BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[Adjudication Order: Order/SM/KH/2023-24/29779]

Under section 15-I of the Securities and Exchange Board of India Act, 1992 read with rule 5 of the Securities and Exchange Board of India (Procedure for Holding Inquiry & Imposing Penalties) Rules, 1995

In respect of:
Harinder Kumar Sahu, Research Analyst
(PAN- BLPPS3144G)
(SEBI Registration No- INH200005753)

In the matter of Harinder Kumar Sahu, Research Analyst

BACKGROUND

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") conducted an inspection of Harinder Kumar Sahu, Research Analyst (hereinafter referred to as "**You"**/"**Noticee"**/"**Harinder"**/"**RA**"), who is a SEBI Registered Research Analyst ("**RA**") having SEBI Registration No. INH200005753. The inspection of the Noticee was conducted on November 30, 2022 for the period of April 01, 2021 to November 30, 2022 (hereinafter referred to as "**inspection period**"). Accordingly, the findings of the aforementioned inspection were communicated to the entity vide SEBI letter dated February 14, 2023. In response to the findings of the inspection report, Noticee filed its reply vide letter dated February 20,2023. A post inspection analysis based on the responses of the entity vis-à-vis the findings of inspection was prepared and it was observed that Noticee had allegedly violated certain provisions of securities law, the details of which are tabulated below:

Table No. 1

S.N.	Alleged Violation	Statutory Provisions
1	Non–Compliance with SEBI Circular on Publishing of investor charter and disclosures on investor charter- RA-Harinder did not publish investor charter and disclose the details of investor complaints on his website - www.kingresearch.co.in	Regulation 24(2) of RA Regulations 2014 read with clause 7 of code of conduct specified in Schedule III to the SEBI (Research Analysts) Regulations, 2014. SEBI circular no. SEBI/HO/IMD/IMD-II CIS/P/2021/0685 dated December 13, 2021
2	Compliance with Qualification and Certification requirements- RA-Harinder did not hold required NISM Certification during the period April 02,2022 to November 10,2022.	Regulation 7(2) read with Clause 7 of Code of Conduct for Research Analyst read with Regulation 24(2) of SEBI (Research Analysts) Regulations, 2014.
3	Discrepancies in contents of the Website- RA-Harinder did not mentioned full address of his business place as well as adequate data was not available to support his claim about past performance on his website: - www.kingresearch.co.in	Regulation 24(2) of RA Regulations read with clause 2 of code of conduct specified in Schedule III of SEBI (Research Analysts) Regulations, 2014.
4	Establishing internal policies and procedure- Harinder did not established internal policy and control procedures to address potential conflicts of interests arising from his trading activities and research analyst activities.	Regulation 15 of SEBI (Research Analysts) Regulations, 2014.
5	Limitation on trading by research analyst- Harinder had been trading in the securities recommended by the Research Analyst during the window of 30 days prior and 5 days after publishing research report	Regulation 16 (2) of SEBI (Research Analysts) Regulations, 2014.
6	Disclosure of all material information in research report and while making public appearance- Harinder did not disclose his SEBI registration details business activities and his interest /beneficial ownership in securities that being reviewed/recommended in research report/video uploaded on public media	Regulation 19 and 21 of SEBI (Research Analysts) Regulations, 2014.
7	Compliance with General Responsibilities- RA-Harinder had made unrealistic and misleading disclosure on its YouTube channel and also induce visitor on his website to open DMAT account by sharing link of various stock Brokers.	Clauses 2 and 6 of Code of Conduct for Research Analyst read with Regulation 24(2) and Regulation 13(i) of SEBI (Research Analysts) Regulations, 2014. Regulation 4(2) (k), (o) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 read with section 12A (c) of the Securities and Exchange Board of India Act, 1992 ("SEBI Act")
8	Maintenance of records- RA- Harinder did not maintained research report /recommendation with digital signature and also did not conduct annual compliance audit for FY 2020-21 and 2021-22.	Regulation 25(2) and (3) of SEBI (Research Analysts) Regulations, 2014.

APPOINTMENT OF ADJUDICATING OFFICER

2. Vide communiqué dated August 21, 2023, it has been informed that the competent authority in SEBI is satisfied that there are sufficient grounds to inquire into the affairs and adjudicate upon the alleged violations as specified above w.r.t. Noticee and appointed the undersigned as Adjudicating Officer under Section 15I (1) of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**") read with Rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") to inquire into and adjudge:

   A. Under section 15EB of SEBI Act, the alleged violation of:

      i. Regulation 24(2) of RA Regulations 2014 read with clause 7 of code of conduct specified in Schedule III to the SEBI (Research Analysts) Regulations, 2014.
      ii. SEBI circular no. SEBI/HO/IMD/IMD-II CIS/P/2021/0685 dated December 13, 2021
      iii. Regulation 7(2) read with Clause 7 of Code of Conduct for Research Analyst read with Regulation 24(2) of SEBI (Research Analysts) Regulations, 2014.
      iv. Regulation 24(2) of RA Regulations read with clause 2 of code of conduct specified in Schedule Ill of SEBI (Research Analysts) Regulations, 2014.
      v. Regulation 15 of SEBI (Research Analysts) Regulations, 2014.
      vi. Regulation 16 (2) of SEBI (Research Analysts) Regulations, 2014.
      vii. Regulation 19 and 21 of SEBI (Research Analysts) Regulations, 2014.
      viii. Clauses 2 and 6 of Code of Conduct for Research Analyst read with Regulation 24(2) and Regulation 13(i) of SEBI (Research Analysts) Regulations, 2014 by Noticee;

   B. Under section 15 HA of SEBI Act, the alleged violation of:

      i. Regulation 4(2) (k), (o) and (s) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 read with section 12A (c) of the Securities and Exchange Board of India Act, 1992 ("**SEBI Act**") by Noticee.

SHOW CAUSE NOTICE AND HEARING

3. A Show Cause Notice (hereinafter referred to as "**SCN**") dated September 21, 2023, was issued to Noticee under rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held against you and penalty, if any, should not be imposed upon you under section 15EB and 15HA of the SEBI Act, for the aforesaid alleged violations by you.

4. The aforesaid SCN was sent to Noticee through Speed Post AD **("SPAD**") at the following address of Noticee- *Plot No. 21, Green Hills Colony, Street No. 8, Habsiguda, Hyderabad, Telangana-500007* and the same returned undelivered. Accordingly, the SCN was affixed at the last known address of Noticee. The proof of affixture is on record. Subsequently, in the interest of natural justice, a newspaper publication was made in 3 newspapers as mentioned below on October 26, 2023. Vide aforesaid publications, Noticee was also advised to collect the SCN dated September 21, 2023 from the Office of Adjudicating Officer or download it from SEBI website under the section*: - Enforcement: - Unserved Summons/Noticee*. Through aforesaid publication, Noticee was also granted an opportunity of personal hearing before the undersigned on November 06, 2023. I note that Noticee neither appeared for the hearing on November 06, 2023 nor submitted any reply to the SCN till date of this order. The whole process of the present enquiry proceeding with respect to Noticee is mentioned below in tabular form:

Table No 2

SCN dated	**Delivery of SCN**		
	SPAD	**Affixture**	**Newspaper Publication***
September 21, 2023	Returned with the comment - 'Left'	Failed	Times of India Sakshi Daily Hindi Milap

.

5. I am of the view that the principles of natural justice have been adhered to, as the SCN and the Hearing Notice was duly served upon Noticee, which is on record and sufficient opportunity was granted to Noticee to reply to the SCN and appear for the personal hearing. Considering the fact that Noticee has neither filed any reply nor has availed the opportunity of personal hearing despite service of notices upon it, I am of the view that Noticee has nothing to submit and accordingly, the matter is now being proceeded on the basis of material available on record.

6. At this juncture, it is pertinent to note that the Hon'ble Securities Appellate Tribunal ("**SAT**") in the matter of **Classic Credit Ltd. vs. SEBI** (Appeal No. 68 of 2003 decided on December 08, 2006) has, *inter-alia*, held that, *"...the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show cause notice were admitted by them"*.

7. Further, the Hon'ble SAT in the matter of **Sanjay Kumar Tayal & Others vs SEBI** (Appeal No. 68 of 2013 decided on February 11, 2014), has also, *inter- alia*, held that: *".... appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices..."*

8. Additionally, the same position has been reiterated by the Hon'ble SAT in the matter of **Dave Harihar Kirti bhai vs SEBI** (Appeal No. 181 of 214 dated December 19, 2014), wherein it has been held that:

"...further, it is being increasingly observed by the Tribunal that many persons/entities do not appear before SEBI (Respondent) to submit reply to SCN or, even worse, do not accept notices/letters of Respondent and when orders are passed ex-parte by Respondent, appear before Tribunal in appeal and claim non-receipt of notice and do not appear and/or submit reply to SCN but claim violation of principles of natural justice due to not being provided opportunity to reply to SCN or not provided personal hearing. This leads to unnecessary and avoidable loss of time and resources on part of all

concerned and should be eschewed, to say the least. Hence, this case is being decided on basis of material before this Tribunal...".

9. Hon'ble SAT in its order dated May 12, 2017 in the matter of **Shri. B. Ramalinga Raju vs. SEBI** (Appeal no. 286 of 2014), held that- "even *though the Noticees remained ex-parte, I find it relevant that I should be guided by the documents available on record"*.

10. In view of the observations made by the Hon'ble SAT in the aforesaid judgment, I find no reason to take a different view and accordingly, I deem it appropriate to proceed against Noticee ex-parte, based on the material available on record, I hereby, proceed with the matter, based on the material available on record before me.

CONSIDERATION OF ISSUES, EVIDENCE AND FINDINGS

11. I have carefully perused the charges levelled against Noticee in the SCN and the material available on record. I note that the issues that arise for consideration in the present case are:

    Issue No. I. Whether Noticee has violated the provisions as mentioned in paragraph 2 of the order?

    Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Sections 15EB and 15HA of the SEBI Act?

    Issue No. III If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with rule 5(2) of the Adjudication Rules?

Issue No. I. Whether Noticee has violated the provisions as mentioned in paragraph 2 of the order?

12. The allegations levelled against Noticee, and findings in respect of the same are dealt with in the subsequent paragraphs of this order.

Allegations

13. **Non–Compliance with SEBI Circular on Publishing of investor charter and disclosures on investor charter**

13.1. It has been observed that Noticee has failed to publish investor charter on their website. Further, Noticee did not disclose the details of investor complaints on its website.

13.2. Thus, in view of above, it is alleged that Noticee has not complied with the SEBI circular no. SEBI/HO/IMD/IMD-II CIS/P/2021/0685 dated December 13, 2021 and allegedly violated the provisions of Regulation 24(2) of RA Regulations read with clause 7 of code of conduct specified in Schedule Ill to the RA Regulations.

Findings

13.3. I note that Clause 2 and clause 3 of SEBI circular no. SEBI/HO/IMD/IMD-II CIS/P/2021/0685 dated December 13, 2021 state as follow: -

2. All registered Research Analysts are advised to bring to the notice of their clients the Investor Charter as provided at Annexure- A by prominently displaying on their websites and mobile applications. Research Analysts not having websites/mobile applications shall, as a one-time measure, send Investor Charter to the investors on their registered e-mail address.

3. Additionally, in order to enhance transparency in grievance redressal, Research Analyst (RA) shall disclose on their websites/mobile applications, all complaints including SCORES complaints received by them in the format mentioned in Annexure- B on a monthly basis. The information shall be made available by 07th of the succeeding month. Research Analysts not having websites/mobile applications shall send status of Investor Complaints to the investors on their registered email on a monthly basis in compliance of this circular.

13.4. In the instant case, on examination of the website of Noticee on July 11, 2023, and thereafter on November 10, 2023, I find that Investor charter and investor complaints had not been published by Noticee on its website. Thus, I find that Noticee has failed to disclose information regarding investor charter and investor complaints as stipulated by the aforesaid circular.

13.5. Thus, in view of above, I find that Noticee is liable for violation of SEBI circular no. SEBI/HO/IMD/IMD-II CIS/P/2021/0685 dated December 13, 2021. Considering aforesaid, I note that Noticee failed to comply with all the regulatory requirements applicable to the conduct of its business activities and thus, I find that Noticee has also violated Regulation 24(2) of RA Regulations read with clause 7 of Code of Conduct specified in Schedule Ill to the RA Regulations.

14. **Compliance with Qualification and Certification requirements**

14.1. It has been observed that Noticee did not hold valid NISM certification specified for research analysts during 02.04.2022 to 10.11.2022. Thus, it is alleged that Noticee is in violation of the provisions of Regulation 7(2) read with Clause 7 of Code of Conduct for Research Analyst read with Regulation 24(2) of RA regulations.

Findings

14.2. I note that Regulation 7(2) of RA Regulations states that individuals registered as research analysts, individuals employed as research analysts, and partners of research analysts must hold a certification specified by SEBI or another certification recognized by SEBI. It has also been categorically mentioned that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements. In the present case, I note from records available before me that Noticee failed to fulfil the aforesaid requirement of NISM certification for the period April 02, 2022 to November 10, 2022. Thus, I find that by not holding the required certification, Noticee is in violation of Regulation 7(2) of RA Regulations. Further, Clause 7 of Code of Conduct for Research Analyst as mentioned in Schedule III of RA Regulations read with

Regulation 24(2) provides that Research analyst or research entity shall comply with all regulatory requirements applicable to the conduct of its business activities. Thus, considering that Noticee did not have the required NISM certificate in terms of Regulation 7(2) of RA Regulations, I find that Noticee failed to comply with all regulatory requirements applicable to the conduct of its business activities and thereby, Noticee is liable for violation of Clause 7 of Code of Conduct for Research Analyst (as mentioned in Schedule III of RA Regulations) read with Regulation 24(2) of RA Regulations.

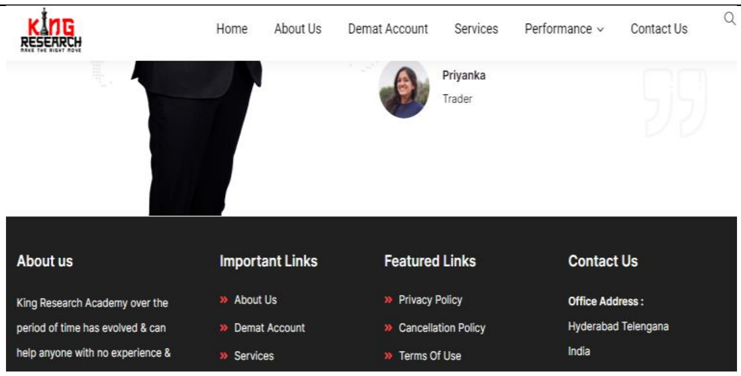
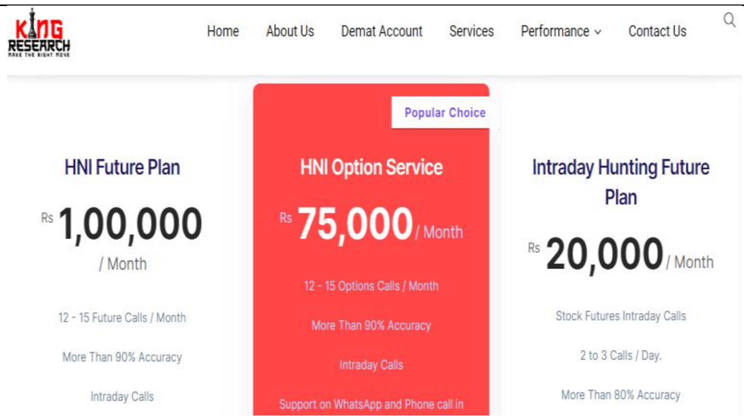
14.3. In view of above, I find the allegation that Noticee is in violation of the provisions of Regulation 7(2) of RA Regulations read with Clause 7 of Code of Conduct for Research Analyst (as mentioned in Schedule III of RA Regulations) read with Regulation 24(2) of RA regulations stands established.

15. **Discrepancies in contents of the Website**

15.1. It has been observed that Noticee did not mention the full registered address of the business place from where he was doing RA activities on his website, www.kingresearch.co.in. Further, Noticee claimed on its website that there was 90% accuracy under various products viz. HNI Future Plan, HNI option services etc, however, Noticee failed to provide any data/information available which supports the claim made by Noticee on its website**.** Thus, it is alleged that Noticee has not complied with Regulation 24(2) of RA Regulations read with clause 2 of Code of conduct specified in Schedule Ill of RA Regulations.

Findings

15.2. I note that Regulation 24(2) of RA Regulations read with clause 2 of Code of conduct specified in Schedule Ill of RA Regulations provides that 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. In the present case, I find from the available records that Noticee did not mention the full registered address of the business place from where he was doing RA activities. Further, Noticee claimed that there is 80%/90% accuracy under various products viz. HNI Future Plan, HNI option services etc. However, I note from material before me that there is no data/evidence to support such claim. The screenshot of the aforesaid address and claims have been given in the below table-

S.N.		Screenshot of website of Noticee
1	Noticee failed to mention the full registered address of the business place	
2.	Noticee claimed on its website that there was 90% accuracy under various products	

15.3. In view of above, and considering the aforesaid facts and circumstances, I find that allegation with respect to the Noticee for violation of Regulation 24(2) of RA Regulations read with Clause 2 of Code of Conduct specified in Schedule III of RA Regulations is established.

16. **Establishing internal policies and procedure and Limitation on trading by research analyst**

<u>Allegation</u>

16.1. It has been observed that Noticee has not established internal policy and control procedures to address potential conflicts of interests arising from his trading activities and research analyst activities. It has also been observed that Noticee was trading in the securities recommended by it during the window period of 30 days prior and 5 days after publishing research report. Further, on checking the recommendation made by Noticee on Telegram channel operated by him and the transaction statement of his personal trading account, it was observed that Noticee was trading in the securities recommended by him through Telegram channels operated by him. Thus, it is alleged that Noticee has violated Regulations 15 and 16(2) of RA Regulations.

<u>Findings</u>

16.2. I note that Noticee, being an individual research analyst, is solely responsible for complying with the trading /dealing restrictions imposed on him. In the instant case, I note from records that Noticee has furnished the following as his internal policy in terms of regulation 15 of RA Regulations:

"*Personal trading activities of the research analyst shall be monitored, recorded and wherever necessary, shall be subject to a formal approval process like approval from the Compliance department;*

(a) Research Analyst shall not deal / trade in securities recommended / followed by the research analyst to the clients for a reasonable time period;

(b) deal / trade in securities that the research analyst reviews in a manner contrary to his given recommendation;

(c) purchase or receive securities of the issuer before the issuer's initial public offering, if the issuer is principally engaged in the same types of business as companies that the research analyst follows or recommends."

16.3. It is noted that the policy mentioned above is mere reproduction of RA Regulations with minor modifications. Moreover, the aforesaid policy has failed to provide any safeguard or controls to prevent/address the conflict of interest arising out of his trading in securities he is reviewing or recommending as a research analyst. Thus, it is clear that Noticee failed to frame internal policies and procedure as required under Regulation 15 of RA Regulations.

16.4. The SCN also alleges that Noticee has violated Regulation 16(2) of RA regulations. The aforesaid regulation states as under:
16(2) Independent research analysts, individuals employed as research analyst by research entity or their associates shall not deal or trade in securities that the research analyst recommends or follows ***within thirty days before and five days after the publication of a research report****.*

16.5. In the instant case, I note from records that Noticee has been trading on the securities recommended by him in the Telegram channels operated by him. For the purpose of illustration, details of the some of the recommendations as given by the Noticee in its Telegram channel are stated below:

Free Telegram Channel Calls

Table No 3

S.N.	Date of publishing	Security Name	Recommendation	Trigger price (Rs)
1	02/09/2022	HAL	Buy	2344
2	05/09/2022	INDHOTEL	Buy	302
3	06/09/2022	Apollo-tyre	Sell	263

16.6. Noticee's aforementioned Telegram channel recommendations are compared with its trading details as available on record and the same are as under:

Table No 4

Date	Option Type	Symbol	Expiry Date	Strike Price	Buy Traded Qty	Buy Value	Sell Traded Qty	Sell Value	RA Call	Trigger Price
02-Sep-2022	PE	HAL	29-Sep-2022	2260	0	0	3800	183968	BUY	2344
05-Sep-2022	CE	INDHOTEL	29-Sep-2022	310	0	0	16088	116638	BUY	302

Date	Option Type	Symbol	Expiry Date	Strike Price	Buy Traded Qty	Buy Value	Sell Traded Qty	Sell Value	RA Call	Trigger Price
05-Sep-2022	CE	INDHOTEL	29-Sep-2022	310	0	0	0	0	BUY	302
05-Sep-2022	CE	INDHOTEL	29-Sep-2022	310	16088	125486	0	0	BUY	302
06-Sep-2022	CE	APOLLOTYRE	29-Sep-2022	265	0	0	7000	70525	Sell	263
06-Sep-2022	CE	APOLLOTYRE	29-Sep-2022	265	0	0	7000	82600	Sell	263
06-Sep-2022	CE	APOLLOTYRE	29-Sep-2022	265	21000	216300	7000	77700	Sell	263
12-Sep-2022	CE	HAL	29-Sep-2022	2500	2375	432654	0	0	SELL	2456
12-Sep-2022	CE	HAL	29-Sep-2022	2500	0	0	0	0	SELL	2456
12-Sep-2022	CE	HAL	29-Sep-2022	2500	0	0	0	0	SELL	2456

16.7. The above table demonstrates that Noticee was trading in the very securities in which it had published report or recommended through Telegram channel to public. Further, it is also observed that in most of the instances, trading by Noticee in those securities was either on the same day or within five days of the recommendation published by Noticee on its Telegram channel. Thus, considering the aforementioned facts and circumstances and in absence of any statement from Noticee disputing the above, I find that by trading in the securities recommended by the Research Analyst during the window of 30 days prior and 5 days after publishing research report, Noticee is in violation of regulation 16(2) of RA Regulations.

16.8. In view of above, I find the allegation that Noticee has violated Regulations 15 and 16(2) of RA Regulations stands established.

17. **Disclosure of all material information in research report and while making public appearance**

17.1. It has been observed that disclaimer page submitted by Noticee shows general disclaimer about the stock market and mentioned that "*this video is only for education purpose*" but do not contain SEBI registration details, his business activities as RA and any financial interest of Noticee or its associates in the securities being recommended in video. Thus, it is alleged that by not disclosing the material disclosures including SEBI registration number, details about his business activities in research reports, financial interest/beneficial ownership of it and its associates in securities that are being reviewed/recommended by him in research reports/videos uploaded in public media, Noticee is in violation of regulation 19 and 21 of RA Regulations.

<u>Findings</u>

17.2. I note that Regulations 19 and 21 of RA Regulations make it obligatory on the part of research analyst, including its director or employee, to disclose the registration status and details of financial interest in the subject company, if he/she makes any public appearance. In the instant case, I note from the records that the disclaimer page submitted by Noticee shows general disclaimer about the stock market but does not contain SEBI registration details, his business activities as RA and any financial interest of Noticee or its associates in the securities being recommended in video as required in the aforesaid regulation. Further, Noticee has failed to submit anything to dispute aforementioned facts Thus, I find that Noticee is liable for violation of Regulations 19 and 21 of RA Regulations.

18. **Compliance with General Responsibilities**

18.1. It has been observed that Noticee made unrealistic and misleading disclosures with respect to profit and loss made from the trading/options strategies offered by it. It was observed that Noticee was using phrase like

"No Loss strategy, 90% accuracy ,100% accuracy, 500% profit etc. in the descriptions to his video on YouTube which is misleading and likely harm to gullible investors.

18.2. Further, it has been observed that Noticee was sharing link of Demat account opening of various stock broker on its website under "Demat account" tab and inducing visitor on the website to open Demat account with link on the website to access algo-premium membership and to reveal his own intraday and positional stock picks. Moreover, it was observed that Noticee has induced the viewers of its YouTube channel by promising access to his premium stock recommendations by opening the Demat account by clicking on the link of shared by it.

18.3. Thus, it is alleged that Noticee was making wrong disclosure with respect to offering trading/demat services and was not disclosing the referral income earnable from the links mentioned in the description of YouTube videos of Noticee in King Research Academy channel.

18.4. In view of above, it is alleged that Noticee did not act with due skill, care, diligence and high professional standard while arriving at research recommendation and thereby, violated the provisions of Clauses 2 and 6 of Code of Conduct for Research Analyst read with Regulation 24(2) and Regulation 13(i) of RA regulations and Regulation 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 section 12A (c) of the SEBI Act.

<u>Findings</u>

18.5. I note that as per the Regulations 24 of RA Regulations, Research Analyst shall maintain an arms-length relationship between its research activity and other activities. Further, Research analyst or research entity shall abide by

Code of Conduct as specified in Third Schedule. In the present case, I find from the records that-

a) Noticee failed to submit any reason for using phrase like "*No Loss strategy, 90% accuracy ,100% accuracy, 500% profit etc*." in the descriptions to his video on YouTube which is misleading and likely to harm gullible investors.

b) Noticee, who is neither a broker nor an authorized person/sub-broker of a broker, offered opening of trading and Demat account with them and gave access to premium stock recommendations by it as a research analyst. Further, I note that Noticee was sharing link of Demat account opening of various stock broker on his website under "Demat account" tab and earning referral income when the viewers opened Trading/Demat account using the link provided in the description of his videos. However, Noticee failed to disclose the referral income earned from referrals. I also note that as on the date of this order, the link with respect to the opening of trading and Demat account was still available on the website of Noticee

18.6. In view of above, I find that Noticee, by showing description like "*No Loss strategy, 90% accuracy ,100% accuracy, 500% profit etc*." promised its client assured profits. Further, I note that there was no disclosure informing the investors that their investments in the securities market were subject to market risk, where there is possibility of loss of capital. Thus, it shows that Noticee failed to conduct its operations with honesty and did not take due care in its dealings with its clients and failed to act in a fiduciary capacity towards its clients and thereby, Noticee failed to act with honesty, good faith, and failed to exhibit due skill, care, diligence and high professional standard while arriving at research recommendations. Therefore, I find that the allegation that Noticee has violated the provisions of Clauses 2 and 6 of Code of Conduct for Research Analyst read with Regulation 24(2) and Regulation 13(i) of RA Regulations stands established.

18.7. It has also been alleged that Noticee has violated 4(2)(k), (o) and (s) of PFUTP Regulations. The relevant extract of the aforesaid regulations is given below-

a) Regulation 4(2)(o) of PFUTP Regulations states that dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves any act or omission which affects or tends to affect the price of securities including spreading of rumours, which may induce the sale or purchase of securities by any person.

b) Regulation 4(2)(k) of PFUTP Regulations states that that dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves disseminating information or advice through any media, whether physical or digital, which <u>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; (emphasis supplied).</u>

c) Regulation 4(2)(s) of PFUTP Regulations states that that dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves mis-selling of securities or services relating to securities market;

18.8. On perusal of material before me, I find that Noticee promised assured returns to its clients by using phrases like "*No Loss Strategy, 90% accuracy, 100% accuracy, 500% profit*" etc. in the description of its YouTube video. I further find that Noticee failed to provide any research or data to back this claim. I am of the view that Noticee, being a SEBI registered intermediary, is an integral part of securities market as it provides research report to the investors in the securities market *i.e.* to its clients or other persons or group of persons. Therefore, to repose faith in securities market, it is important that a “research analyst” should act in a professional manner and should make all the relevant due disclosure to its clients while providing its research reports to them. Thus, I note that the onus of due disclosure of correct information is higher on intermediaries such as Noticee. In the instance case, Noticee had made such claims while being fully aware that return in the securities market are subject to market risks and are not guaranteed. Considering the facts and circumstances of the present case, I find that Noticee made misleading representation in a reckless manner in its Youtube videos.

18.9. Noticee, in its reply to the inspection findings, had submitted that these were provided only for information and educational purpose and to guide the clients about the best services providers. However, I am of the view that the nature of taglines like “*No Loss options strategy! 500% profitable strategy*” cannot be taken as being educational in nature, instead such representations can potentially mislead investors into believing in the assured nature of returns from such recommendation. Therefore, I am of the view that by making such unrealistic and misleading disclosures, Noticee induced gullible investors and such conduct of Noticee is likely to influence the decision of investors dealing in securities. Thus, I find that allegation against Noticee for violation of Regulation 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 Section 12A (c) of the SEBI Act stands established.

19. **Maintenance of records**

19.1. It has been observed that Noticee did not maintain the records with respect to research recommendations given through various mediums viz. WhatsApp, Telegram etc. Hence, complete data on recommendations given by Noticee is not available for inspection. Upon requesting for information for the inspection, Noticee has provided data on recommendations given by it but the veracity of the same could not be verified as the records were not digitally signed or maintained in CRM or enterprise management system. Further, compliance audit report for FY 2020-2021 and 2021-2022 was also not submitted during inspection. Thus, it is alleged that Noticee has violated provisions of Regulation 25(3) of RA Regulations.

Findings

19.2. I note that Regulation 25(3) of RA Regulations mandates that Research analyst or research entity shall conduct annual audit in respect of compliance with these regulations from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India. In the instant case, I find that during inspection, Noticee failed to submit or produce any compliance audit report for the Financial Years 2020-2021 and 2021-2022. I also note that Noticee, in its reply to the inspection findings, had stated that "*We are in process of completing the compliance audit for FY 2020-21 and 2021-22.*" Thus, on account of its own admission, I find that allegation against the Noticee with respect to the violation of provisions of regulation 25(3) of RA Regulations stands established.

19.3. Further, from perusal of material on record, I find that Noticee failed to submit digitally signed records /documents related to research recommendations given through various medium such as WhatsApp, Telegram etc. to the inspection authority. In absence of any response from Noticee in this regard, I find no reason to take a different view and thus, I find that allegation against Noticee for the violation of Regulations 25(2) and 25(3) of RA Regulations stands established.

<u>Issue No. II If yes, whether the failure, on the part of the Noticee would attract monetary penalty under Section 15EB and Section 15HA of the SEBI Act?</u>

20. Hon'ble Supreme Court of India in the matter of **SEBI vs. Shri Ram Mutual Fund** [2006] 68 SCL 216 (SC) which 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..*."

21. Considering the aforementioned judgment of Hon'ble Supreme Court and violations as established in above paras, I find that Noticee is liable to for monetary penalty:

    a) Under section 15EB of SEBI Act, for the violation of:

        i. Regulation 24(2) of RA Regulations 2014 read with clause 7 of code of conduct specified in Schedule III to the SEBI (Research Analysts) Regulations, 2014.
        ii. SEBI circular no. SEBI/HO/IMD/IMD-II CIS/P/2021/0685 dated December 13, 2021
        iii. Regulation 7(2) read with Clause 7 of Code of Conduct for Research Analyst read with Regulation 24(2) of SEBI (Research Analysts) Regulations, 2014.
        iv. Regulation 24(2) of RA Regulations read with clause 2 of code of conduct specified in Schedule Ill of SEBI (Research Analysts) Regulations, 2014.
        v. Regulation 15 of SEBI (Research Analysts) Regulations, 2014.
        vi. Regulation 16 (2) of SEBI (Research Analysts) Regulations, 2014.
        vii. Regulation 19 and 21 of SEBI (Research Analysts) Regulations, 2014.
        viii. Clauses 2 and 6 of Code of Conduct for Research Analyst read with Regulation 24(2) and Regulation 13(i) of SEBI (Research Analysts) Regulations, 2014.

    b) Under section 15 HA of SEBI Act, for the violation of:

        i. Regulation 4(2) (k), (o) and (s) of PFUTP Regulations read with section 12A (c) of the SEBI Act.

22. The aforesaid provisions of the SEBI Act are reproduced as under:

> ***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.*
>
> ***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*

Issue No. III. If yes, what would be the monetary penalty that can be imposed upon the Noticee taking into consideration the factors stipulated in Section 15J of the SEBI Act read with rule 5(2) of the Adjudication rules?

23. While determining the quantum of penalty under sections 15EB of SEBI Act, factors listed in section 15J of SEBI Act read with Rule 5(2) of the Adjudication Rules are to be considered, which are as under:

(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.

24. Further, Hon'ble Supreme Court, in its judgment **SEBI vs Bhavesh Pabari** (2019) 18 SCC 246, held that "*We, therefore, hold and take the view that conditions stipulated in clauses (a), (b) and (c) of Section 15J are not exhaustive and in the given facts of a case, there can be circumstances beyond those enumerated by*

clauses (a), (b) and (c) of Section 15J which can be taken note of by the Adjudicating Officer while determining the quantum of penalty."

25. I note that Noticee has still not taken any corrective action *viz* Investor charter and investor complaints have yet not been published by Noticee on its website. Noticee has also not stated the full registered address of the business place. From a perusal of its website, I observe that website of Noticee still claim that there is 90% accuracy under various products, but such claims are not backed by any data or reports.

26. Therefore, in the light of the Bhavesh Pabri (*Supra*) judgment and from the aforesaid observations, I find it relevant to consider the continuing violations of Noticee while determining the penalty under Sections 15EB and 15HA of SEBI Act, in addition to the factors enumerated under Section 15J of SEBI Act.

Order

27. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs as well as considering the aforementioned continuous violations by Noticee, I, in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the Adjudication Rules, hereby impose following monetary penalty on Noticee *i.e.* Harinder Kumar Sahu, Research Analyst, under Sections 15EB and 15HA of SEBI Act:

Noticee	**Penalty Attracted under section**	**Penalty Amount**
Harinder Kumar Sahu	15HA of SEBI Act	10,00,000 (Rupees Ten Lakh Only)
	15EB of SEBI Act	10,00,000 (Rupees Ten Lakh Only)
	Total Amount	20,00,000 (Rupees twenty Lakh Only)

28. I find that aforementioned penalty is commensurate with the violation committed by the Noticee as mentioned in the above paras to meet the ends of justice in the present matter.

29. 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 SEBI website www.sebi.gov.in on the following path by clicking on the payment link. **ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW**

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

31. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date: November 24, 2023 **Soma Majumder**

Place: Mumbai **Adjudicating Officer**