BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. EAD/KS/VB/AO/41/2017-18]

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

In respect of

Shri Anirudh Sethi

(PAN: ANBPS5743A)

FACTS OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as **'SEBI'**) has initiated Adjudication Proceedings against Shri Anirudh Sethi (hereinafter referred to as '**Noticee**') in respect of his alleged failure to comply with the directions issued by the Whole Time Member of SEBI vide Order dated July 29, 2009.

2. Earlier, SEBI vide para 7.1 of an *ad interim ex-parte* Order dated January 19,2007 had directed the Noticee and the business name "Stock Market Navigator"(SMN) to

   "cease and desist from giving investment advice to clients including any recommendations containing company specific news which amounts to violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(k) and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003."

3. Thereafter, the Whole Time Member of SEBI vide confirmatory Order dated July 29, 2009, *inter alia*, has passed the following directions :

   I, hereby confirm the ad interim ex-parte directions issued to Mr. Anirudh Sethi and the business name "Stock Market Navigator", in para 7.1 of the Securities *and Exchange Board of India Order dated January 19, 2007. Mr. Anirudh Sethi is cautioned of his dealing in the securities market and advised to strictly follow his own undertaking dated March 12, 2007 and ensure that his business or dealing in the securities market is done in accordance with the applicable laws.*

4. The alleged failure on the part of the Noticee to cease and desist from giving investment advice to clients including any recommendations containing company specific news amounts to non-compliance/violation of the Order/directions of the Whole Time Member of SEBI dated July 29, 2009 confirming the direction in *ad interim ex-parte* Order dated January 19, 2007 issued under the provisions of sections 11B and 11D of the SEBI Act. The aforesaid alleged non-compliance/violation, if established, makes the Noticee liable for monetary penalty under section 15HB of the SEBI Act.

APPOINTMENT OF ADJUDICATING OFFICER

5. Shri Suresh Gupta was appointed as Adjudicating Officer vide an order dated January 12,2017 under section 15 I(1) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as "**SEBI Act**") read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalty by Adjudicating Officer) Rules, 1995 (hereinafter referred to as the "**Adjudication Rules**") to inquire into and adjudge under the 15HB of the SEBI Act, the alleged non-compliance/violation of the directions/Order of the Whole Time Member of SEBI issued under the provisions of sections 11B and 11D of the SEBI Act, by the Noticee. Thereafter, the Adjudication proceedings have been transferred to the undersigned vide Order dated May 18, 2017.

SHOW CAUSE NOTICE, REPLY AND PERSONAL HEARING

6. A Show Cause Notice (hereinafter referred to as "**SCN**") dated July 10, 2017 was issued to the Noticee under Rule 4(1) of the Adjudication Rules communicating the alleged violations. The Noticee was also called upon to show cause as to why an inquiry should not be initiated against him in terms of Rule 4 of the Adjudication

Rules and penalty be not imposed under Section 15HB of SEBI Act, 1992 for the alleged contravention of non-compliance / violation of the directions/ Order of the Whole Time Member of SEBI.

7. The details in respect of violation/ non-compliance by the Noticee are as given below:

   a) It was alleged that the Noticee was offering investment advice to investors by offering payment based subscription plans through his website www.anirudhsethireport.com. It is further observed that the Noticee was the registrant of the aforesaid website. It is also observed that the Noticee was providing stock specific tips as well as tips on trading in options and futures.

   b) It was alleged that the Noticee maintains an active social media presence through twitter handle with large number of followers. It is observed that language used by the Noticee in his tweets weighs heavily towards creating panic / sensation among investors encouraging them to act fast lest they lose in contravention of the directions dated July 29, 2009. Sample Tweets of twitter handle **@anirudhsethi71** were also provided to the Noticee.

8. The Noticee, vide letter dated July 31, 2017 replied to the SCN and *inter alia* made the following submissions:

   a) *It may be noted that I have completely abided by the directions given by SEBI vide its Order dated July 29, 2009. Further, I have religiously followed the undertaking dated March 12, 2007 and ensured that my business or dealing in the securities market is done in accordance with the applicable laws.*

   b) *With regard to allegations in para 5, pertaining to giving of investment advice inter alia*, the *following submissions have been made by the Noticee:*

      i. It is denied that I have violated SEBI Order dated July 29, 2009 confirming the direction in Interim Order dated January 19, 2007 to cease and desist from giving investment advice to clients including any recommendations containing company specific news, as alleged.

      ii. Admittedly, the direction which was issued vide SEBI Order dated July 29, 2009 was – "…direct Anirudh Sethi and the business name "Stock Market Navigator"(SMN) to cease and desist from giving investment advice to clients including any recommendations containing company specific news which amounts to violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(i) and 4(2) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003".

iii. *Clearly there was no embargo on giving any recommendations containing company specific news. Only embargo was not to give recommendations containing company specific news which amounts to violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(i) and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003*

iv. *Nothing has been brought on record to demonstrate as to how I have violated the said SEBI Order or how any purported investment advice given by me containing purported company specific news is violative of provisions of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(i) and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003. The allegation is bald, sweeping and in the air.*

v. *In so far as providing the alleged subscription based services to general investors is concerned, it may be noted that the visitors of the website seek views on host of markets and asset classes (Indian as well as global). Similarly, the seminars / workshops / conferences organized for the participants also involve discussions on host of issues pertaining to financial markets (Indian as well as global). It may be noted that views are given and discussions are held in seminars / workshops / conferences regarding the markets , including the markets which are not regulated by SEBI,*

vi. *The fees which the visitors were required to pay were inter alia for the views based on technical analysis, for the participation in seminars / workshops / conferences, for material/books etc. pertaining to financial markets involving both Indian as well as global markets (and various asset classes such as stocks, futures/options, commodities such as crude oil, gold and silver, currencies and forex markets). I may point out that the articles/technical analysis published on the website and the services offered etc were bonafide and genuine, and were not actuated by any oblique/sinister motives. Further, admittedly, there is not even a single complaint filed by any member inter alia complaining that they have been misled or were not satisfied with the services offered etc. Furthermore, there was no attempt on my part to lure or solicit the members. Persons became members out of their own volition, reposing faith in me and the analysis done by me.*

vii. *In so far as observation that I was the registrant of the website www.anirudhsethireport.com is concerned, it may be noted that the said website is registered in the name of Mr Jim John. As stated hereinbefore in earlier paras, the said website is owned and managed by Mr, Jim John of USA. Same was created by Mr Jim John for the purpose of creating a platform for sharing of ideas on wide spectrum of matters including with regard to financial markets, trading, economy, industry pertaining to both, Indian and Global markets, and other related matters.*

viii. *It is reiterated that views were given on host of markets and asset classes, Indian as well as global, and various asset classes such as stocks,, futures/options commodities such as crude oil, gold and silver, currencies and forex markets. Further, the views were given bonafide and based on technical analysis etc.*

c) *With regard to allegations in para 6, based on tweets following be noted :*

i. *The allegations in the para are based on certain tweets appearing in the Twitter handle "anirudhsethi71". I categorically submit that the said twitter handle does not belong to me. Further, it is vehemently denied that I maintain an active social media presence through Twitter handle* *"anirudhsethi71" with a large number of followers as alleged. As stated hereinbefore, I interact on social media through twitter handle i) @asrglobalnews and ii) @Iamanirudhsethi*

ii. *The Twitter handle "anirudhsethi71" is nothing but a parody account. There are several other market experts in whose name several twitter handles, blogs, websites are published and are more in the nature of parody accounts rather than being set up by the actual market experts…..*

iii. *……it is a common trend, that lot of other parody websites, twitter accounts, blogs are available in the internet which are in fact not set up by the actual person but only by certain people to cash in on the popularity of such people…………*

iv. *Therefore, the observations in the para based on the premise that Twitter handle "anirudhsethi71" belongs to me and the tweets contained therein (at Annexure H to the Notice) have been tweeted by me are all incorrect and no adverse inferences against me can be drawn based on the same.*

d) *With regard to the observations in Para 7,1 submit that I have not failed to comply with any provisions of SEBI Act or the rules or the regulations made or directions issued by the Board thereunder .The allegations in the Notice are misplaced and are based on erroneous understanding of facts of the case . I respectfully submit that I am not liable for any penalty under section 15 HB of SEBI Act*

e) *With regard to the observations in Para 8 regarding imposition of monetary penalty in the Notice, it is submitted that in the facts of this case no penalty be imposed. I submit that by giving investment advice I have not caused any loss to any investor and has also not adversely affected the shareholders or the securities market in any manner and I have also not made any gain or gained any unfair advantage.Admittedly , same has not been even alleged.*

9. In the interest of natural justice, an opportunity of Personal hearing was provided to the Noticee on August 21, 2017 vide hearing notice dated August 03, 2017, Shri Vinay Chauhan, advocate appeared as the Authorized Representative (AR) on behalf of the Noticee along with the Noticee himself and reiterated the submissions made in the reply to the SCN. During the said hearing, AR undertook to submit additional information / documents on or before August 28, 2017. The AR sought no further hearing in the matter.

10. Thereafter, the Noticee vide email dated August 31, 2017 sought one week time for making post Hearing submissions. The Noticee was advised, vide letter dated August 31, 2017, to file submissions which should reach on or before September 07, 2017. The Noticee vide its letter dated September 06,2017,*inter alia,* had made the following post hearing submissions

a) *I may also point out that Twitter handle @asrglobalnews has been operational since December 2013 and I have been tweeting through the same using the Twitter handle which is parallely configured with the website www.anirudhsethireport.com so that whatever content is uploaded on the website , gets automatically tweeted on the handle*

b) *In so far as twitter handle @Iamanirudhsethi is concerned. I may point out that this account has been opened by me recently in May 2016, in view of the parody account ("anirudfaethi71") in my name , of which I became aware post passing of the SEBI Order dated 27.5.2016 , I opened this twitter account by the name @Iamanirudhsethi consciously so that there is no confusion that. this is my original account , since the other twitter handle i.e. @asrglobalnews did not contain my name*

c) *During the course of hearing, I was advised to prove that the said Twitter handle "anirudhsethi71" , does not belong to me .In this context it is submitted that I cannot be expected to prove a negative .It is SEBI who is alleging that the said Twitter handle "anirudhsethi71 belongs to me The burden of proof is clearly on SEBI . It is well settled that the burden of proof lies on the person who substantially asserts the affirmative of the issue and not upon the person who denies it. This rule of convenience has been adopted because negative does not admit of the direct and simple proof of which the affirmative is capable. Moreover, it is but reasonable and Just that the person who relies upon the existence of a fact should be called upon to prove his case*

d) *The said Twitter handle contains my name, there is nothing else to show that the said Twitter Handle belongs to me. In my reply dated 31.7.17 ,1 have already demonstrated that same is nothing but a parody account and that prevalence of parody accounts is quite rampant I submit that someone has created the said Twitter handle "anirudhsethi71" and has been tweeting . I may point out that I had written to Twitter Authorities, inter alia enquiring on 22.8.17. Till date I have not received any response from them. Further, I may also point out that the said Twitter handle 'anirudhsethi71', as on date, appears to be suspended by Twitter. My request be appreciated in the backdrop of the fact that it is very difficult for me to prove the negative i.e. the said Twitter handle "anirudhsethi71" does not belong to me.*

e) *As submitted during the course of hearing, I request SEBI to make available the documents/reasons based on which SEBI is alleging , in light of my submissions that the said Twitter handle "***anirudhsethi7J"** *does not belong to me, so that I can address the same before any Order is passed . Clearly, I have not been informed of the documents/ reasons based on which SEBI is construing the said Twitter handle* **"cmirudhsethi71"** *to be mine.*

f) *In so far as details regarding the website www.anirudhsethireport.com are concerned,I submit that the said website was created in the year February 2009. Initially, I was owning the website till January 2014. On 6.1.14, I had entered into Memorandum of Understanding ("MOU") with Mr Jim John, whereby the ownership of the website was transferred to Jim John. Further, in terms of the said MOU, I was allowed and permitted by the domain the space and facilities, to write articles on the website. Thus, from 6.1.14, Mr Jim John is the owner of the said website. Copy of the MOU dated 6.1.14 is annexed as Annexure l. In this regard, I had specifically enquired from the Service provider (viz. System Solution) regarding the Domain Contact Information of the website. The Service Provider has confirmed* *that the website is registered in the name of Mr Jim John. Further, the Service Provider has also forwarded the image from the Customer panel of the domain www,anirudhsethireport.com*

g) *In so far as Annexure G to the Notice (pertaining to the ownership of the website) is concerned, it may be noted that details shown therein about the domain registration, is Raw Domain Information which is publically available on many of the websites for free, and the same is not authentic. For instance, it shows my name as the registrant (whereas in January, 2014 Jim John had acquire the ownership, the phone number captured against my name is wrong, the address captured against my name is incomplete etc. Further, as stated hereinbefore, way back in January 2014 the website was transferred in the name of Mr Jim John .Therefore, the said details as contained in Annexure G are incorrect and the said document is wholly unreliable. Additionally, we may point out that the said document (as downloaded from web) is not admissible as evidence and no reliance can be placed on the same, in light of the provisions of the Indian Evidence Act 1872 (including sec 65 A & 65 B). Further, based on the same no adverse inferences can be drawn against me.*

11. Keeping the principles of natural justice in mind, the aforesaid reply of the Noticee dated September 06, 2017 was forwarded to the concerned department of SEBI vide internal note dated September 25, 2017 seeking their comments on the submissions of the Noticee. On receipt of their comments/evidence, again keeping in mind principles of natural justice, vide letter dated October 13, 2017, the Noticee was informed that SEBI vide Email dated April 28, 2017 had earlier advised the Noticee to provide details of the ownership of the website along with documentary evidence for the same and details of arrangement / agreement with the owner of the website. In reply to the said query of SEBI, the Noticee had vide its email dated May 06, 2016 has replied stating, inter alia, "there is no bond or arrangement / agreement done." It was stated that the MoU submitted during the present proceedings allegedly pertain to the year 2014; however the Noticee had categorically denied in 2016, having any bond/arrangement/ agreement in connection with transfer of ownership of the said website. In light of above, the Noticee was advised to offer comments, if any, with necessary supporting documentary evidence.

12. It was further stated in the aforesaid letter dated October 13, 2017 that it was observed from the copy of the website on record that certain subscriptions are collected. SEBI vide their email dated April 28, 2017 had also raised a query about

the multiple transactions where an amount of Rs. 36,000/- had been credited to the account of the Noticee maintained with ICICI Bank bearing account No. 624501031844. In this regard, the Noticee was advised to file submissions on or before October 23, 2017. The Noticee vide email dated October 13, 2017 sought an extension of time till November 02, 2017 to file its reply. Vide letter dated October 16, 2017 the Noticee was informed that his request was acceded to and was advised to file submissions before November 02, 2017.

13. The Noticee vide his letter dated October 27, 2017 made the following submissions

a) *I repeat and reiterate that the said website was created in the year February 2009. Initially, I was owning the website till January 2014. On 6.1.14, I had entered into Memorandum of Understanding ("MOU") with Mr Jim John, whereby the ownership of the website was transferred to Jim John. Further , in terms of the said MOU , I was allowed and permitted by the domain the space and facilities , to write articles on the website .In so far as my response dated 5.5.16 to SEBI's e-mail dated 28.4.16 is concerned it may be noted that though vide the MOU dated 6.1.14 the ownership was transferred to Jim John ,but there was no bond or arrangement /agreement executed with Jim John or his nominees/ representatives relating to the obligations, bindings for writing, subscribing on the portal for the updations in financial markets , Articles , News ,Technical Analysis ,write up about the economic parameters etc . It was in this context that I had stated in response (to the query viz" details of your arrangement /agreement with the owner of the website") that "there is no bond or arrangement /agreement done". It may be appreciated that in the said response to SEBI I had specifically stated that the website is owned by Jim John and he is handling it and that I was merely writing posts and updating about the financial markets and Trading Psychology.*

b) *With regard to transactions in my bank account with ICICI, I may point out that I had been writing articles on the website pertaining to various subjects including the financial markets (both Indian & Global), Trading Psychology, General Economy, Industry, Impact of events taking place around the globe on economy, Policy making, Politics, organizing seminars/ workshops / conferences on various aspects of markets etc. I along with my team, have been conducting and organizing seminars /workshops /conferences on various aspects of markets including Trading Psychology, Trading Techniques and Trading analysis. Consequent to the formidable credibility and reputation built by me over the years in the markets, the seminars/workshops/conferences, organized by me have been receiving a healthy response. For seeking the views on the various facets of financial markets (both Indian and global), stock markets, commodities markets, currency markets etc. depending on their area of interests and for attending the seminars/workshops/conferences the participants are required to pay fees/charges towards, inter-alia, the administrative expenses and towards the cost of the books and educational material to be distributed during the seminars/workshops/conferences. The said transactions in my bank account pertaining to amount of Rs 36,000/- were relating to the fees/charges* *paid by the participants for participation in seminars/workshops/conferences pertains to financial markets involving both Indian as well as global markets pertaining to technical analysis on various asset class such as stocks, futures/options, commodities such as crude oil, gold and silver, currencies and forex markets etc.*

CONSIDERATION OF ISSUES AND FINDINGS

14. I have carefully perused the oral and the written submissions of the Noticee and the documents available on record. Before proceeding further, it would be appropriate to recapitulate the relevant facts of the case. SEBI had noticed that some entities were offering investment advices / tips on purchase and sales of securities through media. SEBI had further noted that the Noticee had issued certain advertisements in the name of "Stock Market Navigator" in certain financial dailies. Through the advertisements the Noticee had solicited business from prospective clients for subscription to "Stock Market Navigator" to receive trading tips on payment of certain fee. SEBI had also noted that the Noticee was also giving stock recommendations through certain websites giving reference to certain email IDs including one "anirudhsethi71@yahoo.com". In pursuance to the above, the Whole Time Member of SEBI, vide *ex-parte* interim order dated January 19, 2007 passed, under section 11B and 11D of the SEBI Act, *inter-alia,* directed in para-7.1 of said order that the Noticee and the business name "Stock Market Navigator"(SMN) to *"cease and desist from giving investment advice to clients including any recommendations containing company specific news which amounts to violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(k) and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003*."

15. Thereafter, the Whole Time Member of SEBI vide Order dated July 29, 2009, *inter alia*, has passed the following confirmatory directions :

    I, hereby confirm the ad interim ex-parte directions issued to Mr. Anirudh Sethi and the business name "Stock Market Navigator", in para 7.1 of the Securities and Exchange Board of India Order dated January 19, 2007. Mr. Anirudh Sethi *is cautioned of his dealing in the securities market and advised to strictly follow his own undertaking dated March 12, 2007 and ensure that his business or dealing in the securities market is done in accordance with the applicable laws*

16. As mentioned above, the Noticee has given an undertaking vide his affidavit dated March 12, 2007 *inter alia* submitting :

"That I will include well based information, analysis, articles and public corporate information in my every article. I will research and disclose all the sources on the basis of which such article is published.

That I will not refer to or rely upon or reflect unpublished price sensitive information or any other inside information in any of my article.

That I will restrict my article to technical analysis and give recommendations only on the basis of publish corporate information available in the public domain at the time the article is published and reveal the source in the article.

That I will publish the article containing analysis within the framework of the existing rules and regulations as prescribed and/or promulgated by the Market Regulator, SEBI in so far as they are pertaining to the Capital market."

17. The issues that arise for consideration in the present case are :

    a) Whether the Noticee has failed to comply with the directions issued by the Whole Time Member of SEBI vide confirmatory Order dated July 29, 2009 and failed to comply with his own undertaking dated March 12, 2007 which is part of the directions contained in WTM Order dated July 29, 2009?
    b) Does the said non-compliance, if established, make the Noticee liable for imposition of monetary penalty under section 15HB of the SEBI Act?
    c) If so, what would be the monetary penalty that can be imposed taking into consideration the factors mentioned in section 15 J of the SEBI Act?

18. From the material available on record, I find that it was alleged in the SCN that the Noticee was offering investment advice to investors by offering payment based subscription plans through his website www.anirudhsethireport.com. It was also

observed that the Noticee was the registrant of the aforesaid website and was providing stock specific recommendations.

19. The Noticee in his reply dated July 31, 2017 has submitted that the said website is registered in the name of Mr Jim John of USA owned and managed by him and the same was created for the purpose of creating a platform for sharing of ideas on wide spectrum of matters including with regard to financial markets, trading, economy, industry pertaining to both, Indian and Global markets, and other related matters. During the Personal hearing held on August 21, 2017 the Noticee was advised to submit documentary evidence to substantiate the claim that Mr Jim John was the owner of the website as contended by the Noticee in his reply dated July 31, 2017.

20. I note that the Noticee in its post hearing submissions dated September 06, 2017 has submitted that he was owning the website till January 2014. On January 06, 2014, he had entered into Memorandum of Understanding ("MoU") with Mr Jim John, whereby the ownership of the website was transferred to Jim John. The Noticee has also annexed the copy of the said MoU dated January 06, 2014. Thereafter, vide letter dated October 13, 2017 the Noticee was informed that SEBI had earlier vide email dated April 28, 2016 advised the Noticee to provide details of the ownership of the website www.anirudhsethireport.com along with documentary evidence for the same and details of arrangement / agreement with the owner of the website. The query raised by SEBI to the Noticee is reproduced below

"It has been stated in your reply that the website "anirudhsethireport.com" is owned by a person from USA. You are advised to provide documentary evidence for the same and details of your arrangement/agreement with the owner of the website"

21. The Noticee in its reply dated May 05, 2016 has *inter-alia* submitted the following to the said query of SEBI.

"AnirudhSethiReport is owned by Mr Jim John of USA and he is handling this blog and we are just writing post and updating about Financial Markets and Trading Psychology influenced by the international business and economic factors creating uncertain risk in investment patterning.

***There is no Bond or arrangement/agreement done**……."* (emphasis supplied)

22. On perusal of the above referred documents, I note that the submission of the Noticee before SEBI regarding the ownership of the website www.anirudhsethireport.com that there was no bond or arrangement / agreement done with Jim John is totally in contrast with the submissions made during the current proceedings wherein the Noticee has submitted the MoU dated January 06, 2014 transferring the ownership of the website www.anirudhsethireport.com to Mr. Jim John. Further, the submission of the Noticee in the letter dated October 27, 2017, that there was no bond or arrangement/agreement with Jim John or his nominees / representatives in the context of obligations, bindings for writing, subscribing on the portal for the updations in financial markets , Articles , News ,Technical Analysis, write up about the economic parameters etc, is unacceptable as the SEBI in its email dated April 28, 2015 had clearly sought documentary evidence for the "ownership"(emphasis supplied) of the website www.anirudhsethireport. com by a person from USA and details of his arrangement / agreement with the owner of the website. Thus, it is clearly established from the above that the Noticee producing the MoU dated January 2014 is nothing but an afterthought.

23. From the details of website www.anirudhsethireport.com as available on record, I note that the Noticee is the registrant of the website www.anirudhsethireport.com. Anirudh Sethi Report is shown as the Registrant organisation. In this regard, I note the Noticee's argument that the phone number mentioned in the registrant details was wrong. Upon verification, I find that the phone number mentioned in the Registrant details is not in the name of the Noticee. I further note the argument of the Noticee that the address captured against his name was incomplete. In this

regard, I note the address of the registrant is shown as '*Anandbaug, Tarsali, Vadodara- 390010'* in the Registrant details. I find that the address of the Noticee as per records is '*B-238, Anand Baug Society, Behind Sussen Makkarppura Road, Vadodara- 390010*.' I note that there is a striking similarity between the address of the Noticee and the address of the registrant to the extent of name of the society, name of the place and pincode number. Thus, it is incomprehensible to say that the two addresses are different. In view of the above, the argument of the Noticee that the addresses are different is not acceptable. I also note that the email of the Noticee i.e anirudhsethireport@yahoo.com has been provided as the email of the registrant. Even for the purpose of personal hearing and for further communication during the course of present proceedings the Noticee has used the abovementioned email. With respect to registrant details as submitted to the Noticee with SCN, the Noticee in its letter dated September 06,2017 has submitted that the same is Raw Domain Information available on many of the websites for free and not authentic. In this regard, I note that the issue whether the registrant details are authentic or not does not arise since the name and the E-mail address of the Noticee are clearly matching with that of registrant and the vital parts of the address of the Noticee are also matching to a large extent. In view of the above discussions, it stands proved that the Noticee is the registrant of the website at the relevant point of time..

24. The Noticee in his letter dated September 06, 2017 has also submitted that the Service Provider of the website has confirmed that the website is registered in the name of Mr Jim John and has also attached the image from the Customer panel of the domain www.anirudhsethireport.com as forwarded by the Service Provider. I find that the veracity of the said document is questionable as it does not contain the date on which the said document was generated. While the registrant details as submitted to the Noticee with SCN clearly contains a date on which the referred document was printed i.e January 27, 2016 which means that as on January 27, 2016 the website was registered in the name of the Noticee. Further, during the personal hearing, the Noticee has not disputed the association with the aforesaid website and

thus there is no doubt that the Noticee was associated with the website. Further, the submissions made by the Noticee w.r.t the website was registered in the name of Mr Jim John is not acceptable in light of the finding that the MoU dated January 2014 was an afterthought.

25. Further, the Noticee in his letter dated September 06,2017 has stated that the aforesaid document (as downloaded from web) is not admissible as evidence and no reliance can be placed on the same, in light of the provisions of the Indian Evidence Act 1872 (including sec 65 A & 65 B). In this context, I would like to refer to Rule 4(5) of Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 which states "………..*in taking such evidence the adjudicating officer shall not be bound to observe the provisions of the Evidence Act, 1872 (11 of 1872)"*

26. On perusal of the content of the website www.anirudhsethireport.com, it is also observed that the Noticee is providing subscription based services to general investors under the name "*Fatal Attraction*". Under the same, I note that he is providing technical analysis on stocks, Futures/options, commodities, currencies etc. To apply for the subscription based service and for more information on the same, investors were required to send an email at anirudhsethireport@yahoo.com.

27. I note that the aforesaid website has certain enticing statements such as "*Our technical forecasts will give profit if market rise or fall. This has been proved umpteen times in the past 2 decades. That's why we get innumerable request mails showing interest to join*. I also note that the website has certain catchy captions like "*whoever wins World-Cup, our subscribers will ever be winners"*. Such captions have the power of attracting gullible investors. The details displayed in his website clearly indicate that the Noticee was offering subscription based investment advisory services to investors.

28. It was alleged in the Show cause Notice that the Noticee maintains an active social media presence through twitter handle with large number of followers. It was also alleged that the language used by the Noticee in his tweets weighs heavily towards creating panic / sensation among investors encouraging them to act fast lest they lose, in contravention of the directions of WTM dated July 29, 2009. Sample Tweets of twitter handle **@anirudhsethi71** were also provided to the Noticee.

29. In this context, I note that the Noticee in his replies had submitted that Twitter handle "anirudhsethi71" does not belong to him and is nothing but a parody account. The Noticee had also submitted that there are several other market experts in whose name several twitter handles, blogs, websites are published and are more in the nature of parody accounts rather than being set up by the actual market experts. In this regard, I find that the Noticee has merely stated that the said twitter handle "anirudhsethi71" is a parody account and has not produced any documentary evidence to show the steps taken by Noticee to make the investors aware that the said twitter handle is a parody account. Further, I find from the contents of the website www.anirudhsethireport.com**,** which belongs to the Noticee as observed from the above paragraphs, that the following contact details of the Noticee on various social media websites had been displayed.

- ***https://twitter.com/anirudhsethi71***
- ***https://youtube.com/user/anirudhsethireport***
- ***https://www.facebook.com/pages/AnirudhSethiReport/291704900897829***

On perusal of the said contact details pertaining to various social media websites displayed on the website www.anirudhsethireport.com and since it has already been established in the preceding paragraphs that Noticee is the owner of the said website, there is no iota of doubt that the twitter handle "**anirudhsethi71**" belongs to the Noticee. Therefore, the submission of the Noticee that the said twitter handle did not belong to him and was a parody account is devoid of any merit. In view of the discussions above, the burden of proof to establish that the twitter handle "anirudhsethi71" pertains to the Noticee stands fulfilled.

30. It is further observed that the tweets from the twitter handle 'anirudhsethi71' are mostly in the nature of stock specific recommendations and price targets. The table below shows tweets made by twitter handle @anirudhsethi71 on various dates along with replies to the tweets by @anirudhsethi71 :

Date & Time	**Tweets from @anirudhsethi71**
17.03.2015 11:42pm	ONLY VIRGIN +Untouched is M&M Finance…. If everything goes right watch 10-15% rally in next 24 hrs. Don't ask anything
17.03.2015 11:22pm	Buy 10-100-1000 lots of M&M Finance….Blast of life on card, Don't ask reason…1000% we are Buying!!! ***Anurag Mundhra Mar18*** *anirudhsethi71 because u don have any reason*
17.03.2015 12.01pm	DON'T SHORT MARKET…Nothing will come Tonight, Open Challenge…!Yes Grab BANK NIFTY…we see blast blast blast ***shalshav :*** *anirudhsethi71 sell nifty at 8830 tgt 8490*
19.03.2015 10.03PM	ALERT-SELL TITAN at 420-423---433--436!! Above 410, Buy Buy Buy & Mint millionssssss
19.03.2015 11:01pm	GRAB TITAN…Above 410 we see 420 -- 425+ in hrs only… WORST IS OVER OVER….BUY IN TONS **Shalshay Mar18** anirudhsethi71 it has confirmed a double top. It is making lower highs, lower lows and has been broken down from a significant support level
19.03.2015 at 2:32 pm	Manipulation + Rigging over in STAR, We sold at 1195. Stop will be 1224-1236 & Relax for 24 hrs.
20.03.2015 at 12:45PM	ALERT - From Budget day we are bearish in M&M, Below 1192… we see 1150-1136 very soon… some big selling on card
20.03.2015 - 14:39pm	Some Worst Facts About GMR INFR, Must Read & Sell it, Buy 12 Put & Mint Millions *GMR Promoters holding 65% - out of which 70% Pledged WTF-RIGHTS at 15 stock @15 *GMR Promotors holding 60 crore shares @ 15 =900 crore - Debt:37000 crore *After Right 1400 crore Equity Dilution 20% After Right - Target 12, Down 20% GMR Debt: 35576 Crore, getting 1400 crore- Really Joke!! Technically Worst chart…. Bloodbath on card
20.03.2015 at 15:06 pm	Mahindra Scorpio - As Expected in freefall mode, Target 1150-1136 Intact… Just patience needed
20.03.2015 at 2:32pm	JACKPOT; Buy GMR INFRA 12 Put at 10-15 paisa. Risk of 10-15 paisa. We see stock crashing to 12 very soon. Enjoy
20.03.2015 at 12:26 pm	Not Doubled or Tripled, Yes Jumped by 435% in hrs. HDIL -90 Put From 1 to 4.35
20.03.2015 at 12:25 PM	Yes. HDIL crashed from 105 to 98.65. But see 100 put from 1 to 4:35. What else u want in life? Let us know
20.03.2015 - 11.05 am	HDIL put from 1 to 2.60. Star-Tumbled Heavily. Just Dial. From 1384 to 1348 in minutes
20.03.2015 10.51 am	Rupee 1 had become 2.60 in minutes in HDIL. See STAR From 1195 to 1115. This way we mint money. No Blue channels. No Economy, No Fundamentals
	Apollo Tyre - Now at 163. Break below 161.90 with volumes will take to 157 very soon. Stoploss 166. sell it
	Still JUSTDIAL at 1384..stoploss 1410-1415 Target 1343-1325 - sell small lots and relax
	Our Intraday Message, in Morning told to sell JUST DIAL at 1384, Target 1343-1325 It kissed low of 1348 in minutes only Mint Money Every Moment
20.03.2015- 10.25 am	Risk of Rs.1 only. Buy 100 put of HDIL. Stock can crash to 95.91?? 1000% manipulative stock
20.03.2015 - 10:25 am	Risk of Rs.1. Yes Buy 100 put of HDIL. Below 106 if trades with volumes. We see

	bloodbath upto 95-91. Sell on rise too
20.03.2015 - 10.03 am	Silver MCX - As expected blasted like Rocket, Tons of money minted in Hrs. Yesterday morning, In our Password Protected post we told It will zoom to kiss 36167 & Then our Targets were : 36606-36749 level Yesterday zoomed to kiss 36436 level in hrs. only Yes, Fastest Money Fast…No if & But
22.03.2015	**FATAL ATTRACTION Subscription is Back-Again-Last 11 Days - Or Join in Diwali** **Whoever wins World-Cup, our Subscribers will ever be winners** **Our Technical Forecasts will give profit if markets rise or fall. This has been proved umpteen time in the past 2 decades. That's why we get innumerable request mails showing interest to join.** **As is the precedence, the subsription too is for entire 2015-16 Financial Year i.e. for 12 months till Mar"16** **Bundled offer covring Stocks/Future/Options** **Commodities (MCDEX-MCX, Curencies, Precious Metals-Gold & Silver)** **International Market Analysis, UG Stocks… everything, New Aspirants as well as renewal seekers…. All can join, First-cum-First basis. Limited enrolments. For people who pay fee quickly, our services will start instantly for that day itself** **For few details send e-mail to anirudhsethireport@yahoo.com and get your Golden Key.** **Get Subscription for 12 months** **Live Help 24x7 365 days** **Every day getting more than 50-100 emails. But we don't reply till we start Fatal Attraction Subscription is not for Personal Gains, Our Subscribers known the Reason.** **Subscription is open from (10th March till 6th April)** **Technically yours/ASR TEAM/BARODA/INDIA** **Replied to allmails received till 11:15AM today In 15 days till time time replied more than 5000+mails** **11 days left to join or join in Diwali**
22.03.2015 9:10pm	All Eyes on 1797 or WOCHARDT…Then BLOOOOODBATH will start
22.03.2015 9:14pm	Sell WOCKHARDT….Huge selling starts, we see 1777 ---1767----1722 in hrs only. Now at 1804!!!!
23.03.2015 at 8.59 am	Bank Nifty - if Revives, Sell Sell, Target 18480 - 18339 intact, DLF-Below…
	I'd say that gambling is the wrong term. Gambling involves taking a risk when the odds are against you. For example, betting on a lottery or playing a slot machine are forms of gambling. I think su…
23.03.2015 at 10.01 am	In 2 sessions, STAR Future CRASHED From 1195 to 1029 level. Below 1025, Target 1003 is Last Hope
23.03.2015 9:10pm	STAR BLASTED; From 1083 to 1114 in minutes only. Our Target was 1115-1126 level **Rohini Global** anirudhsethi71 will blast further, 5 shares of star for 15 shasun… should be near 1200 **Shalshav Mar 23** anirudhsethi71 in 2 sessions, STAR Future CRASHED from 1195 to 1028 level. Below 1025, Target 1003 is last hope wp.me/p2LGka-Tvu
23.03.2015 8:33pm	Jackpot For Traders - Investors: Grab DIGJAM, Stock Ready to Kiss 12.50. Ultimate Target 16wp.me/p2LGka-Tdy I believe in this scenario very strongly - but if the price action fails to confirm my expectations, will I be hugely long? No. I'm going to be flat and buying a little bit on the dips. You have to..
23.03.2015 8:41pm	Nobody knows in India, But yes Risk of 1.5…We see Stock doubling or more…Buy DIGJAM, Sell next week Tuesday/Wed!!! **Anurag Mundhra** @anirudhsethi71 timeline bhool gaye

23.03.2015 8:44pm	Don't sell 100 shares of DIGJAM @ FREEEEZE 9.50. SELL only on Next Tuesday/WED!!! Taget 16+!!!
23.03.2015	Who is picking stake in DIGJAM//Yes they will get 90 crore…initial stage…Name of investor is W???
23.03.2015 2:03AM	YES,YES,YES…Only DIGJAM, Last 2 minutes buy in truck load if u get!!!
23.03.2015 2:01am	DIGJAM…Tomorrow 20% lock. On Monday,Tuesday too…What news coming??? Yes its our BTST, Invest for 3-4 days!!
23.03.2015 2:49am	JACKPOT: For NF, BNF…We love DIGJAM, Now at 8. Yes Buy if u get 1 lac or 10 lac in next 10 minutes… sell on Monday/Tuesday…Mint money
23.03.2015 11.33PM	Sharp panic in Yes Bank on card. H&S indicates Target of 74
	51…lets see! Just need patience. Buy 760 put at 13
23.03.2015 11:29PM	RAPE on card in YES BANK…Will not coss 820-822… We see Bloodbath upto 750… patience will make u millionare!!
23.03.2015 12:19AM	Yes Bank - From 810 to 792 in Minutes only. Fastest Money Fast wp.me/p2LGKa-TDW **Anirudh Sethi** Sharp panic in Yes Bank on card. H&S indicates Target of 751…lets ee! Just need patience. Buy760 oyt at 13 pic. Twitter.com/OgzDNtwc8G… Anirudh Sethi(@anirudhsethi71) March 27, 2015
24.03.2015 - 11.52pm	Virgin for thirst ears…sell GODREJ INDUSTRIES, Manipulation +Rigging over…watch panic upto 315-310 in next few hrs. Now at 327!! Kassa@shivakassa - 1h On Monday you was saying o sell to sell sell DLF, JINDALSTEL, GMRINFRA, M&M, WOCKHARD, but no one has fallen
24.03.2015 - 9.52pm	Risk Rs.300… fall of 500-700-1000 on card in BOSCH… 2 Fiis basket selling and local fund starts selling
24.03.2015 9.50pm	BOSCH… Sharp panic upto 2500-25350 & then??? Sell if u can…watch bloodbath!!! Now at 25950…we are selling… unexpected fall
24.03.2015 9.29pm	MARUTI…Now at 3584…we see PANIC upto 3560 ---3545!!! Sell if revives **kassa@shivakassa** What about Rape DLF upto 152. 150 which you said on 23.03.2015
24.03.2015 9.23PM	Marwari Bull of Kolkaata…eating BATA…Yes, Remember ASR if Kisses and coss 1200+today…!!!
24.03.2015 9:21pm	ONLY BATA BATA BATA….. Jump of 50-60-70 or more on card. Don't ask anything….Unexpected blast on card
24.03.2105 9.30 pm	Worst is over for BATA…Now at 1166… We see 1190-1200 + in hrs only. In any panic. Buy Buy Buy!!! Watch EXPLOSION
24.03.2015 9:37pm	Yes. Irework in WOCKY, STAR…. Continues!!!! We love ARVIND….in panic Buy Buy Buy!!!! **Arka Prabha De-** Shup be d k Bose… Tera hear call ka opposite karne se hi faayde… Tera sunega to saab maarega **Arka Prabha De** anirudhsethi71. naalayak…Tera IGL ka kya hua **Arka Prabha De** anirudhsethi71 murudeshwara 35 in 3 days huh?? Goa se sochta aur dikhta kya??? **rishabh sethi** anirudhsethi71. Mr. Sethi seems your tips of no use!!!
24.03.2015 2:44pm	Guesstimates on 25th March 2015. All eyes on Dr. Reddy, ONGC. In panic Buy Arvind Mills wp.me/p2LGka-Tzz If you learn one critical thing from this book. It should be that a setup is about 10% (or less) of your trading system. Most people will place 90% of their emphasis on finding the right setups. **Arka Prabha De** anirudhsethi71? Worst analyst ever… a shameless coward…just wanna trap small investor **Arka Prabha De-**

	Hey, Mr. Anirudh wt happened to your calm put?? Digjam? HDFC **rishabh sethla** Arkaprabha, anirudhsethi71. bhai always do opp. Of wat he says
24.03.2015 1:41 am	First Star, Then Wockhardt….Then told to buy Colgate… All Three on Fire! Overnight IRB Zooming up slowly, looking hot **shalshav-24** anirudhsethi71 sell WOCKHARDT…Huge selling starts, we see 1??? - 1767 --1722 in hrs only. Now at 1804
25.03.2015 8:40pm	OPEN CHALLENGE: 20% TODAY IN DIGJAM…. And on MONDAY, TUESDAY TOO…Don't ask anything. Somebody wants to buy 5 crore shares
25.03.2015 8:52pm	BREAKING: digjam Getting 90 crore from???? Lets see which channel shows this news!!! Big Foreign Investor to put 90 crore in DIGJAM…Name starts from W??? Guess guess…we are buying somebody wants to buy 5 crore **Vivek Wadhwan** anirudhsethi71 webspun?

31. I find from the contents mentioned in the tweets from twitter handle @anirudhsethi71 on 22.03.2015 that the Noticee is referring to subscription based services under the name "*Fatal Attraction*" which is similar to the service mentioned in the website www.anirudhsethireport.com as observed from the para- 18 above. I also note from the said tweet that in order to get more details, investors are required to send an email at **anirudhsethireport@yahoo.com**. I find that this email is same as the one mentioned in the website www.anirudhsethireport.com and the same email has been used for communication in the current proceedings before me. I note that this re-confirms the finding in aforesaid paragraph that twitter handle @anirudhsethi71 belongs to the Noticee.

32. I also find from the contents mentioned in the Noticee's tweets that the Noticee had used the terms such as "***In any panic Buy Buy Buy...Watch EXPLOSION", Manipulation +Rigging over"," some big selling on cards", "See stock crashing to " "Bloodbath upto" " Fastest money fast", "Buy In tons", "See Stock Doubling"***. In view of the above, it goes without saying that gullible investors would have been easily enticed by the contents mentioned in the Noticee's tweets and could have made investment decisions based on tweets posted by the Noticee.

33. It is also noted from the letter dated October 13, 2017 wherein SEBI email dated April 28,2016 was referred which raised a query about the multiple transactions

where an amount of Rs. 36,000/- has been credited to the ICICI Bank account No. 624501031844 belonging to the Noticee. The Noticee was advised to offer its comments along with documentary proof. The Noticee in its letter dated October 27, 2017 has submitted that the transactions in his bank account pertaining to amount of Rs 36,000/- were relating to the fees / charges paid by the participants for participation in seminars / workshops / conferences pertains to financial markets involving both Indian as well as global markets pertaining to technical analysis on various asset class such as stocks, futures/options, commodities such as crude oil, gold and silver, currencies and forex markets etc. However, the Noticee has failed to provide any documentary evidence to show organizing of such events though documentary evidence for his reply/submissions was sought in the letter dated October 13, 2017. In light of the above, the submission that amount were collected for the purpose of seminars / workshops / conferences pertaining to financial markets are not acceptable.

34. I note that the Noticee has argued that there was no embargo on giving any recommendations containing company specific news. The embargo was only on recommendations containing company specific news which amounts to violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(k) and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **SEBI (PFUTP) Regulations, 2003**'). Also the Noticee has argued that nothing has been brought on record to demonstrate how he had violated the SEBI Order or how any purported investment advice is violative of SEBI (PFUTP) Regulations, 2003. In this regard, I note that SEBI Vide Order dated January,2007 had directed the Noticee to *cease and desist from giving investment advice to clients including any recommendations containing company specific news which amounts to violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(k) and 4(2)(r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.The said direction was subsequently confirmed by SEBI Order dated July 2009.*

On close reading of the two directions, it may transpire that SEBI had directed the Noticee to cease and desist from giving investment advice to clients including (emphasis supplied) any recommendation which is in violation of SEBI (PFUTP) Regulations. Thus, I note that the Noticee has narrowed down the broad direction of SEBI vide Order dated 2007 to come to the conclusion that recommendation should be violative of SEBI (PFUTP) Regulations, 2003 inorder to attract any action. Therefore, the narrow interpretation of directions of SEBI is not acceptable.

35. Incidentally, I also note that during the Personal Hearing held on August 21, 2017, the Noticee has admitted to the fact he has till the said date had not obtained registration neither as an Investment Adviser under SEBI (Investment Advisers) Regulation, 2013 nor as a Research Analyst under SEBI (Research Analysts) Regulations, 2014.

36. In the present case, it has to be now determined whether the actions of the Noticee subsequent to the WTM Order dated July 29, 2009 have failed to comply with the directions issued in the said Order. The WTM Order dated July 29, 2009 confirmed para 7.1 of *ad interim ex-parte* Order dated January 19, 2007 directing the Noticee and the business name “Stock Market Navigator”(SMN) to cease and desist from giving investment advice to clients including any recommendations containing company specific news in violation of Regulation 4(1) read with Regulation 2(1)(c)(5) and Regulation 4(2)(k) and 4(2)(r) of the SEBI(PFUTP) Regulations. Considering the contents of the website www.anirudhsethireport.com and Tweets posted by the Noticee through his twitter handle **“anirudhsethi71”**, it is already established in the preceding paragraphs that the Noticee was inducing the investors by giving investment advice to client in contravention of the directions in the order referred above.

37. It also has to be determined whether the actions of the Noticee subsequent to the WTM Order dated July 29, 2009 are in contradiction of his Declaration cum

Undertaking dated March 12, 2007. I note that the said Declaration cum Undertaking was voluntarily made by the Noticee. Since the compliance with the Declaration cum Undertaking has been directed by the WTM Order dated July 29, 2009 I find it appropriate to deal with its compliance in the current proceedings. Considering the facts of the case, I am of the view that the Noticee had not abided by his Undertaking dated March 12, 2007 as his website www.anirudhsethireport.com and the Tweets posted by the Noticee through his twitter handle **"anirudhsethi71"** did not '*disclose all the sources on the basis of which such article is published'.* I further note that the Noticee had committed vide his Declaration cum Undertaking dated March 12, 2007 that he will restrict his article to technical analysis and give recommendations only on the basis of published corporate information available in the public domain at the time the article is published and reveal the source in the article. I observe from the tweets that Noticee has not cited reference to any "published corporate information" while giving his recommendations.

38. At this juncture, I would like to rely on decision of the Hon'ble SAT Order in the matter of ***Ritedeal Trading Co. Pvt. Ltd v SEBI (Appeal No. 158 of 2007 and Order dated October 26, 2007)*** wherein it observed that *"We are also of the view that if market players are allowed to flout with impunity the orders of the regulator it would be difficult for the latter to carry out its statutory duties".* In totality of the above, I find the Noticee has violated the directions of SEBI WTM Order dated July 29,2009. It is also noteworthy to quote the observations of the Hon'ble Supreme Court of India in the matter of **SEBI Vs. Shriram Mutual Fund [2006] 68 SCL 216(SC)** 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….*"

39. In view of the foregoing, I am convinced that it is a fit case to impose monetary penalty under Section 15HB of the SEBI Act, which reads as under:

Penalty for contravention where no separate penalty has been provided.

15HB. Whoever fails to comply with any provision of this Act, the rules or the regulations made or directions issued by the Board there under for which no separate penalty has been provided, shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one crore rupees.

40. While determining the quantum of monetary penalty under Section 15HB of SEBI Act, it is important to consider the factors stipulated in Section 15-J of SEBI Act, which reads as under:-

Factors to be taken into account by the adjudicating officer.

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.

41. In view of the charges as established, the facts and circumstances of the case, the quantum of penalty would depend on the factors referred in Section 15-J of the SEBI Act and stated as above. I note that no quantifiable figures are available to assess the disproportionate gain or unfair advantage made as a result of such default by the Noticee. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss, if any, to the investors on account of default by the Noticee. Even further, I find that the violations reported against the Noticee are of repetitive nature as he has continued giving investment advice totally ignoring the directions issued by SEBI vide Order dated July 29, 2009. I also note from the records that SEBI had earlier initiated Adjudication Proceedings against the Noticee to adjudicate the various violation of SEBI(PFUTP) Regulations, 2003. Thereafter, the Noticee made an application dated February 13, 2010 for settlement of the said proceeding. Pursuant to this, SEBI vide consent order dated June 28, 2010 disposed

of the said proceedings on payment of a sum of Rs. 12,00,000/-. I also find that there are no complaints against the Noticee.

42. I am of the opinion that the activities undertaken by the Noticee seriously compromise the Regulatory framework and are detrimental to the interest of the investors in the securities market. I find that despite repeated directions issued to the Noticee by SEBI to refrain from undertaking such activities and to comply with his own undertaking dated March 12, 2007, Noticee failed to adhere to the directions of SEBI and thereby putting the investors to large risk. Such defiance displayed by the Noticee towards regulatory directions cannot be viewed lightly. The manipulative techniques using social media is a serious cause of concern in the interest of the markets and its investors. Therefore, it is necessary that a justifiable penalty is imposed on the Noticee to meet the ends of justice.

ORDER

43. After taking into consideration all the facts and circumstances of the case, I impose a penalty of Rs. 25,00,000 /- (Rupees Twenty Five Lakh only) under Section 15HB of the SEBI Act on Shri Anirudh Sethi, which will be commensurate with the violations committed by him.

44. The amount of penalty shall be paid either by way of demand draft in favour of “SEBI -Penalties Remittable to Government of India”, payable at Mumbai, or by e-payment in the account of “SEBI -Penalties Remittable to Government of India”, A/c No. 31465271959, State Bank of India, Bandra Kurla Complex Branch, RTGS Code SBIN0004380 within 45 days of receipt of this order. The said demand draft or forwarding details and confirmations of e-payments made (in the format as given in table below) should be forwarded to “The Division Chief, Enforcement Department, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C –4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai –400 051.”.

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 and legal charges along with order details)	

45. In terms of Rule 6 of the Adjudication Rules, copies of this order are sent to Shri Anirudh Sethi and also to the Securities and Exchange Board of India.

Date: November 30, 2017 **K SARAVANAN**

Place: Mumbai **GENERAL MANAGER &**

ADJUDICATING OFFICER