

SECURITIES AND EXCHANGE BOARD OF INDIA

FINAL ORDER

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

In respect of:

S. No.	Name of the Noticee	PAN
1.	Swati Purwar	BLYPG4284Q

In the matter of Prowise Capital

A. BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) had passed an Interim Order cum show cause notice dated July 27, 2020 (hereinafter referred to as “**Interim Order**”) in respect of illegal unregistered investment advisory activities carried out by Prowise Capital (a partnership firm) and its partners including Swati Purwar (hereinafter referred to as “**Noticee**”). Prowise Capital and its partners including the Noticee were given an opportunity to file their replies and also avail personal hearing in compliance with principles of natural justice. Pursuant to the same, SEBI passed a Final Order dated June 14, 2021 (“**Final Order**”) *inter alia*, recording that the Noticee had neither filed any reply nor availed an opportunity of hearing. The Final Order *inter alia* held that the Noticee, as a partner of Prowise Capital, was liable for violation of section 12(1) of SEBI Act, 1992 (“**SEBI Act**”) read with regulation 3(1) of SEBI (Investment Advisers) Regulations, 2013 (“**IA Regulations**”) and regulation 4(2)(k) of SEBI (Prohibition

of Fraudulent and Unfair Trade Practices relating to Securities Market), 2003 (“PFUTP Regulations”).

2. Accordingly, the Final Order *inter alia* issued directions against the Noticee and other entities to refund the money received from investors as fees in respect of unregistered investment advisory activities. Further, *inter alia* the Noticee was debarred from accessing the securities market for a period of 2 years from the date of completion of refund to investors.
3. For the failure to comply with the directions of the SEBI Final Order directing refund, recovery proceedings were initiated against 6 entities including the Noticee. The Noticee challenged the Final Order before the Hon’ble Securities Appellate Tribunal (hereinafter referred to as “SAT”) *inter alia*, on the ground that neither the Interim Order nor the Final Order was served on her and that she came to know of the Final Order only when her husband carried out an internet search. The Hon’ble SAT *vide* its order dated January 15, 2025 set aside the Final Order *qua* the Noticee and remitted the matter back to SEBI for fresh consideration in accordance with law. Further, the Hon’ble SAT also directed the Noticee to appear before SEBI on February 05, 2025.
4. As directed by the Hon’ble SAT, video conference meeting details were sent to the Noticee and her Authorised Representatives (“AR”) for a personal hearing before me on February 05, 2025. However, the ARs responded that they wish to conduct an inspection of documents, file a reply and then appear for hearing. The ARs of the Noticee inspected the documents on March 11, 2025 and submitted their reply dated April 16, 2025. Though an opportunity of personal hearing was granted to the Noticee on April 11, 2025, the ARs sought adjournment. Subsequently, another opportunity of personal hearing was granted to the Noticee on April 29, 2025. On the said date, the ARs appeared before me and reiterated the submissions made *vide* the Noticee’s letter dated April 16, 2025.

B. REPLY

5. The contentions raised in the Noticee's written submission dated April 16, 2025 and those made during the personal hearing are summarised below.

5.1. An unregistered partnership firm was formed on January 15, 2016 in the name of Prowise Capital, with 4 partners: Mr. Arun Jatav, Mr. Vaibhav Patil, Yogendra Gangrade and Ms. Swati Purvar (all Noticees to Final Order). The firm was formed with an aim to obtain SEBI registration as an Investment Adviser. During the relevant time, Ms. Swati was holding NISM Investment Adviser certificate.

5.2. The partnership deed is dated January 15, 2016. On January 27, 2016, the partners opened bank account of Prowise Capital with ICICI Bank, Indore. After opening the bank account, Ms. Swati had infused an initial capital amount of INR 49,282 on February 09, 2016. After the said payment, Ms. Swati had no transactions with Prowise Capital (bank statement of Prowise Capital is submitted).

5.3. Ms. Swati resigned on March 15, 2016 due to her pregnancy. Her resignation was accepted by partners of Prowise Capital. She had also requested Prowise Capital to remove her name from the partnership and bank account associated with it (resignation letter is submitted). After her resignation, she was not associated with Prowise Capital in any manner (including any communication or transactions with the partners). She has also not received any remuneration or share of profit or loan from Prowise Capital (her bank account statement is submitted).

5.4. The present proceeding has been initiated pursuant to section 25 of the Indian Partnership Act, 1932, which is not applicable as Prowise Capital is an unregistered partnership firm. Hence, the provisions of partnership deed will be binding on the partners. Ms. Swati had diligently followed the provisions of partnership deed to retire (the partnership firm was "partnership at will") and no other partner had raised any objections over her retirement. Without prejudice to the aforesaid, in the event Indian Partnership Act, 1932 is applicable to Prowise Capital, Ms. Swati had duly retired with consent of all the partners.

- 5.5.** During her tenure as partner of Prowise Capital, it had not received any communication from SEBI. Since Ms. Swati resigned in a short span of time, registering Prowise Capital with SEBI was beyond her scope and ability. Ms. Swati was neither part of any decisions taken nor involved in the day-to-day affairs of Prowise Capital. Two partners who were also Noticees (Mr. Vaibhav and Mr. Yogendra) had filed an affidavit dated August 05, 2020 with SEBI wherein they had *inter alia* confirmed that Ms. Swati had resigned within 2 months after formation of Prowise Capital. SEBI has not considered these affidavits while issuing interim directions.
- 5.6.** SEBI has procured data from the website of Prowise Capital. The said website has been made after resignation of Ms. Swati. Her name is not mentioned on the said website.
- 5.7.** Apart from the KYC document signed on January 21, 2016, no other document is available on record which has been signed by Ms. Swati.
- 5.8.** The Noticee has relied on the judgments of the Hon'ble Supreme Court in the matter of Monaben Ketanbhai Shah & Anr. Vs. State of Gujarat & Ors. (AIR 2004 SC 4274), Katta Sujatha (smt.) vs. Fertilizers and Chemicals Travancore Ltd. [(2002) 7 SCC 655] and the judgment of Hon'ble High Court of Gujarat in the matter of Jani Nautamal Venishankar, Wadhwan vs. Shri. Vivekanand Co-operative Housing Society Limited and Ors. [AIR 1986 Guj 162].
- 5.9.** During the personal hearing, the ARs highlighted that the liability of the entire refund amount mentioned in the final order of SEBI dated June 14, 2021 cannot be fastened on the Noticee as she was a partner of Prowise Capital (an unregistered partnership firm) only for 1 month from the commencement of its operations. During this period, as per the Noticee, there were no transactions pursuant to the business of Prowise Capital. However, the ARs admitted that the Noticee could be held liable for transactions in the bank account of Prowise Capital, if any, prior to her resignation. The ARs also drew attention to the affidavits filed by the other partners of Prowise Capital before SEBI wherein they have stated that the Noticee had resigned within 1 month.
- 5.10.** The ARs were asked about the nature of relationship of the Noticee with the other partners of Prowise Capital. It was informed that the Noticee knew the other partners through her spouse. The ARs were also asked about the

reason behind her capital contribution in Prowise Capital. The ARs informed that the amount reflected in the bank account of Prowise Capital from the Noticee was provided as initial working capital for the partnership firm. However, after her resignation, the Noticee did not request for the initial capital contribution or a portion thereto to be refunded / reimbursed to her as at the relevant time she was physically unwell.

C. CONSIDERATION OF ISSUES AND FINDINGS

6. I note that the Final Order held that Prowise Capital and its partners acted as an 'investment adviser' without holding the mandatory certificate of registration during the period from January 30, 2016 to February 20, 2020 in violation of section 12(1) of SEBI Act read with regulation 3(1) of the IA Regulations. Further, it was held that the Prowise Capital and its partners without holding certificate of registration, knowingly held themselves as 'investment adviser' in violation of regulation 4(2)(k) of PFUTP Regulations. I note that the said findings have become final against Prowise Capital and its other partners but set aside only *qua* the Noticee *vide* SAT Order dated January 15, 2025 on the grounds that she was neither in receipt of the Interim Order nor the hearing notice nor the impugned order. Further, I note that *vide* the Final Order, the Noticee was found to be one of the partners of Prowise Capital and was held liable for unregistered investment advisory activities of Prowise Capital along with other partners. Consequently, *inter alia*, directions for refund of monies received as consideration and restraint from dealing in securities were issued in respect of the Noticee *vide* the Final Order.
7. The Noticee has admitted before me that she was a partner of Prowise Capital although only for a limited period. Therefore, the only issue that requires to be addressed in the present matter is whether the Noticee is liable as a partner of Prowise Capital for the violation of aforesaid provisions of SEBI Act, IA Regulations and PFUTP Regulations, and if so, what is the quantum of monies that she would be jointly and severally liable to refund the investors.

A. Whether the Noticee was a partner and if so, what was her tenure of partnership?

8. I note that the Interim Order and the Final Order do not record the period during which the Noticee was a partner of Prowise Capital. The Noticee has submitted that she was a partner of Prowise Capital only for the limited period between January 15, 2016 and March 15, 2016. In support of the said submission, she has submitted the following documents:

- Partnership deed dated January 15, 2016;
 - Important clauses under the partnership deed: Clause 9 – Partnership at will, Clause 14 – Process of resignation
- Her resignation letter dated March 15, 2016 (acknowledged by one of the other three partners); and,
- An affidavit dated August 05, 2020 from two partners confirming that the Noticee resigned within 2 months submitted to SEBI.

Further, she has stated that she retired with consent of all the partners as it was a partnership at will and in accordance with the provisions of the Partnership Deed. On perusal of the aforesaid documents, I find that the Noticee was a partner of Prowise Capital only for the two-month period between January 15, 2016 and March 15, 2016.

B. What is the extent of Noticee's liability?

9. With respect to the liability of the Noticee as a partner of Prowise Capital during the relevant period, the Noticee has submitted she had resigned within a short span of time and registering Prowise Capital with SEBI was beyond her scope and ability. Further, she has submitted that she was not a part of decisions taken or involved in day-to-day affairs of Prowise Capital. She has stated that she did not receive any remuneration or profit from Prowise Capital and submitted her bank account statement. She has also relied on the judgments of Monaben Ketanbhai Shah (supra) and Katta Sujatha (supra) which *inter alia* held that a partner is liable

for an offence committed by the firm if he was in charge of and responsible to the firm for the conduct of the business, in the context of criminal proceedings. The AR of the Noticee also submitted during the personal hearing before me that the Noticee could be held liable for transactions in the bank account of Prowise Capital, if any, prior to her resignation.

- 10.** I note that a partnership firm is not a separate legal entity but merely an association of persons who agree to carry on business together. The partnership deed of Prowise Capital, at Clause 4, specifically mentions that the partners will act as “working partners”. Further, the judgments relied upon by the Noticee apply to criminal liability and not civil liability. In this regard, I place reliance on the order of the Hon’ble High Court of Andhra Pradesh in the matter of G. PRAMEELA (Smt) v. Smt. AVULA HYMAVATHI, 1997(2) ALD(CRI) 1) wherein the court held the following:

“...It is true that under the Indian Partnership Act, 'firm' or 'partnership' is not a legal entity, but merely an association of persons agreed to carry on business. It is only a collective name for individuals carrying on business in partnership. The essential characteristic of a firm is, that each partner is a representative of other partner. Each of the partner is an agent as well as principal. He is an agent insofar as he can bind the other partners by his acts within the scope of the partnership agreement. He is principal to the extent that he is bound by the acts of other partners. In fact, every partner is liable for an 'act of the firm'. 'Act of a firm' has been defined to mean 'any act or omission by all the partners or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm'. This is the civil liability of the firm and its partners. ”

(emphasis supplied)

- 11.** The present proceedings were initiated under sections 11(1), 11(4) and 11B(1) of SEBI Act and are quasi-judicial in nature as held by Hon’ble Supreme Court in the matter of NSDL vs. SEBI and other connected appeal (Civil appeal no. 5173 of 2006 decided on March 07, 2017). Therefore, the criminal liability principles in the judgments cited by the Noticee are not applicable to this case. Since Prowise Capital is a partnership firm, all partners have unlimited liability for the acts of the

firm, regardless of the amount of profit or loss they individually derive. Accordingly, irrespective of their role or the extent of profit earned, every partner, including the Noticee, is liable for the acts of the firm.

12. The Final Order records that Prowise Capital's unregistered investment advisory activities were carried on from January 30, 2016 (*i.e. 15 days after the firm was constituted*) to February 20, 2020, i.e., including the period when the Noticee (i.e. Swati Purwar) is also found to have been a partner of the firm. The Final Order also records that Prowise Capital collected fees for unregistered investment advisory through two bank accounts, one with ICICI Bank account during the period from January 30, 2016 to February 20, 2020 and another one with Axis Bank during the period from October 05, 2018 to February 13, 2020. As concluded earlier in this Order, the Noticee was a partner of Prowise Capital only between January 15, 2016 and March 15, 2016. SEBI has concluded in multiple cases in the past (*for instance in the cases of Manoj Agarwal – see SAT order dated July 14, 2017; Sayanti Sen i.e. Silicon Projects India Ltd. - see SEBI order dated January 16, 2018; Suraksha Industries India Ltd. – see SEBI order dated March 27, 2018*), that the refund obligation is limited to the extent of the amount collected during the tenure of directorship (in case of companies). I am guided by the principle expressed in such orders and find that the Swati Purwar's (i.e. Noticee's) refund obligation must be limited to the period that she was a partner in Prowise Capital. Between January 15, 2016 and March 15, 2016, the total credits received by Prowise Capital, as per the Final Order, was INR 2,23,404.10. Therefore, Noticee's refund liability, along with the other noticees to the Final Order, is to the extent of the aforesaid amount.

CONCLUSION & DIRECTIONS

13. In view of the findings above, I deem it necessary to issue directions to the Noticee to refund the monies received during her partnership period, amounting to INR 2,23,404.10 (*Two lakh Twenty-three Thousand Four hundred and four Rupees and Ten paise only*), jointly and severally, with Prowise Capital and its other partners. I note that Prowise Capital and its partners failed to refund the money received, as directed in the Final Order. Consequently, recovery proceedings have been

initiated against them and are still pending. Recovery proceedings against the Noticee was cancelled due to SAT Order dated January 15, 2025 remanding the matter back to SEBI. Therefore, as an alternative to the refund direction, since the recovery proceedings are ongoing, the liability of the Noticee shall be considered discharged if the Noticee deposits the said amount with SEBI.

14. The Final Order dated June 14, 2021 restrained the noticees to the said order from the securities market for a period of 2 years from the date of completion of refund to investors. The Noticee has already undergone debarment for more than 3.5 years in terms of the Final Order (from the date of Final Order till the date of SAT Order). Therefore, in the interest of ensuring proportionality and reasonableness in directions, I am of the view that no debarment directions are warranted against the Noticee.

15. In view of the aforesaid observations and findings, I, in exercise of the powers conferred upon me under Sections 11, 11(4), 11B (1) and 11D read with section 19 of the SEBI Act, hereby issue the following directions: -

15.1. The Noticee shall be liable, along with Prowise Capital and its partners mentioned in the Final Order, to refund the monies received by Prowise Capital from clients/ investors, as fees or consideration, in respect of unregistered investment advisory activity, to the extent computed/ determined in paragraph 12 above;

15.2. The repayment to the clients/ investors shall be effected only through banking channels (i.e., no cash transfers), which ensures audit trail to identify the beneficiaries of repayments;

15.3. The Noticee shall along with Prowise Capital and its other partners issue a public notice, in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 30 days from the date of this Order.

15.4. After completing the refund as directed in paragraph 15.1, the Noticee shall file a report of such completion with SEBI, within a period of 15 days, duly certified by an independent chartered accountant.

15.5. *Alternatively*, instead of complying with paragraphs 15.1 to 15.4 – correct this, the Noticee shall, within a period of 30 days from the date of this Order, open a fixed deposit account in a Scheduled Commercial Bank to credit/ deposit the amount mentioned in paragraph 12 above with a lien marked in favour of SEBI and the amount kept therein shall be utilized for the ongoing recovery and refund proceedings by SEBI.

15.6. In case of failure of the Noticee to comply with the aforesaid directions, SEBI, on expiry of three months from the date of this Order, may initiate proceedings under section 28A of the SEBI Act, and take any other action in accordance with law. The aforementioned directions shall be read in conjunction with the Final Order dated June 14, 2021 passed against 6 noticees (excluding Swati Purwar).

16. This Order shall come into force with immediate effect.

17. A copy of this Order shall be served upon the Noticee to ensure compliance with the above direction.

Sd/-

ANANTH NARAYAN G.

DATE: AUGUST 19, 2025

WHOLE TIME MEMBER

PLACE: MUMBAI

SECURITIES AND EXCHANGE BOARD OF INDIA