemic, he didn't have an income source to complete family needs so, he studied graph reading skills from YouTube and Google and after learning it, he invested amount in Share market and earned little profit on his investment.*

b) *He submitted that after his prediction, his relatives also opened their DEMAT accounts and they also started trading and he never took any remuneration from his relatives.*

c) *His friends also showed their willingness to learn the graph reading technique from him and accordingly, he started the classes to teach them graph reading techniques and in return his friends gave him some amount as a good gesture. He never insisted his friends to purchase specific shares.*

d) That after some duration he had the intention to share his graph reading knowledge with the maximum number of people so, he hired a freelance website developer for making of an HTML website & told him to prepare a website as he didn't know share and stock. The whole website was designed by a freelancer web designer. Options viz, stock cash, Stock Future, Stock Option, MCX Bullion, MCX Base Metal, MCX Energy were added by the website designer. The said website is never used for promotion and he does not get any single client from that website and it is a dummy website. The website is not fully live and all the contents are copied and pasted from other websites by freelance developer.

e) Trade 26 Research never claimed on the website that it provides trading services in the above categories but it helps to teach the graph reading technique in the above categories.

f) He never worked for trading rather was running classes regarding the graph and reading of shares and never advised to purchase any specific share. And that is why there is no complaint from any of the learners against him, before any forum or Police station about cheating or manipulating information or data or of having used their funds for personal use or invested their funds.

g) He has never violated Section 12(1) of the SEBI Act 1992 as that Section is related to the registration of stock brokers, share transfer agents, etc.

h) He never promised learners that he was registered with SEBI.

i) That there is no relation between him and the funds and trading accounts of learners.

j) The fact is that he only provides the classes for the graph reading techniques and he wants to highlight that if the study is proper then they can earn maximum profit. There is no package like the scheme displayed on the website of "Trade 26 Research".

k) *W.r.t words such as membership, options, Stock, bank nifty, registration, fees, course fees and credit entries in his HDFC bank account, he submitted that these words are related to the class run by him and are related to the teaching the technique of graph reading.*

l) *The name "Trade 26 Research" is not any legal entity and chose this name from Google as he saw the name "Trade 24 Research" somewhere on the internet while preparing the website domain he got the name "Trade 26 Research. So, he continued his class with the same name as "Trade 26 Research".*

m) *That he has one more house property which he had lent on rent. The details of rent from the house are mentioned as follows:*

Date	Rupees
09/02/2022	2,950
15/02/2023	50,000
10/07/2023	10,000
18/09/2023	9,100
29/09/2023	6,500
27/10/2023	6,500
TOTAL	**Rs 85,050**

CONSIDERATION OF ISSUES AND FINDINGS: -

8. I have carefully perused the charges levelled against the Noticee, the documents / material available on record and the submissions of the Noticee. The issues that arise for consideration in the present case are:

Issue No. I: Whether Noticee is in violation of the Section 12(1) of the SEBI Act read with Regulation 3(1) of SEBI IA Regulations and Section 12(A)(a), (b), (c) of SEBI Act and Regulations 3(a), (b), (c), (d), 4(2)(k) and (s) of the PFUTP Regulations?

Issue No. II: If yes, does the violation, on the part of the Noticee would attract monetary penalty under Sections 15HA and 15EB of the SEBI Act as applicable?

Issue No. III: If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

9. Before proceeding further, I would like to refer to the relevant provisions of law alleged to have been violated by the Noticee:

Relevant provisions of SEBI Act, 1992

Registration Certificate

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.

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

***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;*

Relevant provisions of 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.

<u>4. Prohibition of manipulative, fraudulent and unfair trade practices</u>

(2) *Dealing in securities shall be deemed to be a [7][manipulative] fraudulent or an unfair trade practice if it involves [8][any of the following]:—*

(k) *disseminating information or advice through any media, whether physical or*

digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities;]

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

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}];

<u>Relevant Provisions of IA Regulations</u>

<u>Application for grant of certificate.</u>

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.*

Issue No. I: Whether Noticee is in violation of the Section 12(1) of the SEBI Act read with Regulation 3(1) of SEBI IA Regulations and Section 12(A)(a), (b), (c) of SEBI Act and Regulations 3(a), (b), (c), (d), 4(2)(k) and (s) of the PFUTP Regulations?

10. Noticee's website, having URL https://trade26research.com, was surfed on date August 7, 2023 to obtain information regarding the advisory services being allegedly rendered by him along with the payment gateway related details. However, the said URL link was not active on the said date and following error appeared on his website:-


8/7/23, 10:38 AM Unknown Host

Unknown Host

Description: Unable to locate the server named "*trade26research.com*" --- the server does not have a DNS entry. Perhaps there is a misspelling in the server name, or the server no longer exists. Double-check the name and try again.

11. In order to further find out the details, the, said URL was checked on https://web.archive.org wherein following information was observed w.r.t to the website that was being operated by the Noticee, when it used to be active.

About us

We work with various kinds of strategies to delight the customers by providing continues Support in the market. Trade 26 Research is the right place if you want less risky stock and commodity market tips with step by step follow-up at every stage. We provide our best quality services and tips at very affordable rate. ***Our recommendation are highly accurate and gives consistence profit in any market because we have a team of highly experienced and knowledgeable technical analysts, who provide accurate calls related to Equity and Commodity market trading.*** *We are a one top firm for the investors because we strictly follow the basic principles of investment.* ***We offer many services as per the investments of an***

investor, trader and broker. *We are one of the most trusted and reputed stock advisory firm in Varanasi (India). We extremely believe in providing the benefit to our clients by guiding them in form of recommendation and information.*

Our Services

Stock Cash

Our team keeps eye on global market and correlates the Indian market with it, in this service you

Stock Future

Our team keeps eye on global market and correlates the Indian market with it, in this service you

Stock Option

Our team keeps eye on global market and correlates the Indian market with it, in this service you

MCX Bullion

Our team keeps eye on global market and correlates the Indian market with it, in this service you

MCX Base Metal

Our team keeps eyes on global market and correlates the Indian market with it, in this service yo

MCX Energy

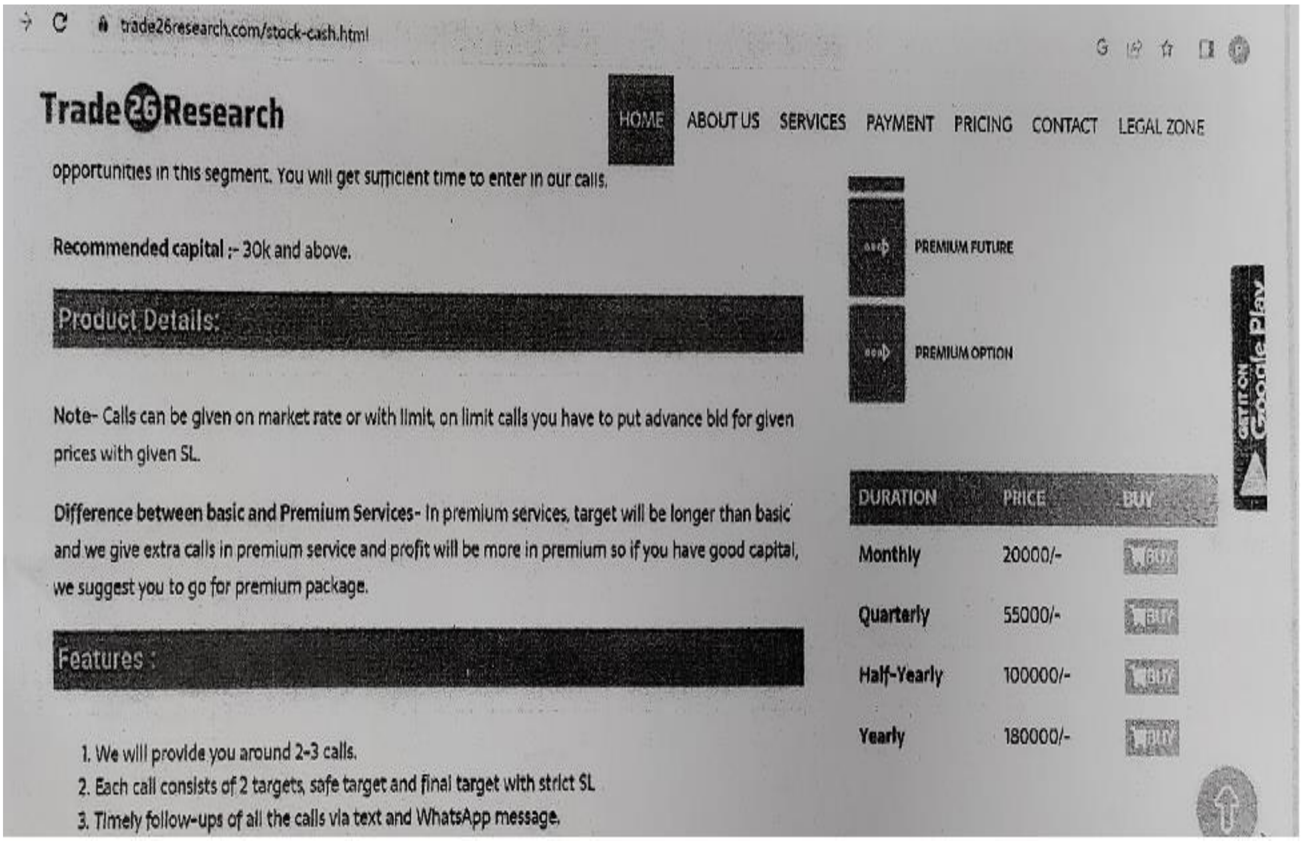
Our team keeps eyes on global market and correlates the Indian market with it, in this service yo

Contact Us
Address: *Cant Nehru market First Floor Varanasi*

Phone:+91-8707333195, +91-7518421437.

Email: info@trade26research.com , Trade26research@gmai.com

12. It was observed from the website of the Noticee that it was offering multiple price packages which is evident from the screenshot of the website below:



13. Further, it was observed that the Noticee was not having any registration as IA to provide investment advisory services but he was allegedly offering such services without having SEBI Registration. From the above it was observed that Noticee was allegedly providing various services pertaining to securities market and was also giving assured returns on investments.

14. In order to ascertain whether the Noticee was rendering the services in lieu of fee, credit entries in his HDFC Bank account was searched with keywords such as searched with keywords such as membership, Options, Stock, banknifty, Registration, Fees, tips, course fee share, share market, Brokerage, Investment, Trading, trade26, etc wherein many such transactions were observed. In addition to the aforesaid, credit entries as per the price package and with narration tips, fees, trade, subscription etc. are also observed in the bank account statement of the Noticee.

15. Thus, it was alleged that the Noticee was providing investment advisory services without SEBI Registration and was disseminating false and misleading information through his website, which was likely to influence the decision of investor in securities market and was allegedly mis-selling the securities by making false assurances/promises along with claims of assured return.

16. In view of the above, it is alleged that the Noticee has violated Section 12(1) of SEBI act of 1992 and Regulation 3 (1) of IA Regulations, 2013. Further, it is alleged that the Noticee has violated Section 12A(a), (b), (c) of SEBI Act, 1992 and Regulations 3(a), (b), (c), (d),4(2) (k) and (s) of the PFUTP Regulations, 2003 by disseminating false information through his website, making false assurances/promises along with claims of assured return.

17. Noticee submitted that he was unaware of the shares and stock market and runs a small clothing shop to fulfil family needs and that during the COVID pandemic he studied graph reading skills from youtube videos and google searches and after that he had invested some amount in stock market wherein he earned some profit. He further submitted that after his prediction, his relatives also opened their DEMAT accounts and they also started trading and that he never took any remuneration from his relatives. Subsequently, his friends also showed their willingness to learn the graph reading technique from him and accordingly, he started the classes to teach them graph reading techniques and in return his friends gave him some amount as a good gesture. He never insisted his friends to purchase specific shares.

18. With regard to the website he submitted that in order to teach his graph reading knowledge to more people, he hired a freelance website developer who had developed the website and that the Options viz, stock cash, Stock Future, Stock Option, MCX Bullion, MCX Base Metal, MCX Energy were added by the said website designer. He submitted it is a dummy website and never claimed on the website that it provides trading services in the above categories but it helps to teach the graph reading technique in the above categories.

19. Noticee submitted that the narrations viz, membership, Stock, bank nifty, registration, fees, course fees and corresponding credit entries in his HDFC bank account are related to the class run by him on the techniques of graph reading. He only provided the classes for the graph reading techniques and he wanted to highlight that if the study was proper then they can earn maximum profit and that there is no package like the scheme displayed on the website of "Trade 26 Research".

20. He never promised learners that he was registered with SEBI and that is why there is no complaint against him. He further submitted that he has one more house property which he had lent on rent and it was the rent received on that house property. Noticeee denied of violating Section 12(1) of the SEBI Act 1992 stating that it is related to the registration of stock brokers, share transfer agents, etc.

21. I note from the archived webpages of the website of Trade 26 Research designed for the Noticee that it claimed of providing services in Stock Cash, Stock Future, Stock Option MCX Bullion, MCX Base Metal, MCX Energy and were providing such services as per the investments of an investor, trader, broker. It was also mentioned "*We are one of the most trusted and reputed stock advisory firm in Varanasi (India)".* Further under the heading 'About us', it was inter-alia mentioned …… *Trade 26 Research is the right place if you want less risky stock and commodity market tips with step by step follow-up at every stage. We provide our best quality services and tips at very affordable rate……* It is also mentioned in the web page that they provide recommendation and provide services as the investments of an investor, trader and broker. It is thus observed that the services provided by the Noticee are akin to an Investment Advisor. Noticee submitted that the web page was dummy, the wordings in the web page were added by the website designer and he claimed to have provided only classes for teaching the graph reading technique. Noticee was advised to submit evidence in support of his claim that he was only teaching. However, he has failed to provide any documentary evidence in this regard. The webpage was designed by the website designer who admittedly was appointed by the Noticee. Hence, the Noticee was very much aware of the website and its contents. The submissions of the Noticee is therefore, bereft of merits.

22. Further, in order to ascertain whether the Noticee was rendering the services in lieu of a fee, credit entries in his HDFC bank account were searched with keywords such as membership, Options, Stock, banknifty, Registration, Fees, tips, course fee share, share market, Brokerage, Investment, Trading, trade26, etc wherein many such transactions were observed. The excerpt of the Bank account statement of the Noticee is illustrated in Table 1 below:

Table 1:

Date	Narration	Debit	Deposit Amt.	Closing Balance
02/12/20	UPI-PRADEEP BABURAO JADH-PRADEEP.SHR01@OKICICI-ICIC0001194-033717105597-FEE		3,000.00	8,000.00
31/01/21	UPI-PRABHAKAR PANDENA-PRABHAKARP24@OKHDFCBANK-HDFC0000687-103119746621-TRADING CALLS		2,000.00	65,934.00
01/02/21	UPI-PRABHAKAR PANDENA-PRABHAKARP24@OKHDFCBANK-HDFC0000687-103219876848-TRADING		999.00	67,933.00
02/02/21	UPI-CHETNA MALIK-CHETNAMALIK37@OKHDFCBANK-HDFC0000054-103316555928-TRADING		10,000.00	80,733.00
15/03/21	UPI-MUDASSAR MUSA WAGLE-MUDDUUUUUUUUUU@OKICICI-ICIC0000004-107420239671-TRADING CALL FEES		2,500.00	47,854.43
24/03/21	UPI-GANESH RAJENDRA KHAR-GANRAJKHARPUDE-1@OKAXIS-INDB0000399-108322501591-MARKET GURU		3,000.00	51,896.50
08/04/21	UPI-RAKESH KUMAR SAHU-SAHU.RAKESH049@OKSBI-SBIN0008051-109812032427-FEE		5,000.00	55,783.68
07/06/21	UPI-BINOY KUMAR GOEL-BINOYKUMARGOEL@OKAXIS-UTIB0004441-115816119525-MEMBERSHIP		500.00	1,18,298.92
[illegible]9/06/21	UPI-MURALI-S.MURALI752@OKAXIS-UTIB0000704-116014375730-TRADE		3,000.00	1,22,303.42
25/06/21	UPI-SURESH V-SURESH.SURGAN@OKSBI-SBIN0008688-117614753530-TIPS		1,000.00	1,47,999.98
05/07/21	IMPS-118617637737-SURENDER KASULA-HDFC-XXXXXXXX9246-BANKNIFTY		2,000.00	1,60,096.97
07/07/21	UPI-RAMILABEN PRAKASHBHA-PRAKASHBHAI434@OKHDFCBANK-HDFC0002117-118813706899-TRADING		1,000.00	1,63,095.97
07/07/21	UPI-SUNIL KUMAR-S.KUMAR3809@OKHDFCBANK-HDFC0000597-118819125349-BANKNIFTY GURU		1,500.00	1,66,598.75
15/07/21	IMPS-119617389584-SHYAM KISHORE SINGH-HDFC-XXXXXXXX7278-FEE		2,000.00	1,63,894.34
16/07/21	IMPS-119713892512-ARGHA SAHA-HDFC-XXXXXXXXXXX9298-TRADE 26 RESEARCH		2,000.00	1,64,394.34
19/07/21	01451050056393-TPT-DINESH KADAM FOR TRADING FEES-DINESH MANOHAR KADAM		1,000.00	1,66,722.74
19/07/21	UPI-KUNDAN BHARTI-ER.KUNDANBHARTI@OKSBI-SBIN0000037-120019514409-BANK NIFTY		1,000.00	1,68,972.74
[illegible]/07/21	UPI-SAROJ KUMAR PUROHIT-SAROJ20301@YBL-ANDB0000048-120971719798-FOR TRADE		1,500.00	1,70,511.73
01/08/21	NEFT CR-SCBL0036001-MR ABHISHEK SHARMA-RAJ BANK NIFTY ADIB ALI-LB3670210802G966		2,000.00	1,72,015.53
03/08/21	UPI-DEEPAK KUMAR-DEEPAKJI1979@OKSBI-SBIN0008422-121514133428-PAYMENT FOR SHARE		1,000.00	1,90,491.93
04/08/21	UPI-BRIJESH MOHAN LAKHER-BRIJESHMOHANLAKHERA@OKHDFCBANK-HDFC0001445-121632129102-BANK NIFTY		4,000.00	2,17,790.93
04/08/21	UPI-MAYURSINHA POPAT KA-MAYURKAGADE143@OKSBI-SBIN0004451-121614884317-STOCK		2,000.00	2,19,790.93
05/08/21	01451050056393-TPT-AS A MARKET CONSULTATION FEES-DINESH MANOHAR KADAM		2,000.00	2,39,119.33
10/08/21	UPI-DEEPAK KUMAR-DEEPAKJI1979@OKSBI-SBIN0008422-122211813139-SHARE TRADING TIPS		1,000.00	2,26,769.33

Accordingly, analysis of the bank statement is as under:

No. of credit entries	**3953**	**`1,03,35,089.96**	
		No. of Credit entries with above key words. No. of credit entries matching with package amount (**F/F**)	175 amounting to `4,08,420.75 20 amounting to ` 4,00,000.00
		Total fee collected	**`8,08,420.75**
	3247	**`1,01,22,535.94**	
No. of debit entries		The debit entries for personal use with key words 'ROOM KA ADVANCE', basket trading, -SHARIQ AHMED SHAIKH could be observed.	10 amounting to ` 26,20,000.00
Total entries	**7200**		

23. From the above, it is observed that the first date of credit entry relating to collection of fee was on December 02, 2020 i.e. the day on which alleged unregistered investment advisory services were started by the Noticee and the money was collected from the investors on the narrations mentioned above in the excerpt of the bank account statement wherein the total amount received towards fees was Rs 8,08,420.75. However, as per the *Whois Directory*, it was observed that the website of the Noticee came into existence on January 25, 2021 which showed that the Noticee started collecting fees prior to the hosting of his website. The details of which are also mentioned below:

12/22/23, 4:09 PM Whois trade26research.com

Whois
Identity for everyone

trade26research.com

Updated 3 days ago

Domain Information

Domain:	trade26research.com
Registrar:	GoDaddy.com, LLC
Registered On:	2021-01-25
Expires On:	2024-01-25
Updated On:	2023-01-18
Status:	clientDeleteProhibited clientRenewProhibited clientTransferProhibited clientUpdateProhibited
Name Servers:	ns1.infotackle.com ns2.infotackle.com

24. From the keywords like tips, trading calls, trade, Bank Nifty, fees etc as mentioned in the Bank Statement of HDFC as brought above, it is clear that Noticee was giving advisory services in lieu of fees. With regard to the above Noticee in reply to the SCN submitted that the amount received are related to the class run by him on the techniques of graph reading, however Noticee has not substantiated the same with any evidence. I note from the above excerpt of the HDFC account statement of the Noticee that on December 02, 2020, a credit of Rs 3000 as “Fee” by one Pradeep Baburao Jadh, Rs 3000/- as “Trading Calls” by one Mr Prabhakar Pandena on January 31, 2021, Rs 2500 as “Trading Call Fees” by one Mr Mudassar Musa, Rs 500/- as “Membership” on June 07, 2021 by one Mr Binoy Kumar Goel, Rs 1000/- as “Tips” on June 25, 2021 by one Mr Suresh V, Rs 2000/- as “BANKNIFTY” by one Mr Surender Kasula on July 05, 2021, Rs 2000/- as “Market Consultation Fees” by one Mr Dinesh Manohar Kadam on August 05, 2021, Rs 1000/- as ”Trading Tips” by one Mr Deepak Kumar on August 10, 2021, Rs 3000/- as “Handling Fees” by one Mr Billa David Praveen on September 06, 2021, Rs 1000/- as “For Sure Shot Call” by one Ms

Deepali Ajay Gaonkar, Rs 18000 as “Share Brokerage Fee” by one Mr Charandeep Singh on April 5, 2022 and many such entries were credited in his HDFC bank account on a continuous basis from December 02, 2020. The said entries viz, Trading Calls, handling fees, Market Consultation fees, for sure shot call, BANKNIFTY, etc unambiguously show that the Notice was receiving fees towards his services provided on investments. It is only and after thought by the Noticee that he was providing teaching classes. Subsequent to the hearing, Noticee submitted that the credit entries in his bank account statement are related to the rent on house property owned by him. In this regard, I note that the rent received by the Noticee as per his submission was Rs 2950 on February 09, 2022, Rs 50000/- on February 15, 2023, Rs 10000/- on July 10, 2023 and Rs 9100/- on September 18, 2023. In this regard, Noticee was advised to provide the, rent receipt, details of tenants, etc. Noticee provided the copy of 6 rent receipts wherein it is observed that the said rent receipts are devoid of receipt numbers, monthly rent and period for which the rent was being paid are blank in 2 and 3 such rent receipts respectively, 3 rent receipts mentioned name of different owners and remaining 3 mentioned the Noticee’s name as owner and in one of the rent receipts issued to Mr Shariq, the rent amount is Rupees fifty thousand and address is mentioned as “*Galibar Mumbai*” which is contradictory to the Noticee’s submission that he was receiving rent on his property at Varanasi. Further, Noticee failed to provide any valid rent agreement to substantiate and justify the rent he was charging. Thus, there arises doubt with regard to the rent receipts submitted by the Noticee. Therefore, the submission of the Noticee is not tenable.

25. Regulation 12(1) of the SEBI Act states *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.*

26. I note from the records available that Noticee has not taken any Registration as Investment Advisor under Investment Advisors Regulation. From the aforesaid, it is

clearly ascertained that the advisory activities relating to securities market were provided through the website, https://trade26research.com to the clients/investors against monetary consideration. Further, such activities of providing advisory services in various products by the Noticee through his website were being carried out in an unauthorized manner without having SEBI registration.

27. Thus, it is established that Noticee has violated Section 12(1) of the SEBI Act read with Regulation 3(1) of SEBI IA Regulations.

28. As stated above in the web page of the Noticee under the heading "About Us", it has been mentioned in bold ***Our recommendation are highly accurate and gives consistence profit in any market because we have a team of highly experienced and knowledgeable technical analysts, who provide accurate calls related to Equity and Commodity market trading.*** From the statement it can be seen that the Noticee is claiming of two things (1) team of highly experienced and knowledgeable technical analysts and (2) recommendations are highly accurate and gives consistence profit in any market. With regard to team of analysts it may be mentioned that the firm Trade 26 is solely owned by the Noticee and there is no team as claimed in the Noticee's webpage. With regard to the profit it is seen that Noticee is giving assurance of returns to the investors while acting as an unregistered investment advisor. It is clear from above that the Noticee was promising returns/assurance to the investors through his plans which intended to induce/influence the investor to take his advice to invest in the securities market. The assurance of reliable source of income, while minimizing risk and giving consistent profit without any basis etc., are an active concealment of the material fact that every investment in the market is subject to market risk. In this regard, I note that the Noticee adopted business tactics to induce the general public into availing the services he offered. Further, the act of conveying reliable source of income and consistent profit, is nothing but indulging in for the purposes of luring customers in his net and thereby increasing his income. In light of the same, the act of the Noticee, is a non-genuine and a deceptive act and has been made with an intent to influence the general public to avail of his advisory services and deal in securities. In my view, promising reliable source of income and consistent profit in securities market

amounts to misrepresentation and misleading the investors. Such reckless conduct intended to induce investors to deal in securities constitutes ‘fraud’ under the PFUTP Regulations.

29. Further, It is pertinent to refer to the observations of the Hon’ble Supreme Court in the case of ***SEBI Vs. Kanaiyalal Baldevbhai Patel***(2017) 15 SCC 1, which are as under-

“The definition of 'fraud', which is an inclusive definition and, therefore, has to be understood to be broad and expansive, contemplates even an action or omission, as may be committed, even without any deceit if such act or omission has the effect of inducing another person to deal in securities. Certainly, the definition expands beyond what can be normally understood to be a 'fraudulent act' or a conduct amounting to 'fraud'. The emphasis is on the act of inducement and the scrutiny must, therefore, be on the meaning that must be attributed to the word “induce”............to make inducement an offence the intention behind the representation or misrepresentation of facts must be dishonest whereas in the latter category of cases like the present the element of dishonesty need not be present or proved and established to be present. In the latter category of cases, a mere inference, rather than proof, that the person induced would not have acted in the manner that he did but for the inducement is sufficient.”

30. In this regard, the observation recorded by the Hon’ble Supreme Court of India in the matter of ***SEBI Vs. Kanaiyalal Baldevbhai Patel*** *[(2017) 15 SCC 1] is worth quoting: “...A person can be said to have induced another person to act in a particular way or not to act in a particular way if on the basis of facts and statements made by the first person the second person commits an act or omits to perform any particular act. The test to determine whether the second person had been induced to act in the manner he did or not to act in the manner that he proposed, is whether but for the representation of the facts made by the first person, the latter would not have acted in the manner he did*...”. Therefore, I am constrained to observe that the acts of the Noticee of resorting to misrepresentation and spreading falsehood about, promise of reliable source of income and consistent profit, etc. are fraudulent in nature, having

the potential to fraudulently induce the investors to deal in securities by availing of the services of the Noticee*.*

31. In this regard, I further rely upon the decision of the Hon'ble SAT in the matter of ***MSS Trading System Centre and Anr. Vs. SEBI***, dated December 12, 2022, wherein the Hon'ble Tribunal has held that *"We are of the opinion that such assurance of profit given by the appellant was totally fraudulent and in violation of Regulation 4 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003*" also I find that, the Noticee, by assuring reliable source of income and consistent profit, has violated the fundamental canon of the securities market i.e. investments are subject to market risks and therefore, has knowingly misled the investors at large by engaging in acts, practices, course of businesses which operated as 'fraud' as defined under Regulation 2(1)(c) of the PFUTP Regulations*.*

32. I further note that Regulation 3 prohibits certain dealings in securities wherein manipulative or deceptive methods are used, or any entity employs any devise or scheme or artifice to defraud in connection with dealing in or issuing securities and also engage in any act, practice, course of business which operate as fraud or deceit upon any person in connection with any dealing in or issue of securities. further, I also note that Regulation 4(2)(k) provides that dealing in securities shall be deemed to be a manipulative fraudulent or an unfair trade practice if it involves disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities. Also, Regulation 4(2)(s) of the PFUTP Regulations prohibits mis-selling of securities or services related to securities market. Mis-selling has further been explained in the said Regulations to mean knowingly making false or misleading statements or not taking reasonable care to ensure suitability of the securities or services to the buyer. Therefore, I note that the Noticee was indeed involved in mis-selling of services to gullible investors by making false and misleading statements of providing consistent profit, highly accurate recommendations, etc.

33. Thus, I note that the Noticee by assuring consistent profit, highly accurate recommendation, etc with respect to his investment advisory related plans, without obtaining the necessary certificate of registration as an investment adviser and knowingly publishing false and misleading information, has used non-genuine, deceptive means like engaging in business created thereby defrauded potential investors by inducing them to invest in the shares, which, I find are in violation of the provisions of Regulation 3(a), (b), (c) & (d) and 4(2)(k) and 4 (2)(s) of the PFUTP Regulations read with Section12A(a), (b), (c) of the SEBI Act.

34. In view of the above, it stands established that the Noticee has violated Section 12A(a), (b), (c) of SEBI Act, 1992 and Regulations 3(a), (b), (c), (d),4(2) (k) and (s) of the PFUTP Regulations, 2003 by disseminating false information through his website, making false assurances/promises.

Issue No. II: If yes, does the violation, on the part of the Noticee would attract monetary penalty under Section 15HA and 15EB of the SEBI Act?

35. As it has been established that the Noticee has violated Section 12(1) of the SEBI Act, 1992 read with Regulation 3(1) of SEBI IA Regulations and Section 12(A)(a), (b), (c) of SEBI Act, 1992 and Regulations 3(a), (b), (c), (d), 4(2)(k) and (s) of the PFUTP Regulations.

36. In the context of the above, I refer to the observations of Hon'ble Supreme Court in the matter of Chairman, ***SEBI vs. Shriram Mutual Fund*** {[2006] 5 SCC 361} wherein the Hon'ble Court had held that: *"In our considered opinion, penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established......."*

37. Therefore, in view of the foregoing and placing reliance on the above judgement of the Hon'ble Apex Court, I am of the view that it is a fit case for penalty under Section 15HA and 15EB of the SEBI Act, which is reproduced hereunder:

SEBI Act, 1992

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 102[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].*

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***.**

Issue No. III: If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act?

38. While determining the quantum of penalty under Section 15HA and 15EB, it is important to consider the factors stipulated in Section 15J of the SEBI Act of the SEBI Act which reads as under:

SEBI Act, 1992

15J

While adjudging quantum of penalty under section 15-I, 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.*

39. In view of the charges as established, the facts and circumstances of the case and the judgments referred to and mentioned hereinabove, the quantum of penalty would depend on the factors referred in Section 15-J of SEBI Act as stated above. In this regard, I note that the material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made by the Noticee and the loss, if any, suffered by the investors. However, it is observed that there has been credit of amount into his account on account of his services provided as unregistered entity. I find it pertinent to mention that the objective of registration is to protect the interests of the investors. Registration casts accountability and responsibility upon the registered investment adviser to comply with all regulatory requirements applicable to the conduct of its business activity and it also promotes the best interests of the clients and integrity of the market. I note that the role of an investment adviser is crucial to the development of the securities market, especially for the entry of the small investors who may rely on the advice of such IAs. In this regard, the role of an IA is crucial as a facilitator of small investors into the securities market. So, it is of utmost importance that the entities providing investment advisory services should be as per the IA Regulations. The prescriptions in the IA Regulations are intended to safeguard the interest of investors and curb the perpetration of unregistered entities entering the field of investment advisory services and indulging in unscrupulous market practices. The very purpose of the said provisions is to deter wrong doing and to promote ethical conduct in the securities market. The violations on the part of the Noticee as brought out in the preceding paragraphs clearly show that he has defrauded the general public and attracts penalty to meet the ends of justice.

<u>ORDER</u>

40. Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act, and also taking into account judgment of the Hon'ble Supreme Court in ***SEBI vs. Bhavesh Pabari (2019)***5 SCC 90 and in exercise of power conferred upon me under section 15-I of the SEBI Act, 1992 read with Rule 5 of the Adjudication Rules, 1995, I hereby impose

following penalty under Section 15HA and 15EB of the SEBI Act on the Noticee for violations of the following provisions of SEBI Act and PFUTP Regulations:

a) Section 12(1) of the SEBI Act, 1992 read with Regulation 3(1) of SEBI IA Regulations and Section 12(A)(a), (b), (c) of SEBI Act, 1992 and Regulations 3(a), (b), (c), (d), 4(2)(k) and (s) of the PFUTP Regulations.

Name of the Noticee	Penal Provisions	Penalty
ABID ALI (through its website https://trade26research.com)	Section 15HA of the SEBI Act, 1992	Rs 6,00,000/- (Rupees Six Lakhs Only)
	Section 15EB of the SEBI Act	Rs 3,00,000/- (Rupees Three Lakhs only)

41. I am of the view that the said penalty is commensurate with the lapse/omission on the part of the Noticee.

42. 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

43. The said confirmation of e-payment made in the format as given in table below should be sent to "The Division Chief, EFD-I DRA -I, Securities and Exchange Board of India, SEBI Bhavan, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id:-tad@sebi.gov.in:

1. Case Name:	
2. Name of payee:	
3. Date of payment:	
4. Amount paid:	
5. Transaction no.:	

6. Bank details in which payment is made:	
7. Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount etc.)	

44. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, SEBI may initiate consequential actions including but not limited to recovery proceedings under section 28A of the SEBI Act for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

45. Copy of this Adjudication Order is being sent to the Noticee and also to SEBI in terms of Rule 6 of the Adjudication Rules.

Date: May 16, 2024 **BARNALI MUKHERJEE**

Place: Mumbai **ADJUDICATING OFFICER**