

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: S. K. MOHANTY, WHOLE TIME MEMBER

ORDER

Under Sections 11 (1), 11 (4), 11 (4A), 11B (1) and 11B (2) of the Securities and Exchange Board of India Act, 1992

In respect of:

Sl. No.	Name of the Noticee	PAN
1	Hemant Ghai	AHMPG0327K
2	Jaya Hemant Ghai	ADWPT5210G
3	Shyam Mohini Ghai	AHSPG1017G

(The entities mentioned above are individually known by their respective names or Noticee No. and collectively referred to as "Noticees")

In the matter of CNBC Awaaz shows co-hosted by Mr. Hemant Ghai

Background:

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") observed a high correlation between the recommendations made by Mr. Hemant Ghai (hereinafter referred to as "**Noticee No. 1**") in the show 'Stock 20-20' that was being co-hosted by him on CNBC Awaaz, during the period January 1, 2019 to May 31, 2020, and the trades of his wife, Ms. Jaya Hemant Ghai (hereinafter referred to as "**Noticee No. 2**") and his mother, Ms. Shyam Mohini Ghai (hereinafter referred to as "**Noticee No. 3**") executed during the above mentioned period.
2. Pursuant to a preliminary examination into the aforesaid activities of the *Noticees*, an *Ad Interim Ex Parte Order* dated October 1, 2020 (hereinafter referred to as "**Interim Order**") was passed in the matter wherein it was *prima facie* observed that the *Noticees* were indulging in front running activities in the stocks that were being recommended by *Noticee No. 1* in the 'Stock 20-20' show on CNBC Awaaz during the aforesaid period. Consequently, certain directions were issued against the *Noticees* *inter alia* restraining the *Noticees* from accessing or associating themselves with the

securities market, either directly or indirectly, in any manner whatsoever till further directions as they were *prima facie* observed to be engaged in the acts which were *prima facie* in violation of the provisions of Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 (hereinafter referred to as “**PFUTP Regulations**”). Subsequently, a *Confirmatory Order* dated September 2, 2021 was passed in the matter, wherein, the directions of the *Interim Order* were confirmed against the *Noticees* and it was also noted that in compliance with direction issued under the *Interim Order* INR 2,95,18,680/- have been deposited in an escrow account by the *Noticees*.

3. As the *Interim Order* was passed pending investigation, SEBI proceeded with a detailed investigation in the present matter to ascertain as to whether the trading activities of *Noticees No. 2* and *3* were synchronised with the recommendation given by *Noticee No. 1* on the various shows hosted / co-hosted by him on CNBC during the period of investigation that was considered from January 1, 2018 to January 13, 2021 (hereinafter referred to as “**Investigation Period**”). On the conclusion of the investigation, SEBI passed an *Ad-Interim Ex-Parte* Impounding Order in the subject matter on February 3, 2022 (hereinafter referred to as “**Impounding Order**”) *inter-alia* directing the *Noticees* to jointly and severally deposit an additional amount of INR 3,90,67,921/-, the same being the alleged additional unlawful gains arising out of the trading activities of the *Noticees*.
4. Upon completion of the investigation a common Show Cause Notice dated February 24, 2022 (hereinafter referred to as “**SCN**”) was served on the *Noticees* containing various facts unearthed during the investigation pertaining to the trading activities of the *Noticees* and the consequent allegations that flowed from such facts about the *Noticees’* trading activities. The broad allegations as levelled against the *Noticees* in the SCN are as under:
 - 4.1. *Noticee No. 1*, with participation of *Noticees No. 2* and *3* had devised and executed a fraudulent scheme or device or artifice to trade in certain securities in synchronization with the recommendations made in the shows hosted/co-hosted by *Noticee No. 1* on CNBC Awaaz and thereafter, unfairly took advantage of the impact of the recommendations by trading in synchronization with the aforesaid recommendations in the trading accounts of *Noticees No. 2* and *3*.

4.2. *Noticee No. 1* was in possession of material non- public information regarding the recommendations to be given by him in the shows hosted/co-hosted by *Noticee No. 1* on CNBC Awaaz and allegedly passed this information fraudulently to his wife as well as allegedly used this information to trade in the accounts of *Noticees No. 2* and *3* and thus, devised an alleged scheme/artifice which provided him an unfair advantage vis-à-vis the market participants who trusted the aforesaid recommendations without realizing that the aforesaid alleged fraudulent scheme/artifice was devised and executed by *Noticee No. 1* for his own benefit.

4.3. The findings of the investigation have also identified the *Noticee* wise quantum of *prima facie* wrongful gains made by the *Noticees* from the fraudulent trades detailed out above, as follows:

Table No. 1

Entity trading in synchronization with recommendations provided on shows hosted / co-hosted by Hemant Ghai on CNBC Awaaz	Entity in possession of information of recommendations provided on shows hosted / co-hosted by Hemant Ghai on CNBC Awaaz	Total Unlawful gains (INR.)	Person responsible for disgorgement of profit jointly and severally
Jaya Hemant Ghai	Hemant Ghai	4,51,88,459.07	Jaya Hemant Ghai and Hemant Ghai
Shyam Mohini Ghai	Hemant Ghai	1,63,28,675.02	Shyam Mohini Ghai, Jaya Hemant Ghai and Hemant Ghai

5. In the light of the aforesaid, *Noticees* have been called upon to show cause as to:

5.1. why suitable directions under Sections 11B(1) and 11(4) r/w 11(1) of SEBI Act including debarment for an appropriate period and disgorgement of the unlawful gains detailed out above (INR 2,95,18,680/- is lying deposited in the escrow account in compliance with *Interim Order*) along with interest, calculated at 12% per annum should not be issued against them,

5.2. why suitable directions imposing penalty under Sections 11B(2) and 11(4A) of the SEBI Act read with Sections 15HA and 15HB of the SEBI Act and SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, should not be issued/imposed against them.

6. It is noted from the records that the SCN was served on the *Noticees* through email. In response to the SCN, *Noticees* vide a letter dated March 16, 2022 through their Authorised Representative, Parinam Law Associates (hereinafter referred to as “AR”) requested for inspection of documents in the matter which was conducted by them on March 23, 2022. Further, copies of documents as requested by them, were also provided to the *Noticees*. However, the AR vide its letter dated April 7, 2022 once again requested for copies of certain other documents and inspection in the matter. *Noticees* were once again provided with an opportunity of inspection on April 11, 2022 which was availed by them.
7. *Noticee No. 1* vide his reply dated April 19, 2022 while denying the allegations levelled against him in the SCN *inter alia* has made the following submissions:
 - 7.1. A bare glance at the letter dated March 9, 2021 addressed by SEBI to TV 18 requisitioning information and documents makes it abundantly clear that SEBI is curiously indifferent and has not even attempted to understand, in a logical fashion, the internal steps behind each show. The time and objective of the shows, the role of anchors and guest experts, material researched upon, performance of international markets have conveniently been ignored by SEBI. It is stated that no relevant information has been sought by SEBI to gather any insight or elaboration into the process save and except for a question seeking a write up on the process of stock recommendation.
 - 7.2. In relation to 301 trades in question divided into BTST and intra-day trades, the data relied upon by SEBI is discrepant as almost two-thirds of the alleged recommendations in relation to BTST trades are not made by him. Similarly, in case of intra-day trades, it is the experts on the panels of the shows who have made the calls and not the anchors. Further, recommendations put up by the producers of shows on the hot board are passed as recommendations made by him. Thus, SEBI’s investigation is slipshod.
 - 7.3. It is stated that SEBI, in the course of its purported investigation, has neither called for transcripts of the videos from TV18 nor has it independently verified the contents of the videos by an independent expert. It is stated that in the absence of a transcript, the allegations in the SCN are, at best, subjective inference

of what is understood by the investigating authority as a recommendation, yet the same is emphatically claimed to be proof of violations in the SCN.

7.4. Apart from the *Noticees* and two employees of MAS Consultancy, SEBI has seemingly neither called upon any other individuals nor recorded any other statements, which highlights the inadequate nature of the investigation. It is stated that SEBI's failure at fact finding becomes further evident as no co-anchors, producers or any individuals from CNBC Awaaz have been summoned for questioning.

7.5. An inadequate investigation has resulted in a disconnect between the *prima facie* allegations in the *Ex-Parte Order* and what is canvassed in the SCN, as the allegation of "synchronization" of trade has not been established. It is stated that an allegation of "synchronization" would entail demonstrating the meeting of minds and coordination between the *Noticees* which is notably vague in the SCN and invariably leads to the following conclusions:

7.5.1. The SCN fails to establish how, if any, information was communicated by him;

7.5.2. The SCN fails to establish as to how, if at all, he was aware of the trading activities of *Noticee No. 2*; and

7.5.3. The SCN fails to even demonstrate whether the recommendation was at all given by him on various scrips or who actually gave the recommendation of the scrips;

7.6. In any event, it is submitted that the SCN is unclear in its premise of synchronization as it is straddling several scenarios of alleged "synchronization" being either synchronization between *Noticees No. 1* and *2*, or, between MAS Consultancy and him, and fails to conclusively establish either of them.

7.7. With respect to intra-day trades, it is submitted that discussion on stocks during market hours were based on real time market movements and supported by the CNBC Awaaz assignment desk. The role of the anchors is limited to moderate the discussion on well performing stocks in real time to seek the view of the experts and as such any call or recommendation offered on stocks during market hours

were made by external analysts / technical experts booked on the shows. This fact is confirmed not only by TV 18 but also by him.

- 7.8. It is submitted that the SCN incorrectly observes that the preparation for the show Stock 20-20 began during the market hours on the previous day even though TV 18 and he has stated otherwise, merely because certain stock ideas for the Stock 20-20 show were teased in the 'Kal Ka Khiladi Aaj' segment. It is submitted that the said segment was merely used to advertise for the Stock 20-20 show and no recommendations were made in the said segment, merely observations on probable stock ideas that may be in the show on the next day was aired in an effort to attract maximum viewership. It is submitted that the conclusion drawn by SEBI in the SCN is flawed.
- 7.9. The allegations of a systematic *modus operandi* of synchronisation is also made on the days even when he was on leave and was never on the show.
8. *Notices No. 2 and 3* vide their common letter dated April 26, 2022 have made submissions on similar lines as that of *Noticee No. 1*. They have denied the allegations levelled against them in the SCN and have submitted that *Noticee No. 2* has made all trading decisions and undertaken all trades on behalf of the *Notices No. 2 and 3*. *Noticee No. 2* is an avid investor in the market and has undertaken all trades after due research into the scrips. *Noticee No. 2* has in depth knowledge of the securities market, as she also worked as a journalist in the market at TV 18 for several years.
9. After considering the written responses of the *Notices* to the SCN, the *Notices* were granted an opportunity of personal hearing in the matter on May 24, 2022. Vide an email dated May 23, 2022, the *Notices* have submitted a report prepared by Ernst & Young (hereinafter referred to as "**EY Report**") therein reviewing the data and documents relied upon and furnished by SEBI to them in relation to the allegations in the SCN.
10. On the day of the scheduled hearing, the AR of the *Notices*, Mr. Mustafa Doctor, Senior Advocate and *Noticee No. 2* appeared in person and presented their oral submissions. During the hearing, while presenting the case on behalf of his *Notices*, the AR reiterated the submissions already made by the *Notices* in their written replies. The *Notices* were granted two weeks' time to make additional submissions, if any in the matter.

11. Subsequent to the hearing, the AR of *Noticee No. 1* vide his letter dated June 9, 2022 *inter alia* made the following additional submissions along with a Supplementary EY Report stating that:

11.1. The investigation conducted by SEBI is piecemeal, the aim of which was to uphold a prejudged conclusion. This contention is supported by the following facts:

11.1.1. No transcripts of the video recordings were provided by SEBI along with the SCN. The transcripts were not even provided at the stage of inspection, after the *Noticees* requested for it several times;

11.1.2. The video recordings are selective and not complete in any aspect;

11.1.3. There is no co-relation between the allegations in the SCN and the contents of the video recordings;

11.1.4. The statements of third parties have been relied upon and extracted in the SCN without granting an opportunity of cross examination of such persons which is *per se* in violation of principles of natural justice and fair play;

11.1.5. The investigation team did not seek for various confirmation and the questions and responses of CNBC team are incomplete when essential queries and clarification would have sorted out the issues clearly without any difficulties;

11.1.6. The data relied upon by SEBI on the entire trades executed by *Noticee No. 2* is incorrect and there is no mention of the source of such information;

11.1.7. There is no question asked or investigation conducted in relation to the other entities / anchors / guests on the show which too would have clarified the issues at hand.

11.2. SEBI has ignored the trading experience and history of *Noticee No. 2*.

11.3. It is submitted that SEBI's investigation does not deem it necessary to look beyond a generic list of show wise discussions of stocks and the trading of *Noticee No. 2*, which results in a scant fact finding exercise which fails to establish even the basic allegations such as:

- 11.3.1. How information, to be broadcasted the next day and not yet crystallized, could have been in the knowledge of *Noticee No. 1*? or
- 11.3.2. How was the said information allegedly communicated to *Noticee No. 2* and / or the brokers at MAS Consultancy?
- 11.3.3. For intra-day trades, when *Noticee No. 1* was constantly on the screen and the show with multiple cameras focused on him, whether at all any attempt could be made to pass on any information to anyone, let alone passing advance information to *Noticee No. 2* or any person?
12. *Noticee No. 2* vide her letter dated June 10, 2022 has made additional submissions wherein she has adopted the submissions of *Noticee No. 1* and has *inter alia* further submitted as follows:
- 12.1. She is an independent trader and has been trading in the securities market since 2004, for over 18 years. Prior to her marriage to *Noticee No. 1*, she used to assist her father with trading and used to regularly undertake trades for him.
- 12.2. She used to place all her trades on a daily basis through an app called Telegram. She does not store any messages in her phone and regularly deletes all messages. Therefore, unfortunately she does not have any order placing messages stored in her mobile for the period 2018 - 2021, which is several months ago. Apart from this, she used to sign the order sheets at the end of the trading day and post them to the broker on a regular basis.

Consideration of Issues and Findings

13. After going through the materials available on record, I find that essentially, the issue that arises for determination in the present matter is whether *Noticee No. 1* had the advance knowledge of the scrips that would be discussed / recommended on the various shows hosted on CNBC Awaaz and if he had the advance knowledge of the said information, whether the trades executed in the trading accounts of *Noticees No. 2* and *3* were influenced by the possession of the said information so as to take advantage of the recommendation made on the various shows of CNBC Awaaz.
14. In order to evaluate the charges made against the *Noticees* on merit, it is relevant to first refer to the provisions of SEBI Act and PFUTP Regulations, that have been either

allegedly violated by the *Notices* or are otherwise relevant for the present proceedings. The said provisions are reproduced hereunder for ready reference:

SEBI Act

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

Section 12A.No person shall directly or indirectly—

(a) ...

(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.

...

(e) deal in securities while in possession of material or non-public information or communicate such material or non-public information to any other person, in a manner which is in contravention of the provisions of this Act or the rules or the regulations made thereunder;

Penalty for fraudulent and unfair trade practices.

15HA. If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty which shall not be less than five lakh rupees but which may extend to twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

Penalty for 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 thereunder 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.

PFUTP Regulations

Prohibition of certain dealings in securities

Regulation 3. No person shall directly or indirectly—

(a) buy, sell or otherwise deal in securities in a fraudulent manner;

(b) ...

(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 thereunder.

Prohibition of manipulative, fraudulent and unfair trade practices

Regulation 4 (1) Without prejudice to the provisions of regulation 3, no person shall indulge in a fraudulent or an unfair trade practice in securities.

15. Now adverting to the issue of Noticee No. 1's access to the information / advance knowledge pertaining to the scrips proposed to be recommended on the forthcoming shows to be hosted on CNBC Awaaz, it has been alleged in the SCN that Noticee No. 1 had the advance knowledge of the scrips that would be recommended on 'Stock 20-20' show and a teaser of 'Stock 20-20' show was also being broadcasted in advance in a segment called 'Kal Ka Khiladi Aaj' towards the end of the market hours. In response

to the said allegation, *Noticee No. 1* has submitted that though he was concurrently doing his own research work, he was getting to know of the scrips just prior to the show as the research work for the 'Stock 20-20' show used to start post market hours and was not finalised until the next morning.

16. I have carefully perused and considered the facts unearthed during investigation and the oral as well as written submissions of *Noticee No. 1*. As I understand from the facts, the show, 'Stock 20-20' was being broadcasted every morning (from 7:30 am to 8:00 am) on CNBC Awaaz before the opening of market hours in which *Noticee No. 1* was a host/co-host during which he was talking about top 10 scrips picked by him for the day. Facts unearthed during investigation demonstrate that at least a few of the scrips that were to be broadcasted as part of the anchors'/hosts' top 20 pick for the next day's early morning show, were already identified prior to the closing of market hours on the previous day for which research work and process of selection would have commenced adequately before the teaser show on the previous day in the segment 'Kal Ka Khiladi Aaj' (usually between 2:30 pm to 3:30 pm). In that case such a fact would defeat the claim of *Noticee No. 1* that the research work for his morning show of 'Stock 20-20' used to commence after the market hours on the previous day. On the face of such a gross discrepancy of factual position, the claim of *Noticee No. 1* cannot be accepted as a gospel truth. However, at the same time I note that this case being a peculiar one at the core of which lies the making of a stocks related TV Show, the investigation could have brought out the additional details with respect to the processes, research work etc. that go into making of such a show along with the timelines that were being followed for identifying the scrips by the research and production teams for being selected by the host/co-host of the morning show 'Stock 20-20' about which a teaser was being released in a previous day's programme. The same might have answered the questions as to how, when and who identified those scrips for the hosts to discuss about in the said show, which holds the key to justify the other allegations made in the SCNs such as synchronised BTST and intra-day trades based on the advance non-public information about the stocks allegedly possessed by the *Noticee No.1* much prior to those stock were recommended on the shows hosted / co-hosted by him.

17. From the trading pattern of the BTST trades executed from the trading accounts of *Noticees No. 2* and *3*, it is observed that there is a discernible pattern of placing buy

orders in the scrips which were recommended on the 'Stock 20-20' show, a day prior to the said show and selling the said scrips, post opening of the market (more than 90% of the shares have "sell order start time" between 9:05 am to 9:39 am). These trading patterns found in large number of trades executed from the trading accounts of *Notices No. 2* and *3* provide a case wherein an inference can be drawn that such trades were most likely in correlation with the stocks recommendations made on the 'Stock 20-20' show. I find the following common patterns that can be identified across the impugned BTST trades:

- Shares were bought in the trading accounts of *Notices No. 2* and *3*, a day prior to those shares were to be televised on the 'Stock 20-20' show.
- Majority number of the said shares so purchased on the previous day were sold immediately / within a few minutes of market opening on the next day.
- A considerable proportion of BTST trades executed from the trading accounts of *Noticee No. 2* (112/128 [88%]) and *Noticee No. 3* (38/40 [95%]) were executed in the aforesaid fashion.

18. It may be difficult to accept the aforesaid distinct pattern as a mere coincidence. Similar pattern can also be noted for the impugned intra-day trades where the squaring off of the buy trades used to happen soon after the stock recommendations were made on the show(s) hosted on CNBC Awaaz. However, I note that there are certain gaps in collating information regarding the process of stocks research and selection of a few identified stocks that was being followed by the production team of the TV Channel for the host/co-host to pick up those selected scrips for recommending on the show(s) televised on CNBC and how and when the advance information about those identified stocks was coming to the knowledge of *Noticee No. 1* prior to airing of the respective shows. At the same time, it would be erroneous, if I become oblivious of the profound correlations that are observed between the stock recommendations made on those show(s) where *Noticee No. 1* was either a host or a co-host and the pattern of impugned trades executed from the accounts of *Notices No. 2* and *3* during the investigation period. Thus, in my view based on the facts unearthed, it is not feasible to bring out with clarity, the actual chain of events and processes that used to be followed at CNBC Awaaz before finalisation of information about a select number of scrips for being recommended/discussed in a particular show, without which it may not be possible to adjudicate the matter at this stage.

19. Further, in order to effectively adjudicate the matter, it is pertinent to examine as to whether or not, the non-public information regarding the scrips selected for being recommended on the show(s) that were televised on CNBC Awaaz was material in nature? In this regard, I note that based on price-volume analysis of the recommended scrip, allegation has been made in the SCN that the stock recommendations made on the show had a noticeable impact on the price – volume of the said scrips. *Noticee No. 1* has submitted before me that SEBI has used broad parameters to come to the finding of materiality and further, in the impugned trades, 51% profits have accrued on trades executed prior to the recommendation made on the show(s) which needs to be examined. In view of the above, I note that the methodology which has been employed at the time of investigation to ascertain the impact on price and volume for scrips involved in the impugned intra-day trades needs to bring out more clarity with regard to the impact on the price and volume vis-a-vis those stocks recommendations. In this regard, I also note that *Noticee No. 1* has deposed at the time of investigation stating that “*I am aware that sometimes the price and volume of a particular recommended scrip had an impact (positive or negative) after the recommendation*”. The said deposition of *Noticee No. 1* indicates that he was aware that in some scrips, not necessarily in all scrips, there was an impact, post recommendation. This admission by *Noticee No. 1* coupled with the finding that a majority of the impugned BTST trades executed from the trading accounts of *Noticees No. 2* and *3* were having noticeable correlations with the stock recommendations made on the shows (through which significant amount of profit was made by the *Noticees* on a regular basis), lead to an inference that the impugned trades were executed to take advantage of the impact on price and volume of the scrip, post the recommendations made about these stocks on the shows broadcasted on CNBC Awaaz. The aforesaid facts and inferences call for proper analysis of impact/materiality of the stock recommendations on the scrips which has not been properly analysed as highlighted above.

20. The next issue that needs to be considered and very germane to the matter is regarding placement of orders for the impugned trades during the investigation period. In this regard, I have already noted earlier that from the distinct pattern of trading and the strong correlation between the buying and selling of shares made in the trading accounts of *Noticees No. 2* and *3* and the scrips that were recommended on the show(s) hosted on CNBC Awaaz, an inference can be made that these trades

executed from the accounts of *Notices No. 2* and *3* were under the influence of non-public information about the scrips selected for recommendation on those TV shows. However, I note that the investigation has not clearly brought out the aspect of various claims made by the *Notices* regarding the mode and manner of placement of orders for those impugned trades so as to arrive at a reasonable conclusion that the orders for the impugned trades were indeed placed by both the *Notices No. 1* and *2*. On the other hand, I am finding there is a claim that the record of order placement has been maintained in the form of a physical register that was being sent to her home regularly for confirmation/signature while on the other hand the *Noticee No. 2* claims that the actual mode of placement of order adopted by her was through Telegram messages which have been erased/deleted by her, and could not be substantiated from the end of MAS Consultancy, either. The aforesaid stand when seen in light of the fact that *Noticee No. 2* used to receive electronic contract notes via email, the claim of *Notices* that order confirmation used to be obtained from *Noticee No. 2* by sending a physical register for her signature purpose on a regular basis despite the claim that she used to place orders through electronic messages (allegedly Telegram messages), raises a red flag for further scrutiny. Such a discrepancy in the claims made by *Noticee No. 2* and MAS Consultancy remains unresolved and it is not clear as to who exactly was placing the orders for the impugned trades and what was the exact mode for placing such orders.

21. Moreover, from the deposition of *Noticee No. 3* (mother of *Noticee No. 1*), it is noted that she was neither aware of the account that was opened in her name with MAS Consultancy nor was she aware of the trades happening in her account. This gives rise to a compelling inference that she did not authorise *Noticee No. 2* to execute trades in her name and she also had no interest in trading activities. Thus, her trading account appears to be a Mule account and may have been used to place orders so as to avoid regulatory supervision. Be that as it may, notwithstanding the strong suspicion and red flags that can be raised based on the unsatisfactory responses given by the *Notices* about placement of orders, in my view, in the extant matter it is imperative that based on either direct evidence, if available or on the basis of collateral material collected during the investigation or on the basis of any circumstantial evidence adduced from the facts found during the investigation, the investigation should arrive at a definite finding about the source(s) of placement of orders for those impugned

trades executed from the accounts of *Noticees No. 2* and *3* as the same finding will also answer the question with respect to the communication of non-public information about the scrips selected for recommendations by *Noticee No. 1*.

22. In view of the aforesaid discussions and the peculiar facts and circumstances of the matter, I am of the considered view that no fair adjudication of the matter is possible on the basis of certain disputed facts borne out of the submissions advanced by the *Noticees* coupled with certain aspects that remained unexamined and as alluded by *Noticee No. 1* in his submissions. Therefore, the matter requires re-examination in greater details to broadly cover the following areas:

22.1. The aspects pertaining to the commencement of the process of selection of scrips for the shows hosted/co-hosted by *Noticee No. 1* so as to conclude with reasonable degree of certainty on the various timelines being followed by the research/production team of the channel, based on which it can be inferred at what point in time and in what manner, the *Noticee No. 1* could have had access to the information pertaining to the scrips that would become part of recommendation on various show(s) of CNBC Awaaz which is crucial to know before proceeding further with the allegation of communication of non-public information or placement of orders on the basis of such information against *Noticee No. 1*.

22.2. Assessment of the impact of the stock recommendations made during current market shows of CNBC Awaaz telecasted during the market hours to ascertain their materiality on the impugned intra-day trades, is required to be done to bring more factual clarity.

22.3. The investigation narrates that the orders for the impugned trades were placed by both the *Noticees No. 1* and *2* for which additional evidence, either direct or circumstantial, may be examined. However, it also remains a fact that the *Noticees* by their submissions have not been able to prove with a degree of certainty that the orders were indeed placed by *Noticee No. 2*, as claimed by her before the Investigating Officer.

22.4. Examination is also required with respect to the claim of the *Noticee No. 2* of having placed the order through an app “Telegram” and not retaining even a single message in her mobile phone while simultaneously confirming her orders

to the broker through physical mode i.e. in the form of a physical register which is not a convenient mode of order confirmation in today's age of electronic medium of communication. There is a need to delve deep into this aspect to find out whether such a unique practice of obtaining order confirmations was being followed by MAS Consultancy solely for the *Noticee No. 2* or for its numerous other investors as well on a regular basis.

22.5. The claim of the *Noticee No. 2* that it was she, who used to place the orders for the impugned trades in the accounts of the *Noticees No. 2* and 3, require further examination. It is pertinent to record here that the *Noticee No. 2* in her deposition before the Investigating Officer in response to a question "*Identify the dealer/RM/employee at mas Consultancy with whom you have interacted for trading in your account*" has responded "*I do not know who I was interacting with at MAS Consultancy*". Further, the *Noticee No. 2* was asked "*Have you ever signed any documents other than Account opening form with Motilal Oswal or MAS Consultancy including any other instruction register*"? and the answer of the *Noticee No. 2* was "*No*". Even with respect to the claim that the orders placed by her were maintained by MAS Consultancy in a physical register that was being confirmed and signed by her regularly, I note that to the question "*MAS Consultancy has submitted copies of order instruction register for the dated 26, 27, 30 and 31 March, 2020 which bear your signature. The same have been viewed by you. Please provide your comments*", put to her at the time of her deposition, *Noticee No. 2* had replied that "*The aforesaid signatures have not been made by me*".

22.6. As pointed out above, the *Noticee No. 2* in her statement has denied having signed any register, however, on the same day i.e. on November 24, 2021 in an email to SEBI has stated that "*After coming back from today's meeting with you at SEBI Bhawan and post carefully thinking about your query of signature on Order Instruction Register, I now recollect that I did sign and send Register Sheets across to MAS Consultancy periodically. I also used to obtain my Mother in laws signature and send the same to Mass Consultation Office at Mehsana*". The aforesaid apparent contradiction and inconsistency in her stand during her deposition and post deposition before SEBI requires further examination from the end of the broker and its AP.

22.7. In addition to the aforesaid, it is also the contention of *Noticee No. 1* that SEBI has *inter alia* not question co-anchors, producers or any individuals from CNBC Awaaz, and has not verified the contents of the videos by an independent expert, etc. which have not been properly looked into and the matter appears to have been examined in haste, resulting in miscarriage of justice, hence, has requested for a direction to SEBI to conduct the investigation in a fair and impartial manner.

23. In view of the aforesaid discussions, I am of the view that the instant matter, is a fit case which definitely warrants a deeper examination of its various facets, as highlighted by me in the preceding paragraphs. I am therefore of the considered view that unless the investigation dwells deeper and examines in detail each and every aspect of the matter, starting from the process of collection of information about a particular impugned scrip by the research team for being included in the 'to be recommended list', the timelines followed in selecting the scrips for being telecasted, the persons who were privy to the advance knowledge about the scrips identified for recommendations, to the materiality of such stock recommendation broadcasted on the said impugned scrips and the source, manner and mode of placement of orders in the impugned scrips including the execution of trades during the leave of the *Noticee No. 1*, a clear and complete picture will not emerge. As more material facts need to be unearthed to arrive at a clear finding in the matter, I am of the view that this is a fit case for re-investigation. Some contentions and questions on the findings of investigation so far made have been raised by the *Noticees* during this proceeding and it is necessary that these questions are addressed during the re-investigation. The Investigating Officer shall be at liberty to look into all aspects of execution of the impugned trades to arrive at a finding as to whether the trades executed in the trading accounts of the *Noticees No. 2* and *3* were within the confines of the securities laws and also to find out as to who all were involved in the matter, in case the trades are observed to be in contravention of the securities laws.

24. A basic premise that underlines the integrity of securities market is that persons connected with securities market conform to the standards of transparency, good governance and ethical behaviour prescribed in securities laws and do not resort to fraudulent and deceptive activities. Such activities are detrimental to the interests of the investors as well as the securities market. No person can be allowed to enrich

himself by way of earning wrongful or ill-gotten gains or avoidance of potential loss by indulging in wrongful activities prohibited under the securities law. SEBI has been entrusted with the statutory mandate of protecting the interest of investors and safeguarding the integrity of the securities market. In this regard, necessary powers have been conferred upon SEBI under the securities laws. PFUTP Regulations have put in place a framework for prohibition of fraudulent and manipulative activities while dealing in securities and also to prevent unfair trade practices in the securities market. The measures provided in the Regulations are intended to check all kinds of impermissible conduct in order to boost the investors' confidence in the securities market and to ensure a level playing field in the securities market. The primary purpose is to safeguard the interest of investors and integrity of the securities market while at the same time also to provide an environment conducive to increased participation of the investors in the securities market. In the given facts and circumstances of the case, the impugned trading behaviour of the *Noticees* as alleged in the SCN provides sufficient cause to delve deeper into matter as many questions remain to be answered so as to give a holistic factual matrix that can form the basis for adjudicating the matter in an objective and fair manner. I am therefore of the view that this is a fit case for re-investigation and SEBI should employ all the investigative powers entrusted upon it to address the aspects broadly highlighted by me in the preceding paragraphs because of which the SCN remains wanting on facts and adequate evidence and to ascertain the role, if any of each of the *Noticees* including other entities, if any in the entire matter.

Directions

25. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11(4A), 11A, 11B (1) 11B (2) and 11C read with Section 19 of the Securities and Exchange Board of India Act, 1992 read with Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, dispose of the SCN dated February 24, 2022 and hereby direct SEBI to re-investigate the matter.
26. SEBI shall endeavour to complete the investigation within six months from the date of this Order and thereafter, to conclude the matter expeditiously.
27. I note that based on the *prima facie* strong findings vide the *Interim Order* dated January 13, 2021, SEBI had directed the *Noticees*, jointly and severally, to deposit an

amount of INR 2,95,18,680/- in an escrow account which was *prima facie* the proceeds generated from the impugned trades, which the *Noticees* have complied with. Further, vide the *Interim Order Noticees* were also restrained from buying, selling or dealing in securities, either directly or indirectly, in any manner whatsoever till further directions and *Noticee No. 1* was directed to cease and desist from undertaking, directly or indirectly, any activity related to giving investment advice, sell or buy recommendations, publishing of research reports etc., related to the securities market, till further directions. Since all things having been considered, including the pattern of the impugned trades executed from the trading accounts of *Noticees No. 2* and *3* and the role of the TV shows hosted by *Noticee No. 1*, based on which a re-investigation has been ordered in the matter, I find no reason to disturb the extant position at this stage.

28. The Order shall come into force with the immediate effect.

29. A copy of this order shall be forwarded to the *Noticees*, all the recognized stock exchanges, depositories and registrar and transfer agents for ensuring compliance with the above directions.

-Sd/-

Date: July 22, 2022

Place: Mumbai

S. K. MOHANTY

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA