BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. Order/AS/RM/2024-25/31136]

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

In respect of:

Sr. No.	Name	PAN
1.	**Punit Kumar -** **Proprietor of Shrimoney – Research Analyst** **SEBI Registration No: INH000008844**	**AQHPK8566C**

In the matter of Punit Kumar - Proprietor of Shrimoney – Research Analyst

BACKGROUND OF THE CASE

1. Securities and Exchange Board of India (hereinafter referred to as “SEBI”), had conducted an inspection of Punit Kumar - Proprietor of Shrimoney, a SEBI registered Research Analyst bearing registration number INH000008844, (hereinafter referred to as the “Noticee/Research Analyst/RA”), on February 13, 2024. The period of inspection was from April 01, 2022 to February 13, 2024 (hereinafter referred to as “Inspection Period”). Pursuant to findings of inspection SEBI initiated adjudication proceedings under Section 15EB of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as ‘SEBI Act’) for the following alleged violations by Noticee:

   a. Regulations 3 (a - d), 4 (1) and 4 (2)(k), (o) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “PFUTP Regulations”) read with Sections 12 A(a), (b) and (c) of SEBI Act.

b. Regulation 19 and 25 (1)(iii) of RA Regulations 2014 read with Regulation 25(2) of the Securities and Exchange Board of India (Research Analysts) Regulations, 2014 (hereinafter referred to as “RA Regulations”).

c. Clauses 1, 2, 6, 7 and 8 of Code of Conduct as specified in the Third Schedule under Regulation 24(2) of RA Regulations.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI appointed Mr. Shashi Kumar Valsakumar as the Adjudicating Officer, vide communique dated May 02, 2024, under Section 15-I (1) of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as 'SEBI Adjudication Rules') to inquire into and adjudge under the provisions of the Section 15EB of the SEBI Act, for the violations alleged to have been committed by the Noticee. Pursuant to his transfer, vide communique dated July 29, 2024, the undersigned has been appointed as the Adjudicating Officer.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. Show Cause Notice No. SEBI/EAD/EAD-8/SKV/RM/21881/1-2/2024 dated July 04, 2024 (hereinafter be referred to as, the “SCN”) was issued to the Noticee by the erstwhile AO under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed on Noticee under Section 15EB of the SEBI Act. The allegations levelled against the Noticee in the SCN are summarized as below:

<u>Assured returns:</u>

4. RA was using around 98 employees for sale of its services, w.r.t. Sales Calls, WhatsApp/Telegram chats etc. RA stated that it does not maintain the call recording and WhatsApp chat for client leads as it is not required under RA

Regulations. On checking emails of the RA (email id - compliance@shrimoney.com) on random basis using keywords search such as Assured, Returns, Profit, Recover etc., following was observed –

a) In respect of two clients (JP Mehta and Devyani Sarnaik), the RA, inter-alia, informed their clients that after paying a certain amount, it will not ask for any payment until the previous loss is recovered.

b) In respect of one client (Sanjay Dubey), it was observed that the client had sent an e-mail to RA wherein, inter-alia, whatsapp chats with one of the employees of RA was attached. From the said chats, it was observed that the employee of RA informed the client that he can make a profit of 4L for you.

5. In view of above, it was observed that RA and its employees were providing assurance to recover the loss/earn profit to its clients. Further, it was observed from WhatsApp chats with one of the clients (Manoj Panda) that the employee of the RA has been providing recommendation to the client on WhatsApp chat. In view of the above, it was observed that RA neither monitor nor has any control over the communications/conversations between its clients and his employees.

6. With respect to assured returns, RA vide email dated March 05, 2024 inter-alia submitted that the emails sent to clients JP Mehta and Devyani Sarnaik did not guarantee any returns and simply implies that service fees would be suspended until the client recovers their previous losses. This translates to a service fee waiver until loss recovery, not a guaranteed return. It is a kind of service assurance and not profit assurance.

7. It was observed that RA in respect of two clients (JP Mehta and Devyani Sarnaik), inter-alia, informed its clients that after paying a certain amount, it will not ask for any payment until the previous loss is recovered. Therefore, it was observed that the aforesaid clients have suffered losses and to recover the same, RA was observed to be asking its clients to pay a certain amount and then the remaining

amount was asked to be paid upon recovery of their losses. So in order to recover losses, the clients have to pay a certain amount first.

8. Considering above, it was observed that RA lured its clients to subscribe to its services by asking them to pay an initial amount under the garb of recovery of previous losses.

9. Further, RA has not offered his services free of cost until the loss is recovered. Rather, the services has been extended for a limited package period i.e. the loss will be recovered within the package period which tantamount to profit assurance.

10. Although RA obtains consent forms where risks in securities market and profit assurance/guaranty are mentioned, RA was engaged in providing profit assurance/loss recovery as stated above and consent forms does not provide immunity from miss-selling of services by providing profit assurances/loss recovery messages.

11. In respect of one client (Sanjay Dubey), RA vide email dated March 05, 2024 inter-alia stated that the WhatsApp message to Sanjay Dubey stated, "4L ka profit kara sakta hu" ("you can make a profit of 4L"), where "can" denotes possibility, not certainty. It did not claim, "profit ho hi jayega" ("there will definitely be profit"). Further, the SEBI itself in an Order passed by the Whole-Time Member in the matter of "GRS Solution" had recognized similar statements to be merely marketing gimmicks rather than being an actual promise of assured returns, leading to the dismissal of such allegations.

12. In this regard, it is observed that RA has messaged its client that "4L ka profit kara sakta hu" which translates to he can make a profit of 4L for you (its client) whereas RA in its submission translated the aforesaid to "you can make a profit of 4L" which is incorrect. Further, the SEBI order quoted by RA may not be applicable to the

aforesaid message by RA. Also, while messaging the client, RA has nowhere stated anything about the loss/risks involved instead RA was observed to be claiming to make a profit of 4L for its client.

13. In view of above, it was alleged that RA has not only induced its clients to subscribe to its services under the garb of recovery of previous losses but also made promising statement to its client that it can make a profit of 4L for the client which is in the nature of an assurance and thereby, RA knowingly misled its clients which is likely to influence the decision of clients dealing in securities and engaged in mis-selling of its services.

14. Further, RA did not provide any submission w.r.t. the observation that the employee of the RA has been providing recommendation to the client on WhatsApp chat. Therefore, it was alleged that RA neither monitors nor has any control over the communications/conversations between its clients and his employees in order to ensure that the recommendation which was generated/provided by RA reaches as it is to its clients through employees and thereby, failed to exercise due diligence.

15. In view of above, RA was alleged to have violated Regulations 3 (a - d), 4 (1) and 4 (2)(k), (o) and (s) of PFUTP Regulations, 2003 read with sections 12 A(a), (b) and (c) of SEBI Act, 1992 and clauses 1, 2, 6, 7 and 8 of Code of Conduct as specified in the Third Schedule under Regulation 24(2) of RA Regulations.

<u>Maintenance of Records</u>

16. It was observed that RA sends its research recommendations through an App to its clients. Furthermore, RA provided physical copies of recommendations provided to the clients, which were signed and sealed. As per the definition of “Research Report” given in Regulation 2 (w) of RA Regulations, “research report” means any written or electronic communication that includes research analysis or

research recommendation or an opinion concerning securities or public offer, providing a basis for investment decision…".

17. Therefore, aforesaid application based recommendations as well as aforesaid physical copies containing recommendations provided to the clients by RA are considered as research reports. In this regard, it was observed that no disclosures as mandated under Regulation 19 of RA Regulations were made in the research reports i.e. recommendations sent through Application to clients/ aforesaid physical copies containing recommendations provided by RA.

18. In this regard, it was also noted that earlier an inspection of RA was carried out by SEBI in November 2022 for the period April 01, 2021 to October 31, 2022 and pursuant to same, an administrative warning was sent to RA for aforesaid observations relating to no disclosures in the research report i.e. recommendations sent through Application to clients by RA in terms of Regulation 19 of RA Regulations.

19. Therefore, it was observed that RA was still in non-compliance of Regulations 19 of RA Regulations despite giving an administrative warning.

20. As per regulation 25(1)(iii), Research analyst or research entity shall maintain the records of rationale for arriving at research recommendation. In this regard, in some cases where physical copies containing recommendations were provided by RA, no rationale for arriving at research recommendation is maintained.

21. W.r.t. annual audit of RA, it is observed that w.r.t. compliance of Regulations 19 and 20 of RA Regulations 2014, it was ,inter-alia, mentioned by the CS that basis confirmation provided, it was observed that RA had not issued any research report during the audit period April, 2022 to March, 2023. In this regard, as stated at above, application based recommendations as well as physical copies containing recommendations provided to the clients by RA are considered as research

reports. The research reports i.e. physical copies containing recommendations provided to the clients during the audit period April, 2022 to March, 2023 were obtained from earlier inspection of RA on sample basis. Therefore, false information that RA had not issued any research report during the audit period April, 2022 to March, 2023, has been provided by RA to the CS for its audit.

22. In this regard, RA vide email dated March 05, 2024 inter-alia stated that Noticee solely performs the activity of providing "buy/sell/hold" recommendations. There is no explicit stipulation that providing research-based recommendations must solely be part of a research report. Noticee does not provide, issue, or publish any research reports. Noticee denies the claim of lacking rationales for recommendations. The compliance audit report issued by the Auditor confirms that Noticee is not involved in issuing research reports and have made requisite disclosures in a timely manner.

23. In this regard, it is to be noted that as per the definition of "Research Report" given in Regulation 2 (w) of RA Regulations, "research report" means any written or electronic communication that includes research analysis or research recommendation or an opinion concerning securities or public offer, providing a basis for investment decision…".

24. Therefore, mobile application based recommendations as well as physical copies containing recommendations provided to the clients by RA qualify as research reports.

25. In this regard, it was also observed that during earlier inspection RA, an administrative warning was given to RA for no disclosures in the research report i.e. recommendations sent through Application to clients by RA in terms of Regulation 19 of RA Regulations. In the said warning, it was clearly communicated to RA that recommendations sent through Application to clients by RA qualify as

research reports and no disclosures as mandated under Regulation 19 of RA Regulations have been made in the said research reports. Further, it was observed that the research reports pertaining to the inspection period did not have any disclosure as mandated under Regulation 19 of RA Regulations and therefore, RA is alleged to be in continuous non-compliance of Regulation 19 of RA Regulations despite an administrative warning.

26. W.r.t. observation pertaining to no rationale for arriving at research recommendation is maintained, it was observed from some research reports i.e. physical copies containing recommendations, provided by RA that the said research reports contained only price chart along with some indicator without any explanation in order to arrive at the recommendation. Merely including price chart along with some indicator in the research report cannot be said to be the rationale for arriving at the research recommendation.

27. W.r.t. observation relating to annual audit of RA , it was observed that the audit report states that basis confirmation provided to them, it was observed that RA had not issued any research report during the audit period April, 2022 to March, 2023. From aforesaid, it is seen that RA itself has confirmed to the CS that it has not issued any research report.

28. In this regard, as observed above, application based recommendations as well as physical copies containing recommendations provided to the clients by RA qualify as research reports and therefore, it was observed that false information, viz.; RA had not issued any research report during the audit period April, 2022 to March, 2023, has been provided by RA to the CS for its annual audit.

29. In view of above, RA was allegedly in violation of Regulation 19 and 25 (1)(iii) r/w 25(2), Clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in the Third Schedule under Regulation 24(2) of the RA Regulations 2014.

30. The SCN was issued at the last known address of Noticee through Speed Post Acknowledgement Due (SPAD) and digitally signed email dated July 04, 2024 and was delivered on July 04, 2024. The Noticee replied to the SCN vide letter dated July 25, 2024. Thereafter, in the interest of natural justice, vide hearing notice dated July 30, 2024 an opportunity of hearing on August 09, 2024 was granted to the Noticee. Noticee vide email dated August 05, 2024 requested for deferment of hearing to August 13, 2024, which was granted. The authorised representative of the Noticee attended the hearing on August 13, 2024 and reiterated the submissions made by the Noticee vide letter dated July 25, 2024, and made few additional submissions. The additional submissions made during personal hearing was submitted vide letter dated August 20, 2024.

31. With respect to allegations in the SCN, the key contentions of the Noticee are summarised as under:

<u>Assured Returns</u>

32. In response to SEBI's allegation regarding return, the Noticee categorically deny any such claims. The Noticee's website explicitly outlines the inherent risks associated with stock market investments and the absence of guaranteed returns as the following disclosures/ disclaimers are made in several pages:

a) *Trading in stock market is inherently risky and the users agree to take complete and full responsibility for the outcomes of all trading decisions that they make, including but not limited to loss of capital.*

b) *We do not provide any assurance or guarantee of profit or returns with any of our services.*

c) *Investment in the stock market is subject to market risk, we do not offer any guaranteed profit services or Fixed Returns Services, we do not provide any assurance or guarantee of profit or returns with any of our services. Trading in the Stock Market may result in Partial or Complete loss of Gains as well as*

Initial Capital. Before taking our Research Alerts Services & any services of Shrimoney firm, Clients should read carefully the Disclaimer. Legal disclaimer, terms and conditions, refund policy and other policies of our company.

33. Also, the Noticee has a practice to execute the user consent form from all of his clients, wherein the clients acknowledges that:

    a) *I understand and accept that trading is a risky activity that involves the risk of loss of partial or complete capital and that there is no guarantee of profits or returns after subscribing to any of Shri Money research alerts services.*

    b) *I understand and agree that Shri Money Research Analyst firm and/ or its owner/proprietor /managers/employees/ associates do not provide any assurance or guarantee of accuracy or consistency of any our research alerts/ service.*

    c) *I confirm and accept that I do not expect a fixed return or a guaranteed return from the research alerts service subscribed by me and I fully understand that I can/ might lose your partial or entire capital in trading & investing by referring to research services/reports/alerts of Shri Money Firm.*

    d) *I declare that Shri Money firm and its proprietor/Owner/employees/ associates have not guaranteed me or assured me any returns or profits by trading and investing in the stock.*

34. Screenshot of the website of the Noticee and the copies of the aforementioned user consent forms are placed on records, which makes it crystal clear that the Noticee has always disclosed the risks associated in the securities market to his clients.

35. Further, now coming to the emails sent to clients JP Mehta and Devyani Sarnaik, it any means did not guarantee any returns. The statement, "*We will take no further payment until we try to recover the loss amount*", simply implies that service fees would be suspended until the client recovers their previous losses. This translates

to a service fee waiver until loss recovery, not a guaranteed return. It simply gives investor an additional cushion/support that he doesn't have to pay any service charges until he recovers his past losses. It is a kind of service assurance and not profit assurance. A genuine guarantee would specify a specific amount of recovered loss within a defined timeframe.

36. Also in the said emails, the word 'try' is used several times, that: "*we would try our best to recover it as much as possible*", "*no further payment will be taken from you until we try to recover the loss amount*", wherein 'try' denotes to make an attempt or effort to do something, it does not imply any surety or assurance. So, the said mails by any means does not provide any assurance.

37. Furthermore, the WhatsApp message to Sanjay Dubey stated, “*4L ka profit kara sakta hu*” (“*you can make a profit of 4U*” or "*I can make a profit of 4L*"), where “Can” denotes possibility, not certainty. It did not claim, “*profit ho hi jayega*” (“*there will definitely be profit*”). This aligns with the general understanding that investors seek profit in the inherently risky stock market. Further, the SEBI itself in an Order passed by the Whole-Time Member in the matter of "GRS Solution" had recognized similar statements to be merely marketing gimmicks rather than being an actual promise of assured returns, leading to the dismissal of such allegations.

38. Further, with regard to the WhatsApp chats with one of the clients (Manoj Panda), the recommendations were provided to him on WhatsApp because due to some difficulty at his end, he was unable to view the recommendations on the Mobile Application and hence the exact same recommendation which were provided through the Mobile Application were being provided to him via WhatsApp chat. How it can be construed that the Noticee neither monitor nor has any control over the communications/ conversations between its clients and employees, which is just another baseless allegation made upon the Noticee.

39. Therefore, the Noticee respectfully assert that he has not violated provisions of Regulations 3 (a-d), 4 (1) and 4 (2)(k), (o) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

Lack of disclosure in the Research Reports

40. It has been alleged that the Noticee has violated Regulation 19 and 25 (1)(iii) r/w 25(2) of RA Regulations 2014. In response to SEBI's allegation regarding lack of disclosure in the Research Reports, the Noticee categorically deny any such claims. As, the definition of the 'Research Analyst' as provided in the SEBI RA Regulations states that:

"research analyst" means a person who is primarily responsible for,-

i. preparation or publication of the content of the research report; or

ii. providing research report; or

iii. making 'buy/sell/hold' recommendation; or

iv. giving price target; or

v. offering an opinion concerning public offer,

with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis"

41. It is crucial to note the use of "or" between clauses and not "and", signifying that a research analyst may perform any of the listed activities, not all of them concurrently. Whereas the Noticee solely perform the activity mentioned in clause (iii), which is providing "buy/sell/hold" recommendations and the Noticee strictly adhere to all relevant compliance requirements for this activity, including maintaining records of recommendations and their rationales.

42. Whereas the regulations define “research report" broadly, encompassing research recommendations. However, there is no explicit stipulation that providing research-based recommendations must solely be part of a research report. Further, the requisite disclosures as required by the SEBI (Research Analysts) regulations, 2014 are duly made upon the website and also on the Application through which research recommendations are provided. The same can be verified through: https://shrimoney.com/legal-disclaimer/.

43. Further, the Noticee reiterate that Noticee does not provide, issue, or publish any research reports. The Noticee solely offer technical research-based recommendations and as per Regulation 25(1) of the SEBI RA Regulations, the Noticee is only obligated to maintain records of provided recommendations and their rationales, which the Noticee has demonstrably maintained and presented to SEBI officials during the inspection.

44. Furthermore, keeping aside the argument whether research recommendation is a part of research report or not, the Noticee has after the 1st inspection held in November 2022 and in compliance with the directions of the observations of the inspecting authority, had started including all the requisite disclosures as required for the research report in its recommendations, which can be verified from the documents placed on records. The said recommendations were not checked by the inspecting authority and they merely relied upon the Audit Report which was notably for the period FY 2022-23 i.e. at the time of previous inspection.

45. Regarding clause 37 of the SCN, the Noticee categorically deny the claim of lacking rationales for recommendations. The Noticee has in place the records for all rationales of the recommendations provided to clients, and Annexure 8 of the SCN clearly demonstrates/ shows accompanying rationales for each recommendation.

46. Therefore, the Noticee maintain full compliance with the relevant provisions of the RA Regulations and have not contravened the provisions of Regulation 19 and 25 (1)(iii) of RA Regulations 2014, nor Clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in the Third Schedule under Regulation 24(2) of the RA Regulations 2014

Violation of PFUTP Regulations

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

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

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

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

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

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

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

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

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

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

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

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

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

49. Further, the Noticee would also like to place the reliance on SEBI's Order in the matter of Star World Research; wherein it was held that

"With respect to the definition of "fraud" under regulation 2 (c), I am of the view that the same is very wide and general in nature. The definition of "fraud" alone does not bring an act within the purview of PFUTP Regulations. There has to be "dealing in securities" as defined under regulation 2(1)(c) of PFUTP Regulations. There is no proof to show that the IA has committed fraud while "dealing in security" as contemplated under the PFUTP Regulations. In view of this, the misleading representations made by the IA to its clients and the wrong categorisation of clients and selling high risk products to unsuitable clients or levying GST after cancellation of its GSTN, etc., would not bring the Noticee's acts within the prohibition under the PFUTP Regulations. These are

violations of the prescriptions laid down in various provisions of the IA Regulations and the Code of Conduct. I am, therefore, inclined to drop the allegation of fraudulent and unfair trading in favour of the Noticee."

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

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

52. Hence, by following the principle of *doctrine of Stare Decisis*, the SEBI shall consider its judgments issued under similar issues or facts and such allegations shall be remove upon from the Noticee, as the alleged violations, have not been committed while dealing in security and also no material evidence has been established in this regard.

53. Noticee also refer to the Order of Hon'ble Securities Appellate Tribunal dated 16.06.2011, in the matter of *Religare Securities Limited Vs. SEBI (Appeal No. 23 of 2011),* it was held that:

"5. It must be remembered that the purpose of carrying out inspection is not punitive and the object is to make the intermediary comply with the procedural requirements in regard to the maintenance of records. We also cannot lose sight of the fact that every minor discrepancy/irregularity found during the course of inspection is not culpable and the object of the inspection could well be achieved by pointing out the irregularities/ deficiencies to the intermediary at the time of inspection and making it compliant. This will, of course, depend on the nature of the irregularity noticed and we hasten to add a caveat that it is not being suggested that if any serious lapse is found during the course of

the inspection, the Board should not proceed against the delinquent. For the reasons recorded above, the appeal is allowed and the impugned order set aside with no order as to costs."

54. That the Noticee had after the 1st inspection held in November 2022 and in compliance with the directions of the observations of the inspecting authority, had started including all the requisite disclosures as required for the research report in its recommendations, evidence of which has been placed on records.

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

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

Hence, the provision which is still in draft stage for consultation cannot be construed as a violation.

56. Noticee has actively engaged with SEBI throughout the process, promptly providing all requested documents and information and continue to maintain open communication and collaboration with the regulatory body. The Noticee believe that further discussion and clarification regarding specific concerns will ensure a comprehensive understanding of his compliance efforts and also, Noticee has not violated any provisions and therefore is not liable for any monetary penalty under the provisions of Section 15EB of the SEBI Act.

57. I now proceed to examine the case based on the facts and circumstances and the material available on record.

CONSIDERATION OF ISSUES AND EVIDENCE

58. I have carefully perused the allegations levelled against the Noticee in the SCN, their replies and the material / documents available on record. In the instant matter, the following issues arise for consideration and determination: -

I. **Whether the Noticee has violated the provisions of the Act, Regulations and Circulars as indicated at Para 1?**

II. ***Do the violations, if any, on the part of the Noticee attract monetary penalty under Section 15EB of the SEBI Act?***

III. ***If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15-J of the SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules?***

59. Before proceeding with the matter on merits, it would be relevant to reproduce the provisions of law:

SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003
3. Prohibition of certain dealings in securities
No person shall directly or indirectly—
(a) *buy, sell or otherwise deal in securities in a fraudulent manner;*
(b)*use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;*
(c) *employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*

(d) *engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the Act or the rules and the regulations made there under.*

4. Prohibition of manipulative, fraudulent and unfair trade practices

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

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

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

> ***(k)*** *disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading in a reckless or careless manner and which is designed to, or likely to influence the decision of investors dealing in securities*
>
> ***(o)*** *fraudulent inducement of any person by a market participant to deal in securities with the objective of enhancing his brokerage or commission or income;*
>
> ***(s)*** *mis-selling of securities or services relating to securities market;*

SEBI Act, 1992

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;*

SECURITIES AND EXCHANGE BOARD OF INDIA (RESEARCH ANALYSTS) REGULATIONS, 2014

Disclosures in research reports.

19. *A research analyst or research entity shall disclose all material information about itself including its business activity, disciplinary history, the terms and conditions on which it offers research report, details of associates and such other information as is necessary to take an investment decision, including the following:*

(i) *Research analyst or research entity shall disclose the following in research report and in public appearance with regard to ownership and material conflicts of interest:*

> ***(a)*** *whether the research analyst or research entity or his associate or his relative has any financial interest in the subject company and the nature of such financial interest;*
>
> ***(b)*** *whether the research analyst or research entity or its associates or relatives, have actual/beneficial ownership of one per cent or more securities of the subject company, at the end of the month immediately preceding the date of publication of the research report or date of the public appearance;*
>
> ***(c)*** *whether the research analyst or research entity or his associate or his relative, has any other material conflict of interest at the time of publication of the research report or at the time of public appearance;*

(ii) *Research analyst or research entity shall disclose the following in research report with regard to receipt of compensation:*

> ***(a)*** *whether it or its associates have received any compensation from the subject company in the past twelve months;*
>
> ***(b)*** *whether it or its associates have managed or co-managed public offering of securities for the subject company in the past twelve months;*

***(c)** whether it or its associates have received any compensation for investment banking or merchant banking or brokerage services from the subject company in the past twelve months;*

***(d)** whether it or its associates have received any compensation for products or services other than investment banking or merchant banking or brokerage services from the subject company in the past twelve months;*

***(e)** whether it or its associates have received any compensation or other benefits from the subject company or third party in connection with the research report.*

***(iii)** Research analyst or research entity shall disclose the following in public appearance with regard to receipt of compensation:*

(a) whether it or its associates have received any compensation from the subject company in the past twelve months;

***(b)** whether the subject company is or was a client during twelve months preceding the date of distribution of the research report and the types of services provided:*

Provided that research analyst or research entity shall not be required to make a disclosure as per sub-clauses (c), (d) and (e) of clause (ii) or sub-clauses (a) and (b) of clause (iii) to the extent such disclosure would reveal material non-public information regarding specific potential future investment banking or merchant banking or brokerage services transactions of the subject company.

***(iv)** whether the research analyst has served as an officer, director or employee of the subject company;*

***(v)** whether the research analyst or research entity has been engaged in market making activity for the subject company;*

***(vi)** Research analyst or research entity shall provide all other disclosures in research report and public appearance as specified by the Board under any other regulations.*

General responsibility.

***24.** ….*

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

Maintenance of records.

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

***…….(iii)** rationale for arriving at research recommendation;*

(2) *All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:*
Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

THIRD SCHEDULE
CODE OF CONDUCT FOR RESEARCH ANALYST
1. Honesty and Good Faith
Research analyst or research entity shall act honestly and in good faith.
2. Diligence
Research analyst or research entity shall act with due skill, care and diligence and shall ensure that the research report is prepared after thorough analysis.
6. Professional Standard
Research analyst or research entity or its employees engaged in research analysis shall observe high professional standard while preparing research report.
7. Compliance
Research analyst or research entity shall comply with all regulatory requirements applicable to the conduct of its business activities.
8. Responsibility of senior management
The senior management of research analyst or research entity shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures.

Issue I - Whether the Noticee has violated the provisions of the Act, Regulations and Circulars as indicated at Para 1?

60. Based on perusal of the material available on record, submissions of the Noticee and giving regard to the facts and circumstances of the case, I record my findings hereunder:

Findings with respect to the allegation of Assured returns:

61. I note that the allegation is that RA used 98 employees for sales and client communication but did not monitor their conversations or maintain records of calls/WhatsApp chats. It was observed during inspection that:

a) two clients i.e. Mr. JP Mehta, Ms. Devyani Sarnaik were informed that they could recover previous losses by subscribing to RA's services after paying an initial amount. The employees of RA provided verbal assurances that once the clients pay a certain amount, further service fees would be waived until losses were recovered, hence, the service was provided to clients only for a limited package period, effectively amounting to profit assurance.
b) In case of Mr. Sanjay Dubey in the whatsapp chat the RA's employee messaged to the client that "4L ka profit kara sakta hu" misleading the client of assured profit, without making risk disclosures.
c) the employee of the RA has been providing recommendation to Mr. Manoj Panda (one of the clients) on WhatsApp chat
d) Accordingly, the RA allegedly failed to oversee communications between its employee and clients. In view of the above, the RA was alleged to be in violation of PFUTP Regulations (3(a)-(d), 4(1), 4(2)(k), (o), and (s)), SEBI Act (12A(a)-(c)), and the RA Code of Conduct.

62. In regard to the allegation, Noticee has mainly contended the following:

a) The Noticee denies providing any assurance of guaranteed returns. Clear disclaimers on the website and user consent forms explicitly outline the risks of stock market investments and disclaim guarantees of profit. Disclosures on the website and consent forms emphasize that trading involves risks, and no fixed or guaranteed returns are offered.
b) Statements in client emails regarding fee waivers during loss recovery are clarified as service assurance, not profit guarantees. The use of words like "try" and "can" in communications emphasizes possibilities, not certainties.
c) Reference to SEBI Orders: The Noticee cites precedents where similar marketing language was not deemed to constitute guarantees of returns.

d) WhatsApp Recommendations: Recommendations shared on WhatsApp due to technical issues with the app are consistent with disclosed services and do not violate regulations.

63. IN the instances of Mr. J P Mehta and Ms. Devyani, I note from the emails dated July 28, 2023, January 29 & 30, 2024 from Sales team of Shrimoney:

a) Mr. J P Mehta was informed that whatever loss happened till date, Shrimoney would try their best to recover it as much as possible, and requested him to pay Rs.60,000/- now, and assured that no further payment would be sought till loss is recovered.

b) Ms. Devyani over emails was informed that she has paid Rs. 50,000/- till date and next day she will make payment of Rs. 2,00,000/-, and no further payment will be taken from her until Shrimoney try to recover her loss amount of Rs.12 lakhs. Post that she will pay the remaining package amount in installments of 70:30 ratio, for the combo package of Rs. 14,16,000/-.

64. I note that essentially the allegation is that the employee of RA lured the clients (Mr. J P Mehta and Ms. Devyani) to subscribe to its services and pay for certain portion of the package cost, till the time the clients recovered their loss, and this is alleged to be misleading and assuring of returns to the client. In this regard, I note that in the emails, it is clearly communicated to the clients that the RA would try to recover the loss incurred by the clients, and till the time such recovery is made, they don’t need to make further payments for the packages except a certain portion they need to pay before that. So, I note that the RA clearly indicated that it would try to recover loss, and there is no guarantee/assurance by the RA of the recovery of the loss. Further, there is no record to show that the service was extended only for limited package period, contrary to the statement in the emails, that no further payment till the loss is recovered. Hence, the allegation that the services were extended for limited period within which the loss would be recovered, and hence the assured returns to the clients, is not tenable.

65. In the instance of Mr. Sanjay Dubey, I have perused the whatsapp chat in which inter alia following transpired:

Entity	**Messages**	**Translated in English**
RA's employee	*Sir dekho manta ho aap loss me ho* *But akhri apka effort* *Apko ek badiya profit may la saktahy*	*Look sir, I agree that you are in loss.* *but your last effort* *May bring you a good profit*
Client	*Mat bhejo Sir mai 25K ki payment he nahi arrange kar pa raha hu*	*Don't send it sir, I am not able to arrange Rs 25k payment.*
RA's employee	*Sir koi baat nahi* *Agar aapko nahi kamana* *To ab kya bolu* *Mai yaha tak aapko bol raha hu Ki* *4L ka profit kara sakta hu*	*Sir no problem* *if you don't want to earn* *so what should I say now* *I may even go so far as to tell you that* *I can make a profit of 4Lakh*

66. From the above, it's noted that RA's employee sent messages, wherein it was stated that "if you don't want to earn, so what should I say now, I may even go so far as to tell you that, I can make a profit of 4Lakh". In the messages the RA employee clearly indicated that if the client doesn't want to earn what could he say, when he can make him profit of Rs. 4 lakh. The contention of the Noticee that can denoted possibility and not certainty, is not accepted since, 'can' denotes the ability to do something. Further, in the context of messages exchanged and the previous messages, 'if you don't want to earn, so what should I say now, I may even go so far as to tell you that' before the message 'I can make a profit of 4Lakh' makes it abundantly clear that the RA employee communicated to the client that the Profit of Rs. 4 Lakh is there to be made, but he cannot help it, if the client doesn't want to earn it. Further the SEBI order cited by the Noticee has different circumstances under which the SEBI WTM made those findings, and the instant issue before the undersigned is different, hence the findings or observations of the SEBI WTM order

is not applicable in the instant matter. In view of the above, I find that the RA's employee was misleading the client of assured profit, without making appropriate risk disclosures, to collect the fees.

67. In the instance of Mr. Manoj Panda, it is noted from the documents placed on records, that the employee of the RA provided recommendation to Mr. Manoj Panda on WhatsApp chat. In this regard, the Noticee has contended that recommendations shared on WhatsApp due to technical issues faced by the client with the app. In this regard, I note that the Noticee has not placed on records, any documents to support its claim that there was technical difficulties faced by the client in accessing the recommendation shared over the app, which when informed to the RA, the recommendations were forwarded the client over whatsapp on the request of the client. The Noticee has neither placed on records any communication from the client wherein the client informed the RA, nor the system log of RA, wherein the RA pushed the recommendation to client through its app, or any other records which substantiate the technical issue claimed by the RA. In view of the absence of the supporting documents from the Noticee, the contention is not accepted, and it is found that the RA was providing recommendation to the client on WhatsApp chat. In view of the above, it is found that RA neither monitor nor has any control over the communications/conversations between its clients and his employees, and therefore failed to exercise due diligence.

68. In view of the above, I find that the Noticee failed to act with honesty and good faith, lacked due diligence, professional standards, and compliance with the regulatory requirement and hence **Noticee has violated clauses 1, 2, 6, 7 and 8 of Code of Conduct as specified in the Third Schedule under Regulation 24(2) of RA Regulations.**

69. I note that the SCN alleges that the RA knowingly misled its clients in a manner likely to influence their decisions in dealing with securities and engaged in the mis-

selling of its services. In response, the Noticee has contended that its compliance with SEBI registration and regulations demonstrates the absence of fraudulent intent. Furthermore, the Noticee has contended that fraud under the PFUTP Regulations requires "dealing in securities," which, according to the Noticee, has not been established in this case. The Noticee has relied on SEBI and Securities Appellate Tribunal (SAT) orders, such as Star World Research and Niveshicon Investment Advisor, wherein allegations of fraud in similar contexts were dismissed. Additionally, the Noticee has argued that minor irregularities observed during inspections should not warrant punitive action, citing SEBI and SAT guidance. The Noticee also referred to SEBI's August 2024 consultation paper clarifying the regulatory framework for Research Analysts, arguing that since the provisions are still in draft form, they cannot form the basis for a violation.

70. In the discussion above in the report, it is found that contrary to the Noticee's assertions, evidence in the case of Mr. Sanjay Dubey indicates that the RA’s employee misled the client by making promises of assured profits without providing appropriate risk disclosures, thereby inducing the client to pay fees. The Noticee’s claim that SEBI registration precludes fraudulent intent is misplaced. SEBI registration merely authorizes an intermediary to operate within the regulatory framework and does not certify immunity from fraudulent practices.

71. In the present case, the RA’s actions constitute a clear violation of Regulations 2(k), 2(o), and 2(s) of the PFUTP Regulations, which define manipulative, fraudulent, and unfair trade practices. The client was explicitly misled regarding assured profits, and this misrepresentation influenced the client’s decision-making. Evidence, including emails and chat transcripts, demonstrates that the client traded in the securities market based on the Noticee’s research reports and incurred losses. These facts establish that the Noticee’s conduct involved dealing in securities, directly contradicting its contentions. Moreover, the circumstances of

the present case differ materially from those in Star World Research and Niveshicon Investment Advisor. Unlike those cases, the present matter involves clear evidence of misleading statements, lack of risk disclosures, and a direct causal link between the RA's advice and the client's trading losses. In view of the same, the doctrine of *stare decisis* does not apply.

72. In view of the discussion above, Noticee's actions amount to manipulative and unfair practices, undermining the integrity of the securities market and harming investor interests, hence it is established that the **Noticee violated Regulations 3(a), 4(1), 4(2)(k), 4(2)(o), and 4(2)(s) of the PFUTP Regulations.**

Findings with respect to the allegation of Maintenance of Records:

73. I note that the allegation is that recommendations shared via mobile applications and physical copies qualified as "research reports" but lacked mandatory disclosures under Regulation 19 of RA Regulations. Further it is also alleged that the RA falsely claimed that it did not issue research reports during the audit period (April 2022-March 2023), despite providing recommendations through app and physical copies. It was also noted that the 'Research Reports' merely included price charts without explaining the rationale for the recommendations, violating Regulation 25(1)(iii) of RA Regulations. Despite a prior administrative warning in 2022, RA continued to omit mandated disclosures in its research reports. SCN also allege that the RA misled its CS by denying that it issued research reports. Thereby RA was alleged to be in violation of Regulation 19, Regulation 25(1)(iii), and clauses of the RA Code of Conduct under Regulation 24(2) of the RA Regulations.

74. I note that Noticee has contended that
    a) Refers definition of Research Analyst, and clarifies that Noticee's activity involves providing buy/sell/hold recommendations, which is distinct from publishing detailed research reports.

b) The Noticee asserts adherence to all compliance requirements, including maintaining records of recommendations and rationales. Disclosures required under SEBI regulations are provided on the website and app.

c) After a 2022 inspection, the Noticee began including disclosures in recommendations, as evidenced by records provided to SEBI.

d) The Noticee denies allegations of missing rationales, citing records and documents submitted to SEBI.

75. I note that Noticee shared its recommendations via its mobile application and physical copies with clients. Regulation 2(1)(w) of RA Regulations *inter alia* provides that:

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

76. I have perused the recommendations shared by the RA with the clients, physical as well as through app (pertaining to September, October, November, December 2023 and January 2024) and find that the recommendations contained advice to trade in specific securities, with instructions regarding targets, stop loss and charts. Hence, I find that since the recommendations provided a basis to the clients for making investment decision, the recommendations qualifies as Research Reports. In view of the above, it is also established that the Noticee made false confirmation to the CS for the audit that the RA has issued any research report during the audit period April, 2022 to March, 2023.

77. I also note that Regulation 19 of RA Regulations *inter alia* mandates:

> *"**Disclosure in research reports.***
> ***19.** A research analyst or research entity shall disclose all material information about itself including its business activity, disciplinary history, the terms and conditions on which it offers research report, details of associates and such other information as is necessary to take an investment decision,……..."*

78. Hence, in view of the above, it is concluded that the "research reports" should contain mandatory disclosures as described under Regulation 19 of RA Regulations. I have perused the recommendations i.e. the research reports available on records, and find that the disclosures as given in Regulation 19, have not been made along with the Research Reports. Further, I also note that this omission is continuing even after a prior administrative warning issued by SEBI to Noticee in 2022 for the same omission.

79. In this regard, Noticee has contended that the disclosures required under SEBI regulations are provided on its website and app, and that after 2022 inspection, the Noticee began including disclosures in recommendations. I have perused the documents submitted by the Noticee and on records, and find that the Research Reports collected during the inspection did not contain the requisite disclosures and the disclosures on its website and app doesn’t absolve the Noticee from the mandate of disclosures in its research reports under Regulation 19. Further, I also note that the impugned recommendations/research reports pertains to months of September, October, November, December 2023 and January 2024, hence the contention that merely Audit report of CS of period FY 2022-23 was relied is not accepted.

80. I note that the Noticee has referred definition of Research Analyst, and asserts that the Noticee’s activity involves providing buy/sell/hold recommendations, which is distinct from publishing detailed research reports. In this regard, I note that the Noticee’s contention is misplaced since, from above discussion it is clear that the recommendations being Research Reports and resultant obligation to make disclosure under Regulation 19 is flowing from the Regulation 2(1)(w) of RA Regulations. Even providing buy/sell/hold recommendations provides a basis to the clients for making investment decision, and hence the same qualifies as Research Reports. Therefore the contention of the Noticee is not acceptable.

81. Further, the Noticee has referred to Para 13.5 of the SEBI consultation paper 'Review of Regulatory Framework for Investment Advisers and Research Analysts', and has contended that there is doubt regarding the argument that every research service should be supported by research report that provide the necessary data and analysis, hence the requirement of research report is still in draft stage for consultation cannot be construed as a violation.

82. In this regard, I note that the consultation paper *inter alia* states that, '*it has been argued that RA Regulations do not explicitly mention that every research service should be supported by research report*'. Hence, it is evident that consultation paper refers to those research services which are not explicitly mandated to be supported by the research reports. However, in the instant issue, the regulations explicitly mentions that disclosures are to be made along with the research reports, and the recommendations of the RA as discussed above, are Research Reports as per regulation 2(1)(w) and the RA needed to make statutory disclosures with these research reports. Hence, there is no ambiguity in the regulations, and the consultation paper refers to some other issue pertaining to some other research services. In view of the above, the contention of the Noticee is not accepted.

83. Further, w.r.t. the allegation that the 'Research Reports' merely included price charts without explaining the rationale for the recommendations, violating Regulation 25(1)(iii) of RA Regulations, I note that the aforesaid regulation mandate that the Research Analyst shall maintain the rationale for arriving at research recommendation. I note that the Noticee also claimed adherence to all compliance requirements, including maintaining records of rationales.

84. In regard to above, I have perused the research reports (collected during inspection) placed on records, and note that some of the physical research reports contained rationale, for e.g. the research reports for 14-Sep-2023 (Buy FINNIFTY

20500 PE Exp 18th Sep 2023; 14 Sep 2023 (Buy Bank Nifty 46100 PE Exp 20th Sep 2023; Buy Bank Nifty 45900 PE Exp 20th Sep 2023; Buy Bank Nifty 44800 PE Exp 11th Sep 2023; Buy Bank Nifty 44400 CE Exp 11th Oct 2023; Buy Nifty 19750 Ce Exp 23rd Nov 2023 contained rationale. However, some of the physical research reports did not contain the rationale, for e.g. the research reports for 22 Nov 2023 (Buy Bank Nifty 43800 PE Exp 22nd Nov 2023); Bank Nifty 43700 PE Exp 22nd Nov 2023 did not contain the rationale. Further, I also note that the research reports sent through the app did not contain the rationale.

85. In this regard, I also note that SCN has alleged that merely including price chart along with some indicator in the research report cannot be considered to be the rationale for arriving at the research recommendation. In this regard, I note that the while the regulations mandate that a rationale must be recorded for arriving at recommendations, but what shall constitute “rationale” is not explicitly defined in the regulations.

86. In view of above, I note that, research reports where the rationale has been duly recorded by the Research Analyst (RA) cannot be deemed non-compliant in the absence of defined criteria or a description of what constitutes "rationale" under the RA Regulations. Therefore, reports where the rationale has been documented by the RA are considered to compliant with the regulatory requirements.

87. However, as detailed above, certain research reports did not include rationale and hence this establishes that Noticee is in violation of **Regulation 19 and 25 (1)(iii) of RA Regulations 2014 read with Regulation 25(2) of the RA regulations.**

Issue II. Do the violations, if any, on the part of the Noticee attract monetary penalty under Section 15EB of the SEBI Act?

88. In the light of findings and observations made against the Noticee brought out in the foregoing paragraphs, it is evident that the Noticee has violated the following regulatory provisions:

a) Clauses 1, 2, 6, 7 and 8 of Code of Conduct as specified in the Third Schedule under Regulation 24(2) of RA Regulations
b) Regulations 3(a), 4(1), 4(2)(k), 4(2)(o) and 4(2)(s) of PFUTP Regulations
c) Regulation 19 and 25 (1)(iii) of RA Regulations 2014 read with Regulation 25(2) of the RA regulations.

89. The aforesaid violations, makes the aforesaid Noticee liable for penalty under Section 15EB of the SEBI Act.

90. In this context, I would also like to refer to the order of the Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund6wherein Hon'ble Supreme Court of India 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 and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not.*''

91. The text of the above referred Section 15EB of SEBI Act is reproduced herein below:

<u>Relevant provisions of SEBI Act:</u>

"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 III. If so, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15-J of the SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules?

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

SEBI Act

Factors to be taken into account while adjudging quantum of penalty

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

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

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default.

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

93. In this case, from the material available on record, any quantifiable gain or unfair advantage accrued to the Noticee or the extent of loss suffered by the investors as a result of non-compliance to the provisions is not available. Further, from the records it is noted that the Noticee has been repeatedly non-compliant w.r.t. omission of disclosure despite the administrative warning issued by SEBI, which indicates lack of diligence, and disregard for compliance of Regulations by the Noticee. The violations are in contrary to the regulatory requirements and

standards expected from registered intermediaries, therefore, the actions of Noticee should be dealt appropriately by imposing monetary penalty as effective deterrence.

ORDER

94. Considering all the facts and circumstances of the case including the submissions of the Noticee and exercising the powers conferred upon me under section 15-I of SEBI Act read with Rule 5 of the SEBI Adjudication Rules, I hereby impose the following monetary penalty under section 15EB of the SEBI Act on the Noticee:

Sr. No.	Name of the Noticee	Penalty Provisions	Amount of penalty (in ₹)
1	Mr. Punit Kumar (Proprietor of Shrimoney – Research Analyst) (SEBI Registration No: INH000008844) (PAN – AQHPK8566C)	Section 15EB of SEBI Act	₹ 10,00,000/- (Rupees Ten Lakhs Only)

In my view, the said penalty is commensurate with the violations committed by the Noticee in this case.

95. The 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

96. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this Order, recovery proceedings may be initiated 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.

97. In terms of Rule 6 of the SEBI Adjudication Rules, 1995, copy of this order is sent to the Noticee and also to the SEBI.

ASHA SHETTY Digitally signed by ASHA SHETTY Date: 2025.01.27 16:38:05 +05'30'

Place: Mumbai **ASHA SHETTY**

Date: January 27, 2025 **ADJUDICATING OFFICER**