BEFORE THE ADJUDICATING OFFICER

SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. Order/BM/UR/2022-23/19457]

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

In respect of

Bikash Kumar Jain – Research Analyst

(SEBI RA Registration No. INH100005561)

In the matter of Bikash Kumar Jain – Research Analyst

BACKGROUND OF THE CASE

1. The Securities and Exchange Board of India (hereinafter referred to as "**SEBI"**) conducted inspection of Bikash Kumar Jain – Research Analyst (hereinafter referred to as "**Noticee**") for the period 01-Apr-2019 to 31-Mar-2020 (hereinafter referred to as "**inspection period/ IP**").

2. Noticee is registered with SEBI as a Research Analyst (hereinafter referred to as "**RA**") under the Securities and Exchange Board of India (Research Analyst) Regulations, 2014 (hereinafter referred to as "***RA Regulations*"**) *vide* SEBI registration no. INH100005561.

3. The inspection findings were communicated to the Noticee vide SEBI letter dated June 16, 2021, enclosing copy of the Inspection report (hereinafter referred to as "**IR**"). After examining the reply submitted by the Noticee dated July 08, 2021, it has been alleged that Noticee has contravened various provisions of the

securities laws in respect of activities carried out by the Noticee as RA. The extracts of the violations alleged to have been committed by the Noticee and the corresponding provisions of the securities laws are given in the tabulation below:

Sl. no	Alleged violations	Regulatory Provisions
1.	Not maintained records as prescribed in RA Regulations, not conducted the annual audit and furnished false and misleading information with respect to its operations as a research analyst.	• By not maintaining necessary records as prescribed in RA regulations the Noticee has allegedly not complied with ***Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 25 (1), 25 (2) and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.*** • By not conducting annual audit the Noticee has not allegedly complied with ***Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 25 (3) and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.*** • By furnishing false and misleading information with respect to its operations as research analyst and by not providing records in respect of its RA operations and websites www.aadityajain.com/www.investaaj.com the Noticee has not complied with ***Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 29 (1), 29(2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under Regulation 24 (2) of RA Regulations.***
2.	Misrepresented to be a SEBI registered Investment Adviser and promised guaranteed returns.	• ***Regulation 3 (1) of the SEBI (Investment Advisers) Regulations, 2013 read with Section 12 (1) of SEBI Act, 1992 and Regulations 3 (a), 3 (b), 3 (c), 3 (d), 4 (2) (k) and 4 (2) (s) of SEBI, PFUTP Regulations, 2003 read with sections 12 A (a), (b) and (c) of the SEBI Act, 1992 and clauses 1 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.***

3.	Non-fulfillment of the certification requirements.	• ***Regulations 7 (2), 13 (i) read with section 12 (1) of the SEBI Act, 1992, 24 (5) and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.***
4.	Misleading representation of material particulars were submitted by the Noticee.	• ***Regulations 13 (i) and 13 (ii) read with section 12 (1) of the SEBI Act, 1992 and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.***
5.	Failed to have an internal policy.	• ***Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.***
6.	Submitted false and misleading particulars in respect of its trading detail.	• ***Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.***
7.	Failed to obtain SCORES authentication.	• ***SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014, Regulation 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.***
8.	Failed to maintain net worth.	• ***Regulations 8 (1), 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.***
9.	Failed to keep necessary compliance measures related to Anti-Money Laundering aspects.	• ***SEBI Circulars ISD/CIR/RR/AML/1/06 dated January 18, 2006 and ISD/CIR/AML/2/06, dated March 20, 2006 read with SEBI Master circular SEBI/ HO/ MIRSD/ DOP/ CIR/ P/ 2019/113 dated October 15, 2019, Regulation 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.***

4. In view of the above, adjudication proceedings were initiated under Section 15EB and Section 15HA of SEBI Act, 1992 against the Noticee for the aforesaid alleged violations of various provisions of the Acts, Regulations and Circulars as stated above.

APPOINTMENT OF ADJUDICATING OFFICER

5. The undersigned was appointed as the Adjudicating Officer **(**hereinafter referred to as "**AO")** vide Order dated April 18, 2022 under Section 15-I(1) of the SEBI Act and Rule 3 of SEBI(Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as "**Adjudication Rules**") read with Section 19 of the SEBI Act, 1992 to conduct adjudication proceedings into the violations of aforesaid provisions alleged to have been committed by the Noticee in the manner specified under Rule 4 of Adjudication Rules read with Section 15-I(1) and (2) of SEBI Act, 1992, and if satisfied that penalty is liable, impose such penalty deemed fit in terms of Rule 5 of Adjudication Rules and Section 15EB and 15HA of SEBI Act, 1992.

SHOW CAUSE NOTICE, REPLY OF THE NOTICEE AND HEARING

6. Show Cause Notice No. SEBI/EAD-3/BM/UR/25220/2022 dated June 28, 2022 (hereinafter referred to as **"SCN"**) was issued to the Noticee under Rule 4(1) of the Adjudication Rules to show-cause as to why an inquiry should not be initiated against him and why penalty should not be imposed under section 15EB and 15HA of the SEBI Act, 1992, for the aforesaid alleged violations.

7. The SCN was duly served on the Noticee via SPAD and also through email dated June 29, 2022. The proof of the service is on record. Vide letter receipt dated July 21, 2022, Noticee submitted his reply to the SCN. The submissions made by the Noticee are as summarized below:

Clarification of questions on You Tube video titled "Share Bazar-Bumper Profit in Share Market by Aaditya Jain Sir's Students-CA Final Students.

- *The Youtube video is just a marketing strategy of the coaching entity and the said video was created to motivate the Charted Accountancy (CA) students in order to join the Academic classes for CA Final Course of Subject CA Final Strategic Financial management.*

Clarification on website www.investaaj.com.

- *In this regard Noticee quoted the extract from the About us page of the website www.investaaj.com, which reads as follows:*

  "About us Invest Aaj is a financial advisory startup, started by young and talented professional under the mentorship of CA Aaditya jain our stock market guru and India's Best faculty of finance, guiding and teaching various professional become successful in the field of finance."
- *Noticee submitted that on perusal of the statements of About us page of the nwebsite, it is clear that the website was started by some young and talented professional and it has nothing to take with this website.*
- *Noticee further submitted that the domain of the said website is not registered in the name of the Noticee.*

Clarification on the Website www.aadityajain.com.

- *Noticee submitted that the website www.aadityajain.com is owned by Aaditya jain LLP, a registered partnership firm under the Limited Liability partnership Act 2008 in which there are other partners also having a decision making authority and this website is made for the purpose of teaching to CA students.*

Clarification on questions, upon Linkedin page instances of recommendations.

- *Noticee submitted that this page might have been created with the objective of imparting Stock Market Education by our All India Franchise Team of Noticee. Noticee further submitted that the said Linkedin page is not operative now.*

Clarification on questions, upon Feedback of Clients.

- *Noticee contended that persons to whom SEBI considers as noticee's client actually they are noticee's students. All the feedbacks are inspired by teaching style of noticee only.*

Clarification on Telegram Channel.

- *Noticee submitted that he operates only one telegram channel and had never given any stock market recommendations. Noticee's association with any such telegram channel was purely Academic and in description of the said telegram channel it is also mentioned that it does not provide any stock market tips.*

Non-Maintenance of Books of Accounts, Records, not conducting the annual audit and furnishing false and misleading information.

- *Noticee contended that as no research report was made till date, no research recommendation was provided till date and no public appearance was made till that, hence noticee does not have record or the same. Further Noticee requested to provide an illustrative example or complaint which shows such activities of the Noticee except for the purpose of teaching.*

Misrepresenting to be a SEBI registered Investment Adviser and promising guaranteed returns.

- *In this regard Noticee contended that Annexure 2 is not the extract of the website www.adityajain.com but it is a extract of the website www.investaaj.com. Further Noticee reiterated the contention that the website www.investaaj.com is started by some young and talented professional and it has nothing to do with that website and the domain is not registered in the name of the Noticee.*

Non-fulfillment of certification requirements.

- *Noticee submitted that he had not missed the exam intentionally and he had already qualified much tougher exam Investment Advisor both levels.*

- *Noticee further submitted that as soon as he got aware of the dates, Covid restrictions were imposed. Noticee also submitted that he got Covid positive and his wife had some pregnancy complications and due to all such issues, he missed the dates and it was not intentional. Noticee had afterward duly given the exam and cleared it successfully.*

Misleading representation of material particulars.

- *Noticee contended that he had already by public notice in newspaper, supported by affidavit way back in 2007 had clarified that Bikash Kumar Jain and Aaditya Jain are the same people, then how can anyone say that dual identity is being maintained.*
- *Noticee submitted that application form of registration had no block to fill like by which name the entity is being called by friends, parents and students and had such blocks were there, Noticee would had certainly filled him.*

Failure to have an internal policy as per regulation.

- *Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and he was also a target of Covid 19. All his work had gone into deadlock and his office was completely closed and staffs were not coming. Even he and his family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and he had done its maximum cooperation with SEBl's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBt Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide.*

False and misleading submission in respect of its trading detail.

- *Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and he was also a target of Covid 19. All his work had gone into deadlock and his office was completely closed and staffs were not coming. Even he and his* *family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and he had done his maximum cooperation with SEBI's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBI Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide.*

- *Noticee also submitted that giving a NIL submission and false submission has a big difference, while the former is due to lack of knowledge whereas later is with full knowledge. Its only a nil information was given by staff, only due to lack of information. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided. There is nothing the matter to hide. Even for reply of the notice sent by inspection officer, only 14 days' time has been given, despite the facts all the offices on those days were running only with 50 percent of its staff, as per Delhi Government Corona Guidelines.*
- *Noticee submitted that owing to all the situation and cooperation during inspection some minor violation may be excused.*

Failure to obtain SCORES authentication.

- *Noticee submitted that there is no investors complaints against him.*
- *Noticee contended that SCORES registration was very much technical and he did try to search some professional who can secure such SCORES authentication but it could not be found. Even SEBI website and other means of SEBI had not helped it to secure SCORE authentication.*
- *Noticee further submitted that he never started the activities of RA and no investors are associated with him.*

Failure to maintain net worth.

- *Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and he was also a target of Covid 19. All his work had gone into deadlock and his office was completely closed and staffs were not coming. Even he and his* *family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and he had done its maximum cooperation with SEBl's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBI Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide.*

Failure to keep compliance measures related to prevention of money laundering.

- *Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and he was also a target of Covid 19. All his work had gone into deadlock and his office was completely closed and staffs were not coming. Even he and his family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and he had done its maximum cooperation with SEBl's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBt Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide.*

8. Pursuant to issuance of the SCN, in the interest of principles of Natural Justice, Noticee was given hearing on August 05, 2022 vide hearing notice dated July 26, 2022. The Noticee acknowledged the hearing notice and authorized its Authorized Representative (hereinafter referred to as "**AR**"), to appear on his behalf. Noticee vide email dated August 05, 2022 sought adjournment of the aforesaid hearing opportunity on the ground of sudden medical issue. In this regard vide email dated August 05, 2022, the adjournment request by the AR to the Noticee was acceded to. Noticee was provided with another opportunity of the hearing on August 22, 2022. The hearing was completed on the scheduled day and time. The minutes of the hearing in this regards are on record. During the course of the hearing Noticee was advised to submit evidence/document

showing that the Noticee had clarified publicly that the website "investaaj.com" was not belonging to him as the same was claimed by the AR during the hearing. Further with regard to NISM certification, AR was advised to submit documentary evidence whether Noticee has renewed the certification. The AR submitted that he would be filing additional submissions by August 24, 2022. Further the AR was informed that it was final hearing and no further hearings shall be granted.

- In regard to the information sought from the Noticee during the course of hearing Noticee vide email dated August 24, 2022, submitted extract of the newspaper "Economic Times" dated June 24, 2021, wherein Noticee had made a public notice regarding disassociation with the website www.investaaj.com or LinkedIn or any public profile/forum using its name for stock recommendations activities.
- With regards to NISM certification, Noticee submitted NISM RA certification certificate dated April 15, 2021, valid till April 09, 2024.

CONSIDERATION OF ISSUES AND FINDINGS

9. I have carefully perused the charges levelled against the Noticee, its reply and the documents/material available on record. The issues that arise for consideration in the present case are:

Issue No. I

a. Whether Noticee has not maintained books of accounts, records, not conducted annual audit and furnished false and misleading information in violation of the provisions of securities laws?
b. Whether Noticee has misrepresented to be a SEBI Registered Investment Adviser and promised guaranteed returns in violation of the provisions of securities law?
c. Whether Noticee has not complied with the certification requirements and violated the provisions of securities laws?
d. Whether Noticee has submitted misleading particulars to SEBI and violated the provisions of securities laws?

e. Whether Noticee has failed to have an internal policy and violated the provisions of RA Regulations?
f. Whether the Noticee has submitted false and misleading particulars in respect of its trading and violated the provisions of RA Regulations?
g. Whether the Noticee failed to obtain SCORES authentication and has violated SEBI Circulars and provisions of RA Regulations?
h. Whether the Noticee has failed to maintain net worth and has violated provisions of RA Regulations?
i. Whether the Noticee has failed to keep compliance measures related to prevention of money laundering and has violated SEBI Circulars and provisions of RA Regulations?

Issue No. II Does the violation, if any, attract monetary penalty under Section 15EB and 15HA of the SEBI Act, 1992?

Issue No. III If so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

10. The relevant provisions of law are reproduced below:

SEBI (Investment Advisers) Regulations, 2013

Application for grant of certificate.

3.(1)*On and from the commencement of these regulations, no person shall act as an investment adviser or hold itself out as an investment adviser unless he has obtained a certificate of registration from the Board under these regulations:*

Provided that a person acting as an investment adviser immediately before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made an application for a certificate under sub-regulation (2) within the said period of six months, till the disposal of such application.

SEBI Act, 1992

Registration Certificate

Registration of stock brokers, sub-brokers, share transfer agents, etc.

12. (1) *No stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the [regulations] made under this Act:*

Provided that a person buying or selling securities or otherwise dealing with the securities market as a stock broker, sub-broker, share transfer agent, banker to an issue, trustee of trust deed, registrar to an issue, merchant banker, underwriter, portfolio manager, investment adviser and such other intermediary who may be associated with securities market immediately before the establishment of the Board for which no registration certificate was necessary prior to such establishment, may continue to do so for a period of three months from such establishment or, if he has made an application for such registration within the said period of three months, till the disposal of such application:

[Provided further that any certificate of registration, obtained immediately before the commencement of the Securities Laws (Amendment) Act, 1995, shall be deemed to have been obtained from the Board in accordance with the regulations providing for such registration.

12A*. *No person shall directly or indirectly—

(a) use or employ, in connection with the issue, purchase or sale of any securities listed or proposed to be listed on a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) employ any device, scheme or artifice to defraud in connection with issue or dealing in securities which are listed or proposed to be listed on a recognised stock exchange;

(c) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person, in connection with the issue, dealing in securities which are listed or proposed to be listed on a recognised stock exchange, in contravention of the provisions of this Act or the rules or the regulations made thereunder

SEBI (Research Analysts) Regulations, 2014

Qualification and certification requirement.

7 (2) *An individual registered as research analyst under these regulations, individuals employed as research analyst and partners of a research analyst, if any, shall have, at all times, a NISM certification for research analysts as specified by the Board or other certification recognized by the Board from time to time: Provided that research analyst or research entity already engaged in issuance of research report or research analysis seeking registration under these regulations shall ensure that it or the individuals employed by it as research analyst and/or its partners obtain such certification within two years from the date of commencement of these regulations:*

Provided further that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements.

Capital adequacy.

8. (1) *A research analyst who is individual or partnership firm shall have net tangible assets of value not less than one lakh rupees.*

Conditions of certificate.

13. *The certificate granted under regulation 9 shall, inter alia, be subject to the following conditions:-*

(i) *the research analyst shall abide by the provisions of the Act and these regulations;*

(ii) *the research analyst shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted;*

General responsibility*.*

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

Third Schedule

Code of Conduct for Research Analyst

1. Honesty and Good Faith: Research analyst or research entity shall act honestly and in good faith.

2. Diligence: Research analyst or research entity shall act with due skill, care and diligence and shall ensure that the research report is prepared after thorough analysis.

6. Professional Standard: Research analyst or research entity or its employees engaged in research analysis shall observe high professional standard while preparing research report.

7. Compliance: Research analyst or research entity shall comply with all regulatory requirements applicable to the conduct of its business activities.

8. Responsibility of senior management: The senior management of research analyst or research entity shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures.

24 (5) *It shall be the responsibility of the research analyst or research entity to ensure that its employees or partners, as may be applicable, comply with the certification and qualification requirements under regulation 7 at all times.*

***Maintenance of records**.*

***25.** (1) Research analyst or research entity shall maintain the following records: (i) research report duly signed and dated; (ii) research recommendation provided; (iii) rationale for arriving at research recommendation; (iv) record of public appearance.*

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

(3) 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.

Obligation of research analyst on inspection.

***29.** (1) It shall be the duty of every research analyst or research entity in respect of whom an inspection has been ordered under the regulation 27 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such research analyst or research entity including their representative, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.*

(2) It shall be the duty of research analyst or research entity and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the research analyst to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.

SEBI (Prohibition Of Fraudulent And Unfair Trade Practices Relating To Securities Market) Regulations, 2003

3. *No person shall directly or indirectly—*

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

(b) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the Act or the rules or the regulations made there under;

(c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;

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

4. *(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves:—*

(k) disseminating information or advice through any media, whether physical or digital, which the disseminator knows to be false or misleading and which is designed or likely to influence the decision of investors dealing in securities

(s) mis- selling of securities or services relating to securities market;

Explanation-For the purpose of this clause, "mis-selling" means sale of securities or services relating to securities market by any person, directly or indirectly, by— (i)knowingly making a false or misleading statement, or (ii)knowingly concealing or omitting material facts, or (iii)knowingly concealing the associated risk, or (iv)not taking reasonable care to ensure suitability of the securities or service to the buyer

Issue No. I

a. **<u>Whether non maintenance of books of accounts, records, not conducted annual audit and furnishing false and misleading information is in violation of the provisions of securities laws?</u>**

11. It has been alleged that the Noticee had not maintained records as prescribed in RA regulations, did not conduct the annual audit and furnished false and misleading information with respect to its operations as a research analyst in violation of Regulation 13 (i) read with section 12 (1) of the SEBI Act, 1992, 25 (1), 25 (2), 25 (3), 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

12. It was observed, upon perusal of Noticee's website www.aadityajain.com, a YouTube video titled "Share Bazar-Bumper Profit in Share Market by Aaditya Jain Sir's Students-CA Final Students", wherein, Noticee had provided screenshots of research recommendations made by him and feedbacks of his telegram channel subscribers on such recommendations. It was also observed that the said recommendations were provided under the name of "Invest AAJ".

13. It was observed from the Linkedin page of Invest AAJ that the Noticee had made a detailed presentation regarding its research analyst services to the general public. Further, details in respect of RA services viz. "Nifty Ki Chaal", "Intraday Future service" and subscription charges were also observed from the updates posted on the said Linkedin page. The Noticee had provided links to website http://investaaj.com and telegram channel https://t.me/niftykichaal on the Linkedin page, further a WhatsApp number 8229952727 was also provided which upon running a Truecaller directory search is found to be related to the entity Nishant Sahu (Aaditya Jain Ca).

14. It was observed from the Home page of website www.investaaj.com that email-investaaj@gmail.com was present on the Home Page of the website, further a mobile number-7982099808 was also provided which upon running a Truecaller

directory search was found to be related to the Noticee. Further under the heading About Us on the said website it was mentioned that Invest AAJ was running under the mentorship of CA Aaditya Jain. Details of services viz. Fixed Income Advisory, Gold Investment, Equity Advisory, Mutual Fund Advisory, DEMAT Account etc. along with client's testimonials related to services provided by the Noticee in Mutual Funds and Equity recommendation were also available on the Home Page. Further, the Noticee had also provided a description of its Delivery Services under Services tab in which the Noticee had provided details that "Delivery Premium/dhamaka service is a delivery based stock idea service in this service we provide delivery based share idea with target and stop loss. Our focus is to create wealth through investment approach". The Noticee had declared that "We are trustable SEBI registered advisory firm where we work for our customers by the book". During inspection it was observed that Noticee was offering viz. Very short term calls, Short term delivery call, IPO advisory' etc and the medium of providing calls was via Telegram channel and also put a sample of such calls and provided a detailed Terms and conditions document in respect of its services.

15. It was thus alleged that Noticee was providing research analyst services under the name of Aaditya Jain/Invest AAJ. However in reply to SEBI query, Noticee had submitted that he has not initiated any work under his SEBI registration. Further Noticee made NIL submissions for all the questions in respect of its operations as RA, its website and regarding conducting internal audit, sent to SEBI *vide* email dated 19.11.2020. It was thus alleged that Noticee was working as RA however failed to maintain records and conduct annual audit with respect to its operations as RA. It is further alleged that Noticee hid the information regarding its RA operations through website www.aadityajain.com and www.investaaj.com from SEBI by submitting a Nil response to the details asked in respect of Website and research services related aspects and thus allegedly made false and misleading information with respect to its operations as research analyst.

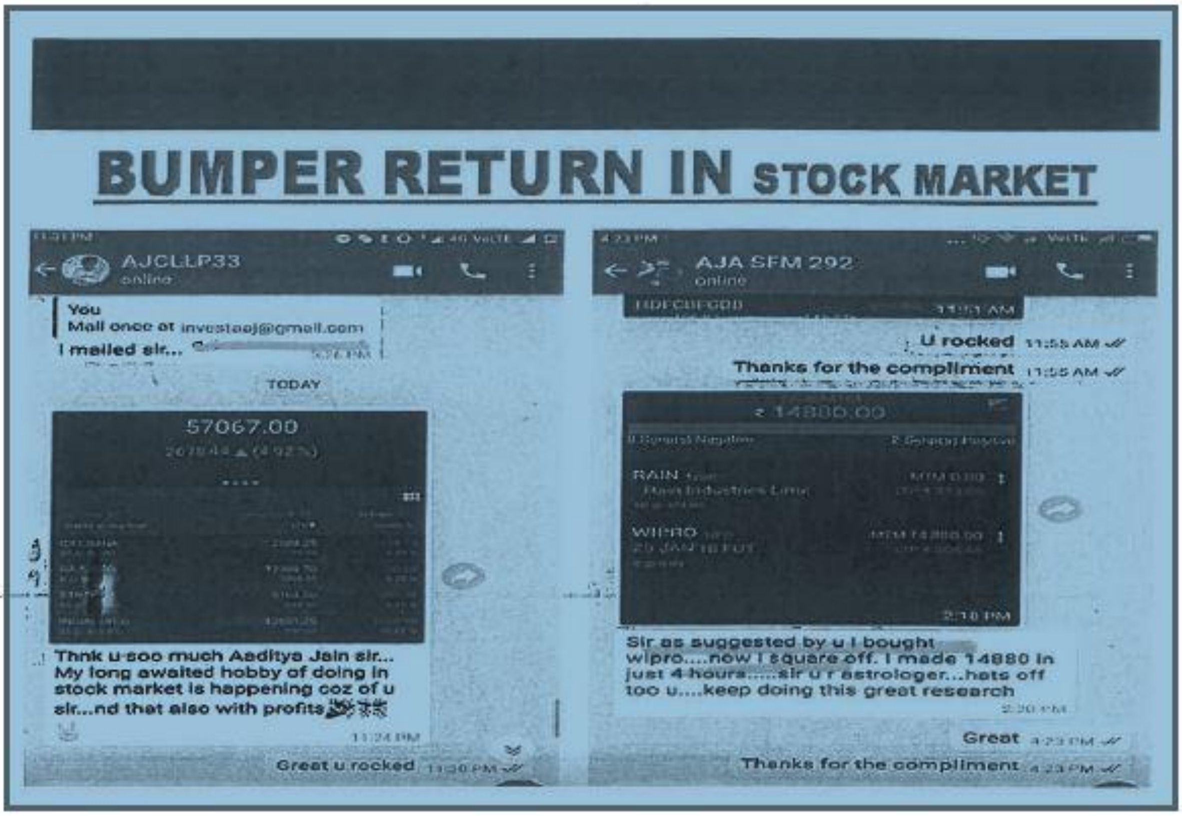
16. Noticee in its reply to the SCN has stated that the YouTube video titled Share Bazar-Bumper Profit in Share Market by Aaditya Jain Sir's Students-CA Final Students, is just a marketing strategy of the coaching entity and was created to motivate the Chartered Accountancy (CA) students in order to join the Academic classes for CA Final Course of Subject CA Final Strategic Financial management. While student sitting in the class, are taught lots many matters with examples connected to share market, without giving such examples in the following chapters of CA Final strategic Financial Management the understanding of the subject is not possible for the students. Noticee further submitted that no misleading information was provided, website www.aadityajain.com is owned by Aaditya jain LLP a registered partnership firm under the Limited Liability Partnership Act 2008 in which there are other partners also having a decision-making authority and this website is just made for the purpose of teaching to CA student. With respect to feedback by clients Noticee submitted that persons to whom Hon'ble Authority SEBI considers as Noticee's client actually they are Noticee's students. All the feedbacks are inspired by teaching style of Noticee only. With respect to telegram channel, Noticee submitted that he had never given any stock market recommendations. Noticee's association with any such telegram channel was purely Academic. Noticee operate one telegram channel and in that description also it is mentioned that they do not provide any stock market tips. They only provide stock market learning for CA Final students.

17. With respect to website www.investaaj.com, Noticee submitted that he is not associated with www.investaaj.com. He submitted that on perusal of statements of About us page of website, it is clear that the website is started by some young and talented professional and Noticee has nothing to take with this website. Domain of said website is not registered in the name of Noticee. Though the Noticee is considered only the mentor of the website just because the Noticee is a teacher, academically teaching stock market to the group of students who created the website. Noticee has nothing to take with website and website also doesn't reveal any such connection. He further submitted that as no research report was made, no research recommendation was provided and no public appearance was made, hence he does not have record of the same. Had these this been done, he would certainly have the records.

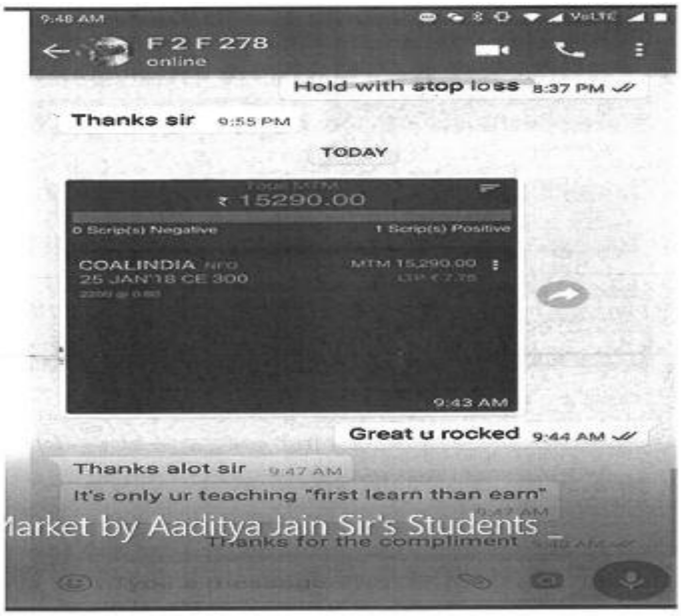
18. With respect to LinkedIn page, Noticee submitted that this page might have been created with the objective of imparting Stock Market Education by our All India Franchise Team of Noticee. When Noticee found it, Noticee has written a mail to Linkedin to close this account. This page is not operative now.

19. I observe that the You tube video was titled "Share Bazar-Bumper Profit in Share Market by Aaditya Jain Sir's Students-CA Final Students". I observe that the title which has been used is to totally related to share market and is talking of profit in share market which can never be a marketing strategy for inviting students to join classes rather would invite/entice general public for taking tips to deal in share market. Further Noticee has not disowned the You tube video. I also note that on the Youtube video Noticee provided screenshots of multiple instances of specific research recommendations made by him and feedbacks in respect of the Noticee and his research team on such recommendations. Following are the relevant screenshots from the Youtube video of the Noticee wherein he had given stock recommendation:

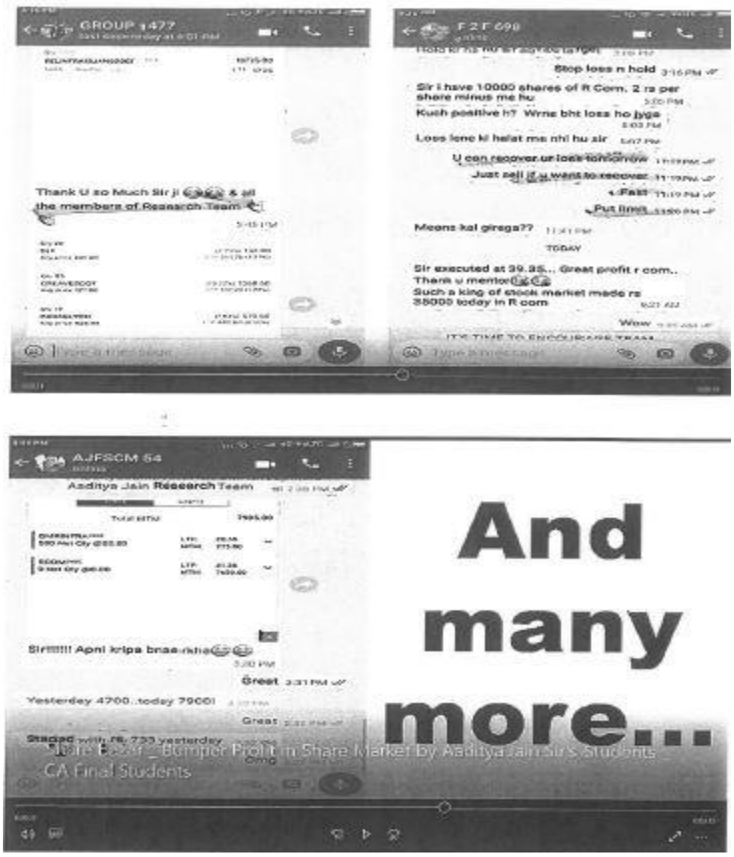
Screenshot 1



Screenshot 2



Screenshot 3



As can be seen from the screenshots as above the following feedback is given:

“Sir as suggested by u I bought wipro….now I square off. I made 14880 in just 4 hours…..sir u r astrologer…hats off to u….keep doing this great research.”

“Sir executed at 39.35… Great profit r com.. Thank u mentor. Such a king of stock market made rs 35000 today in R com”

I also observe that the screenshot mentions about Aaditya Jain research team. From the above description it can be concluded that the marketing strategy followed by the Noticee was to give tips to general public on share market and not to students. Thus the contention of the Noticee is not acceptable.

20. In regard to the website www.aadityajain.com, I note that Noticee is observed to be one of the partners of the website www.aadityajain.com and is also part of the decision to use the Youtube for its marketing strategy, which he had shared on his website www.aadityajain.com. It is also observed from the website www.aadityjain.com that Noticee portrayed himself as a SEBI registered RA and SEBI registered Investment Advisor. Thus I find that the website wwww.aadityajain.com was under the knowledge of the Noticee and was being used to promote the services offered by the Noticee and not for teaching of students as contended by the Noticee.

21. With regard to website www.investaaj.com, I find that the website was started by some young professionals around December 17, 2017 (as observed from https://archive.org/) and under the mentorship of the Noticee. I observe that details of services viz. Fixed Income Advisory, Gold Investment, Equity Advisory, Mutual Fund Advisory, DEMAT Account etc. along with the testimonials related to services provided by the Noticee in Mutual Funds and Equity recommendation were also available on the Home Page. Further, the Noticee had also provided a description of its Delivery Services under Services tab in which the Noticee had provided details that “Delivery Premium/dhamaka service is a delivery based stock idea service in this service we provide delivery based share idea with target and stop loss. Our focus is to create wealth through investment approach”. In the website www.investaaj.com Noticee had also given details about his Plan Feature

viz., Very short term calls, Positional Calls, Multi-bagger shares, IPO advisory etc. along with the sample. The Noticee also declared that “We are trustable SEBI registered advisory firm where we work for our customers by the book”. The Noticee has claimed that it has nothing to take with the website and the domain of the website is not registered in the name of the Noticee. While the domain name may not be in the name of the Noticee, admittedly the website was created under the mentorship of the Noticee. Further the details of services mentioned on the website to be provided was under the name of Noticee as it is clearly mentioned there that “We are trustable SEBI registered advisory firm where we work for our customers by the book”. Hence the claim of the Noticee that it has nothing to do with the website is not tenable. Noticee during hearing claimed that it had clarified to the public that the website investaaj.com was not belonging to him and in support of the same Noticee submitted extracts of the newspaper “Economic Times “dated June 24, 2021. I observe that the website was created around December 17, 2017 and the public were made known of its disassociation in June 2021 i.e. after almost four years and that too after inspection was over and observations were made known to the Noticee. This was only an afterthought. The act of the Noticee establishes that the website and its contents were done under his instructions and the website was used for marketing strategy of his RA activities. .

22. I note from the Linkedin page of Invest AAJ that the Noticee had made a detailed presentation regarding its research analyst services to the general public. Further, details in respect of RA services viz. “Nifty Ki Chaal”, “Intraday Future service” and subscription charges were also observed from the updates posted on the said Linkedin page. The Noticee had provided links to website http://investaaj.com and telegram channel https://t.me/niftykichaal on the Linkedin page, further a WhatsApp number 8229952727 was also provided which upon running a Truecaller directory search is found to be related to the entity Nishant Sahu (Aaditya Jain Ca).

23. Thus I note that instances of recommendations, feedbacks of clients and details about services offered viz. type of products, subscription charges, mode of

delivery through telegram etc, on, Youtube video and LinkedIn pages of the Noticee points towards his services of his RA activities. With regard to contention of the Noticee that he had not initiated any activity pertaining to RA services it becomes pertinent to refer to the definition of “research analyst“ under RA Regulations. Regulation 2(1)(u) reads as follows:.

“research analyst” means a person who is primarily responsible for, -
i. preparation or publication of the content of the research report; or
ii. providing research report; or
iii. making 'buy/sell/hold' recommendation; or
iv. giving price target; or
v. offering an opinion concerning public offer,
with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis.
Explanation -The term also includes any associated person who reports directly or indirectly to such a research analyst in connection with activities provided above;”

From the perusal of the definition as aforesaid and the above observations corroborate the fact that the Noticee was indeed providing RA services.

I note that the Noticee did not disclose the information regarding its RA operations through websites www.aadityajain.com and www.investaaj.com to SEBI by submitting a NIL response to the details asked in respect of Website and research services related aspects.

24. Regulation 25 of RA Regulations provides for maintenance of books of accounts, records and documents by the Research analyst in physical or electronic form and preserve for a minimum period of five years. The records to be maintained shall include research recommendation provided, rationale for the recommendation and record of public appearance. The records are required to

be duly signed and stamped. Further, the Research analyst or research entity shall conduct annual audit in respect of compliance with the RA regulations from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India. Also, Regulation 18 (7) provides that the Research analyst or research entity shall have adequate documentary basis, supported by research, for preparing a research report. Regulation 24(2) states that the Research analyst or research entity shall abide by Code of Conduct as specified in Third Schedule during its operations.

25. It was thus observed that Noticee by not disclosing the information regarding its RA operations through websites www.aadityajain.com and www.investaaj.com to SEBI and submitting NIL response to the details asked in respect of Website and research services related aspects, submitted false information. In this regard I note that obligation is cast upon the Noticee by Regulation 29 of the RA Regulations to provide the inspecting authority with all the relevant particulars with respect to the RA activities. Further Noticee has not maintained necessary books of accounts, records and not conducting annual audit as prescribed in RA regulations, and has not abided by the Code of Conduct. It is thus established that Noticee has not complied with and has violated Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 25(1), 25(2), 25 (3), 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

b. <u>Whether Noticee has misrepresented to be a SEBI Registered Investment Adviser and promised guaranteed returns in violation of the provisions of securities law?</u>

26. It has been alleged that Noticee had misrepresented to be a SEBI registered Investment Adviser and promised its clients about guaranteed returns by mentioning that “recover Subscription in one short” on its Linkedin page and thus violated Regulation 3 (1) of the SEBI (Investment Advisers) Regulations, 2013 1992 read with Section 12 (1) of SEBI Act and Regulations 3 (a), (b), (c) and (d) and 4 (k) and (s) of SEBI, PFUTP Regulations, 2003 read with sections 12 A (a),

(b) and (c) of the SEBI Act, 1992 and clauses 1 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

27. In this regard Noticee contended that Annexure 2 of the SCN is not the extract of the website www.adityajain.com but it is a extract of the website www.investaaj.com. Further Noticee reiterated the contention that the website www.investaaj.com is started by some young and talented professional and it has nothing to do with that website and the domain is not registered in the name of the Noticee.

28. I observe from the website www.adityajain.com of the Noticee that he has inter-alia stated "*He is a qualified CA, MBA(FINANCE), NCFM, B.COM, M.COM, SEBI REGISTERED RESEARCH ANALYST, SEBI REGISTERED INVESTMENT ADVISOR".* As has been brought out above that Noticee was very much associated with the website and was in knowledge of the contents of the website. Hence his contentions are not tenable.

29. From the statement made in the website as above I observe that the Noticee is posing himself out as an investment advisor without having any SEBI registration for Investment Advisor. It is noted that he is registered only as Research Analyst. By holding himself out a SEBI Registered advisory firm Notice is found to be disseminating information which he knows to be false or misleading. Thus knowingly he is making a false and misleading statement which has the effect of influencing the decision of investors. Further Regulation 3(1) of the SEBI (Investment Advisers) Regulations, 2013, enunciates that no person shall act as an Investment Advisor or hold itself out as an Investment Advisor unless he has obtained certificate of registration from the Board which the Noticee has not complied with and has thus failed to comply with the Code of Conduct. Further I observe that the Noticee also mentioned "recover subscription in one short" which points towards guarantee of return. I thus observe that Noticee has knowingly misrepresented:

i) by claiming himself to be a registered investment advisor;
ii) by guaranteeing of return.

Thus Noticee engaged in an act which would operate as fraud on the general public.

30. In view of the above it is established that the Noticee has violated Regulations 3 (a), (b), (c) and (d) and 4 (k) and (s) of the PFUTP Regulations, 2003 read with sections 12 A (a), (b) and (c) of the SEBI Act, 1992 and clauses 1 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

c. <u>Whether Noticee has not complied with the certification requirements and violated the provisions of securities laws?</u>

31. It has been alleged that Noticee's NISM XV certificate was valid from 12.05.2016 to 11.05.2019 and after expiry of NISM XV certificate on 11.05.2019, Noticee failed to renew the certificate and has thus violated Regulations 7 (2), 13 (i) read with section 12 (1) of the SEBI Act, 1992, 24 (5) and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

32. Noticee submitted that it had not missed the exam intentionally and as soon as it got aware of the dates, Covid restrictions were imposed. Noticee also submitted that he got Covid positive and his wife had some pregnancy complications and due to all such issues, it missed the dates and it was not intentional. Noticee had afterward duly given the exam and cleared it successfully. Further Noticee submitted that it had already qualified much tougher exam Investment Advisor both levels.

33. In this regard, I note that the NISM XV certificate of the Noticee expired on 11.05.2019, whereas Covid pandemic started from March 2020 onwards. Noticee had taken the NISM Investment Advisor certification exam in August 2019 so as to apply for IA registration, and also subsequently applied for IA

registration twice in October 2019 and May 2020 despite Covid scenario. From the submission of the Noticee I observe that he has renewed his certificate which is valid from April 15, 2021 till April 09, 2024. Noticee has contended that he could not renew the certificate due to Covid. Noticee has not given any explanation why it did not renew immediately after expiration in May 2019 when there was no Covid situation. RA regulations explicitly mentions that the certification requirement needs to be complied at all times, hence Noticee should have renewed its certificate way back in 2019 which the Noticee did not do. Hence the contention of the Noticee is not acceptable.

34. Regulation 7 of the RA Regulations states the qualification and experience criteria for the Research Analyst. Also, Regulation 7 (2) states the certifications requirement to be complied by the Research Analyst at all times. Regulation 24 (5) states that it shall be the responsibility of the research analyst or research entity to ensure that its employees or partners, as may be applicable, comply with the certification and qualification requirements under regulation 7 at all times.

35. In view of the above it is established that Noticee has violated Regulations 7 (2), 13 (i) read with section 12 (1) of the SEBI Act, 1992, 24 (5) and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under Regulation 24 (2) of RA Regulations, 2014.

d. <u>Whether Noticee has submitted misleading particulars to SEBI and violated the provisions of securities laws?</u>

36. It was observed that Noticee was working with the identity of one Aaditya Jain. It was observed that the Noticee sought RA registration in 2016-17 in the name of Bikash Kumar Jain. In the application of registration Noticee has nowhere made a reference of Aaditya Jain and has not provided any information with respect to its current activities and proposed activities under the name of Aaditya Jain. Further, it was noted from its websites www.aadityajain.com that subsequent to registration as RA the Noticee declared itself as a SEBI Registered Research

Analyst and SEBI Registered Investment Adviser. In his website www.investaaj.com it was mentioned that, "We are trustable SEBI registered advisory firm where we work for our customers by the book". Also, the Noticee had made such declarations under the name of Aaditya Jain and had nowhere mentioned its registration details and the fact that it is registered with SEBI in the name of Bikash Kumar Jain as RA on the said websites. In view of the above it has been alleged that the submissions made by the Noticee while seeking registration was found to be misleading in material particulars and has violated Regulations 13 (i) and 13 (ii) read with section 12 (1) of the SEBI Act, 1992 and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

37. Noticee vide e-mail dated 27.01.2021 submitted that he and Aaditya Jain are the same people. Further a notarized affidavit dated 12.11.2007 was submitted by Noticee vide e-mail dated 29.01.2021 wherein it is inter-alia mentioned that the Noticee and Aaditya Kumar Jain is the same and identical person and on and from the date of the affidavit the entity shall know as Bikash Kumar Jain @ Aaditya Kumar Jain. A copy of newspaper notice dated 22.07.2007, also mentioned that Bikash Kumar Jain will be known as Aaditya Kumar Jain for all future purposes.

38. In its reply to the SCN, Noticee reiterated the submissions made by him vide e-mail dated 27.01.2021 in reply to the inspection findings.

39. I observe from the submissions of the Noticee that he had by public notice in newspaper, supported by affidavit way back in 2007 had clarified that Bikash Kumar Jain and Aaditya Jain are the same people. I note that on November 22, 2007, Noticee had made newspaper publication regarding change of the name from Bikash Kumar Jain to Aaditya Kumar Jain. Further Noticee vide notorized affidavit dated November 12, 2007 had inter-alia stated 'from today onwards he shall be known as Bikash Kumar Jain @ Aaditya Kumar Jain and the reason for swearing this affidavit is for submitting the same before Bank Manager, I.T. Department, Institutions and other officials'. I note that though the Noticee was having registration in the name of Bikash Jain he was still having website in the

name of Aditya Jain and was carrying on business under the name of Aadtiya Jain. Further the reason for the change of name as stated by the Noticee in the notorized affidavit was for submitting the same before Bank Manager, I.T. Department, Institutions and other officials. Thus I observe that this should have been brought to the notice of SEBI at the time of registration. Further he also mentioned in his website www.investaaj.com that "We are trustable SEBI registered advisory firm where we work for our customers by the book". I observe that though he obtained SEBI RA registration in the name of Bikash Jain he was carrying on the name of Aaditya Jain on the website where he was mentioning himself as SEBI registered entity. Thus I observe misleading particulars was submitted to SEBI.

40. Regulation 13 of the RA Regulations provides for Conditions of certificate regarding RA. Regulation 13 (i) and 13 (ii) mentions that the research analyst shall abide by the provisions of the act and these regulations and shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading in any material particular or if there is any material change in the information already submitted.

41. In view of the above I note that, by not disclosing material information and making misleading particulars, Noticee has not complied with and has violated Regulations 13 (i) and 13 (ii) read with section 12 (1) of the SEBI Act, 1992 and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

e. <u>Whether Noticee has failed to have an internal policy and violated the provisions of RA Regulations?</u>

42. It was observed that Noticee had made NIL submission for the internal policies and control procedures adopted by it in respect of compliance requirements under RA Regulations to the ore-inspection queries. It was therefore alleged that the Noticee violated Regulations 13 (i) read with section 12 (1) of the SEBI Act,

1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

43. Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and it was also a target of Covid 19. All its work had gone into deadlock and its office was completely closed and staffs were not coming. Even it and its family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and it had done its maximum cooperation with SEBl's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBI Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide. If it is asked they will surely provide.

44. Regulation 15 (1) of the RA Regulations provides that RA shall have written internal policies and control procedures governing the dealing and trading by any research analyst

45. I note that the inspection notice was sent on November 05, 2020 to which the Noticee replied on 19.11.2020. The Noticee was given another chance on January 25, 2021 before inspection on January 27, 2021 to make submissions in respect of PIQ as the information provided previously was noted to be not in order. As the reply of the Noticee was found to be vague and no supporting documents were attached final opportunity was given to the Noticee on 28.01.2021 to give the proper reply to which Noticee submitted its reply on 29.01.2021. Noticee in its reply to SCN submitted that if he was asked he will surely give. I observe that more than one opportunity was given to the Noticee, which is found to be sufficient, to submit complete and proper reply. However Noticee failed to do so. Further Noticee has admitted to the violation by stating in the reply dated July 21, 2022, to the inspection findings that the violation may be excused. Further, in reply to the SCN or during the hearing Noticee has not stated that whether the Noticee had any internal policy.

46. In view of the above it is established that the Noticee has violated Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

f. <u>Whether the Noticee has submitted false and misleading particulars in respect of its trading and violated the provisions of RA Regulations?</u>

47. It was observed that Noticee made NIL submission to the pre inspection query with regards to trading done by him. However it was observed from the trading details of the Noticee had executed trades in equity segment in BSE and equity derivatives and currency derivatives segments in NSE. It was therefore alleged that the Noticee violated Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

48. In reply to the SCN Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and it was also a target of Covid 19. All its work had gone into deadlock and its office was completely closed and staffs were not coming. Even it and its family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and it had done its maximum cooperation with SEBI's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBI Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide. Noticee also submitted that giving a NIL submission and false submission has a big difference, while the former is due to lack of knowledge whereas later is with full knowledge. Its only a nil information was given by staff, only due to lack of information. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided. There is nothing the matter to hide. Even for reply of the notice sent by inspection officer,

only 14 days' time has been given, despite the facts all the offices on those days were running only with 50 percent of its staff, as per Delhi Government Corona Guidelines. Further Noticee submitted that owing to all the situation and cooperation during inspection some minor violation may be excused.

49. Regulation 29 of RA Regulations provides (1) It shall be the duty of every research analyst or research entity in respect of whom an inspection has been ordered under the regulation 27 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such research analyst or research entity including their representative, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.(2) It shall be the duty of research analyst or research entity and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the research analyst to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.

50. I observe from the aforesaid that Noticee had traded in the equity segment in BSE and equity derivatives and currency derivatives segments in NSE, however in reply to the pre inspection query NIL submissions were made. Noticee submitted that due to Covid situation and lack of time Nil submission was made due to lack of knowledge of the staff. I am of the view that it is responsibility of the Noticee to ensure correct information is being furnished to the Regulators. He cannot put the onus on the staffs as such information are crucial for conducting inspections. Further Noticee in its reply has also accepted the violation.

51. In view of the above, it is established that the Noticee has violated Regulations 13 (i) read with section 12 (1) of the SEBI Act, 1992, 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

g. **Whether the Noticee failed to obtain SCORES authentication and has violated SEBI Circulars and provisions of RA Regulations?**

52. Noticee was advised to submit details in respect of Investor Grievance and SCORES registration. Noticee made NIL submissions in respect of all the questions in respect of Investor Grievances and SCORES registration. It was therefore alleged that the Noticee by failing to obtain SCORES authentication violated SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014, Regulation 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

53. Noticee submitted that there is no investors complaints against it. Further Noticee contended that SCORES registration was very much technical and it did try to search some professional who can secure such SCORES authentication but it could not be found. Even SEBI website and other means of SEBI had not helped it to secure SCORE authentication.

54. SEBI vide Circular No. CIR/OIAE/1/2014 dated December 18, 2014 directed, inter alia, all SEBI registered intermediaries (excluding Stock Brokers, Sub-Brokers and Depository Participants) to immediately obtain SCORES authentication and to take immediate efforts on receipt of a complaint through SCORES, for its resolution, within thirty days.

55. I note that non receipt of investors complaints against the Noticee does not absolve it from taking SCORES registration as the circular specifically States that SCORES authentication has to be taken immediately by SEBI registered intermediaries. Hence submission made by the Noticee is not tenable. Further Noticee has accepted that it does not have SCORES authentication.

56. In view of the above it is established that the Noticee has violated SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014, Regulation 13 (i) read with

section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

h. <u>Whether the Noticee has failed to maintain net worth and has violated provisions of RA Regulations?</u>

57. Noticee in the pre-inspection query was advised to submit Net Worth certificate not more than six months old, however the Noticee did not provide the same and made NIL submission. It was therefore alleged that the Noticee violated Regulations 8 (1), 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

58. Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and it was also a target of Covid 19. All its work had gone into deadlock and its office was completely closed and staffs were not coming. Even it and its family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and it had done its maximum cooperation with SEBl's official. Apart from all Noticee has also hired an Advocate Mr. Navin Kumar Singh to cooperate with SEBt Staff. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide.

59. Regulation 8 (1) of RA Regulations mandates, a research analyst who is individual shall have net tangible assets of value not less than one lakh rupees.

60. I observe from the reply submitted by the Noticee that his submission is same as made for the other allegations. He submitted that if proper time was given he could have submitted the networth certificate. Noticee in his submission to SCN could have produced documents to defend himself, however no such documents were provided by the Noticee. Noticee had ample opportunity to defend himself

under the present proceedings by submitting documents in compliance with the provisions of RA Regulation. Further I observe that in his reply to the post inspection report Noticee accepted the violation.

61. In view of the above it is established that the Noticee has violated Regulations 8 (1), 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

i. <u>Whether the Noticee has failed to keep compliance measures related to prevention of money laundering and has violated SEBI Circulars and provisions of RA Regulations?</u>

62. Noticee in the pre-inspection query was advised to submit details regarding compliance measures related to prevention of money laundering, however the Noticee did not provide the same and made NIL submission. It was therefore alleged that the Noticee violated SEBI Circulars ISD/CIR/RR/AML/1/06 dated January 18, 2006 and ISD/CIR/AML/2/06, dated March 20, 2006 read with SEBI Master circular SEBI/ HO/ MIRSD/ DOP/ CIR/ P/ 2019/113 dated October 15, 2019, Regulation 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations.

63. Noticee submitted that Pre-inspection questionnaire and inspection was conducted when Covid was on widespread and Delhi was getting unlock and it was also a target of Covid 19. All its work had gone into deadlock and its office was completely closed and staffs were not coming. Even it and its family shifted to his home town Purliea. Despite such situation Pre-inspection questionnaire and inspection was conducted only on very short notice and it had done its maximum cooperation with SEBl's official. Had a proper notice and proper time to reply the questionnaire in view of COVID been given, all the detail would have been provided and there is nothing to hide.

64. SEBI Circulars ISD/CIR/RR/AML/1/06 dated January 18, 2006 and ISD/CIR/AML/2/06, dated March 20, 2006 read with SEBI Master circular SEBI/ HO/ MIRSD/ DOP/ CIR/ P/ 2019/113 dated October 15, 2019 provide Guidelines on Anti-Money Laundering (AML) Standards and Combating the Financing of Terrorism (CFT) /Obligations of Securities Market Intermediaries under the Prevention of Money Laundering Act, 2002 (PMLA) and Rules framed there under. Under section 2 of the said master circular each registered intermediary shall adopt written procedures to implement the anti-money laundering provisions as envisaged under the PMLA.

65. I note that the Noticee has reiterated the reply as he made to the other allegations. I further note that sufficient opportunities has been granted to the Noticee to show his compliance to aforesaid observation however Noticee has been making blanket statements that sufficient opportunity was not given and hence he could not reply. Noticee also had opportunity to defend himself by submitting the documents before the instant proceedings which he failed to do.

66. The Noticee was not keeping necessary systems in respect of Anti-Money Laundering compliances, and thus failed to keep compliance measures. Thus, I observe that Noticee has violated SEBI Circulars ISD/CIR/RR/AML/1/06 dated January 18, 2006 and ISD/CIR/AML/2/06, dated March 20, 2006 read with SEBI Master circular SEBI/ HO/ MIRSD/ DOP/ CIR/ P/ 2019/113 dated October 15, 2019, Regulation 13 (i) read with section 12 (1) of the SEBI Act, 1992 and clauses 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of SEBI (Research Analysts) Regulations, 2014.

<u>Issue No. II Does the violation, if any, attract monetary penalty under Section 15EN and 15HA of the SEBI Act, 1992?</u>

67. In view of the above, it can be concluded that the Noticee failed to comply with Research Analyst by violating provisions of :

- Regulation 13 (i) and 13 (ii) of the RA Regulation read with section 12 (1) of the SEBI Act, 1992;

- Regulations 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations;
- Regulations 25 of RA Regulations;
- Regulation 3 (1) of the SEBI (Investment Advisers) Regulations, 2013 read with Section 12 (1) of SEBI Act, 1992;
- Regulations 3 (a), (b), (c) and (d) and 4 (k) and (s) of SEBI, PFUTP Regulations, 2003 read with sections 12 A (a), (b) and (c) of the SEBI Act, 1992;
- Regulations 7 (2) of RA Regulation;
- SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014;
- Regulation 8(1) of the RA Regulation;
- SEBI Circulars ISD/CIR/RR/AML/1/06 dated January 18, 2006 and ISD/CIR/AML/2/06, dated March 20, 2006 read with SEBI Master circular SEBI/ HO/ MIRSD/ DOP/ CIR/ P/ 2019/113 dated October 15, 2019.

68. The Hon'ble Supreme Court of India in the matter of **SEBI vs. Shri Ram Mutual Fund** interalia held *" once the violation of statutory regulations is established, imposition of penalty becomes sine qua non of violation and the intention of parties committing such violation becomes totally irrelevant. Once the contravention is established then the penalty is to follow."*

69. In view of the same, I am convinced that it is a fit case for imposition of monetary penalty on the Noticee under the provisions of section 15EB and 15HA of the SEBI Act, 1992 which read 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 so, what would be the quantum of monetary penalty that can be imposed on the Noticee after taking into consideration the factors mentioned in section 15J of the SEBI Act, 1992?

70. While determining the quantum of penalty under section 15EB and 15HA of the SEBI Act, it is important to consider the factors relevantly as stipulated in section 15J of the SEBI Act which reads as under:-

Factors to be taken into account by the adjudicating officer.

15J. While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

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

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

(c) the repetitive nature of the default.

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

71. I note that material available on record has not quantified the amount of disproportionate gain or unfair advantage, if any, made as a result of the defaults by the Noticee. I also note that no prior default of the Noticee is available on record. Further, from the material available on record, it may not be possible to ascertain the exact monetary loss to the investors/clients on the account of defaults made by the Noticee. However Noticee as a registered intermediary is required to comply with the various Circulars Rules and Regulations as laid down by the Regulator. The very purpose of the said provisions is to deter wrong doing and promote ethical conduct in the securities market. Further Noticee being a registered intermediary is expected to adhere to fair practice and maintain high degree of professionalism which the Noticee has failed to do by making misrepresentation of facts as can be observed at para 26 to 30 above. The gravity of such violation as also the other non-compliances certainly deserves penalty which would act as deterrent to the Noticee in future.

ORDER

72. Having considered the facts and circumstances of the case, the material available on record, the factors mentioned in Section 15J of the SEBI Act, taking note of Section 15EB and 15HA of the SEBI Act, and also taking into account judgement of the Hon’ble Supreme Court in SEBI vs. Bhavesh Pabari (2019) 5 SCC 90 and in exercise of the powers conferred under Section 15 I of the SEBI Act, 1992, and Rule 5 of Adjudication Rules, I, impose following penalty on the Noticee

S. No.	Violated Provisions	Penalty Provisions	Penalty
1.	• Regulation 13 (i) and 13 (ii) of the RA Regulation read with section 12 (1) of the SEBI Act, 1992;	Section 15EB of the SEBI Act, 1992	Rs. 4,00,000 (Rupees Four Lakhs Only)

	• Regulations 29 (1), 29 (2) and clauses 1, 2, 6, 7 and 8 of the Code of Conduct as specified in Third Schedule under regulation 24 (2) of RA Regulations; • Regulations 25 of RA Regulations; • Regulation 3 (1) of the SEBI (Investment Advisers) Regulations, 2013 read with Section 12 (1) of SEBI Act, 1992; • Regulations 7 (2) of RA Regulation; • SEBI Circular No. CIR/OIAE/1/2014 dated December 18, 2014; • Regulation 8(1) of the RA Regulation; • SEBI Circulars ISD/CIR/RR/AML/1/06 dated January 18, 2006 and ISD/CIR/AML/2/06, dated March 20, 2006 read with SEBI Master circular SEBI/ HO/ MIRSD/ DOP/ CIR/ P/ 2019/113 dated October 15, 2019.		

2.	• Regulations 3 (a), (b), (c) and (d) and 4 (k) and (s) of SEBI, PFUTP Regulations, 2003 read with sections 12 A (a), (b) and (c) of the SEBI Act, 1992;	Section 15HA of the SEBI Act, 1992	Rs. 10,00,000 (Rupees Ten Lakhs Only)

73. In the facts and circumstances of the case, I am of the view that the said penalty is commensurate with the violations committed by Noticee.

74. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of “SEBI - Penalties Remittable to Government of India”, payable at Mumbai, OR through online payment facility available on the website of SEBI, i.e. www.sebi.gov.in on the following path, by clicking on the payment link:

ENFORCEMENT → Orders → Orders of AO → PAY NOW

75. The aforesaid Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid to “The Division Chief (Enforcement Department 1 DRA-2), Securities and Exchange Board of India, SEBI Bhavan, Plot No. C – 4 A, “G” Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051.”. The Noticee shall also provide the following details while forwarding DD / payment information:

- Name and PAN of the Noticee
- Name of the case / matter
- Purpose of Payment – Payment of penalty under AO proceedings
- Bank Name and Account Number
- Transaction Number

76. 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, 1992 for realization of the said amount of penalty along with interest thereon, *inter alia*, by attachment and sale of movable and immovable properties.

77. In terms of the provisions of rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee viz. Bikash Kumar Jain – Research Analyst and also to the Securities and Exchange Board of India.

Date: September 20, 2022	**BARNALI MUKHERJEE**
Place: Mumbai	**ADJUDICATING OFFICER**