

SECURITIES AND EXCHANGE BOARD OF INDIA
ORDER

UNDER SECTIONS 11(1), 11(4), 11(B)(1), 11(4A) AND 11(B)(2) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 3(1) OF THE SEBI (INVESTMENT ADVISERS) REGULATIONS, 2013 AND UNDER SECTION 15-I OF THE SEBI ACT, 1992 READ WITH RULE 5 OF THE SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995.

In respect of:

Name of Noticee	PAN
Mr. Arvind Rameshwar Waghmare –Proprietor of M/s.JSR Makers	AFGPW8244M

In the matter of Unregistered Investment Advisory Services

BACKGROUND OF THE CASE

1. The Securities and Exchange Board of India (hereinafter referred to as “SEBI”), received a complaint against JSR Makers which is the sole proprietorship firm of Mr. Arvind Rameshwar Waghmare (*hereinafter collectively referred to as “Noticee”*). SEBI conducted an examination into activities of the Noticee in order to ascertain the veracity of the complaint and to determine whether there has been any violation of the provisions of Securities and Exchange Board of India,1992 (“SEBI Act,1992”), the Securities and Exchange Board of India (Investment Advisors) Regulations, 2013 (“IA Regulations”) and any other Rules or Regulations made thereunder, by the Noticee.
2. Based on the examination of the aforesaid complaint, the account opening form (AOF) of the Noticee obtained from the bank where the Noticee held account and the website of the Noticee, it was, *prima facie*, found that the Noticee has been providing investment advisory services without obtaining a certificate of registration

from SEBI thereby violating Section 12 (1) of the SEBI Act, 1992 read with Regulation 3 (1) of the IA Regulations, 2013.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A Show Cause Notice dated 08.08.2022 (hereinafter referred to as “**SCN**”) was issued to the Noticee calling upon it to show cause as to why suitable directions under Sections 11(4) and 11B (1) of the SEBI Act, 1992 including direction of refund of fees /monies collected from the investors should not be issued against the Noticee for the alleged violations. The Noticee was also called upon to show cause as to why inquiry should not be held against it in terms of Rule 4 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 and penalty be not imposed upon Noticee under Section 11(4A), 11B(2) read with Section 15EB of the SEBI Act, 1992 for the alleged violations. The following documents were enclosed as annexures to the SCN:

Table A

Annexures to SCN	
Annex. No.	Particulars
A	Copy of the complaint
B	Copy of letter dated 17.03.2022 seeking information from Noticee which was returned undelivered. Copy of email dated 17.03.2022 vide which the information was also sought.
C	Screenshots of the webpages www.jsrmaker.in
D	Account Opening Form (AOF), KYC details and account statement of Account No. 502xxxxxxxx353 provided by HDFC Bank.

4. The SCN has *inter alia* alleged the following which is summarized hereinbelow:-
- (a) SEBI received a complaint *inter-alia* alleging that the complainant has paid certain amount to the Noticee for investment / advisory services and the Noticee is not responding to the complainant.
- (b) Based on the complaint, SEBI vide letter sent by speed post and email dated 17.03.2022 advised the Noticee to provide certain information about its activities. The said letter was returned undelivered and the Noticee did not respond to the email issued by SEBI.

- (c) The complaint also mentioned the website of the Noticee was www.jsrmaker.in. The examination by SEBI revealed that the said website was existing earlier, but later became inactive. The screenshots of the webpage www.jsrmaker.in taken on 16.03.2022 from the archive pages of the website www.jsrmaker.in dated 10.12.2021 as downloaded from web.archive.org was annexed with the SCN.
- (d) On an examination of the extracted pages of the website it is observed that the Noticee was engaged in providing / offering investment advisory services through its website. The website was providing various services for consideration. The pricing of their services varied according to the type of plan (basic, HNI, Index Option, Index Future, BTST, Premium, etc). The fee charged was dependent on the period of subscription i.e Monthly Rs.8500/-, Quarterly Rs.18,000/-, Half-Yearly Rs. 28,000/- and Yearly Rs.46,000/-.
- (e) The Complaint contained details of the bank Account No. 502xxxxxxxx353 of the Noticee which was held with HDFC Bank, wherein payment was made by the complainant for the advisory services. Based on said information, HDFC Bank was advised to provide the copies of the AOF, Know Your Customer (KYC) details and account statement, etc. of the Noticee.
- (f) On analyzing the documents submitted by HDFC Bank it is noted that the said account was opened on 04.09.2020 and was active i.e. during the examination as on 14.02.2022. The account was in the name of JSR Makers, a sole proprietorship firm. Mr. Arvind Rameshwar Waghmare had signed the AOF and other documents and had furnished his KYC documents as proprietor of the firm. Based on the documents submitted to the bank by the Noticee, it is noted that the registered email ID in the said account was waghmarearvind11@gmail.com. Further, w.r.t. the document ie. 'Declaration for online Shop & Establishment Intimation' submitted to the bank, it was also seen that Mr. Arvind Rameshwar Waghmare is the proprietor of JSR Makers.

- (g) The total amount credited / deposited in the bank account was Rs.26,24,141/-. As on 14.02.2022, the closing balance was found to be zero. The last credit entry in the account was on 08.09.2021 and the last transaction was on 16.09.2021.
- (h) The payments made by the complainant for Rs.20,000/-, Rs.10,000/- and Rs.20,000/- on 21.12.2022, 22.12.2022 and 24.12.2022 respectively are reflected in the said HDFC Bank account.
- (i) It was prima-facie observed that the amount paid by various entities and reflected in the bank account is the consideration paid for availing investment advisory services by the noticee on its website viz www.jsrmaker.in. Further, based on examination of the bank account, it was prima facie observed that there are a number of credits from several other individual investors. The amount credited in the account is alleged to be received as fee towards the services rendered as investment adviser.
5. The SCN dated 08.08.2022 was sent by Speed Post with Acknowledgment Due to the available addresses of the Noticee i.e OO, Siddharth Nagar, Akola, Near Siddharth Vihar, Tarfail, Akola (Municipal Corporation), Akola, Maharashtra 444001. However, the SCN was undelivered with remarks "left addressee – return to sender". As the Noticee was resident in the state of Maharashtra as per the address, effort was made to deliver the SCN by hand i.e. personal delivery on 13.11.2022. However, the SCN could not be delivered as the family/ relatives of the Noticee residing at the above address refused to accept it. Further, the affixature of the SCN at this address was unsuccessful. Hence, vide public notice dated 06.12.2022 in the Hindustan Times (English), Prahar (Marathi) and Pratahkal (Marathi) the delivery of the SCN was done. Vide said public notice the noticee was provided details of the SCN. However, no reply was received from the noticee.
6. Thereafter, vide letter dated 31.03.2023 which was sent vide Speed Post with Acknowledgment Due (SPAD), the Noticee was once again provided three weeks'

time to reply to the SCN. Further, he was also asked to indicate whether he would prefer an opportunity of personal hearing in the matter. As per the online tracking of consignment on India Post, the letter was delivered to the Noticee on 15.04.2023. However, no reply was received.

7. Therefore, in order to comply with the principles of natural justice, an opportunity of personal hearing was granted to the Noticee on 18.07.2023. The hearing notice dated 28.06.2023 was sent through SPAD. However, the notice was returned undelivered with the remarks “*Refused. Return to Sender*”. Another opportunity of personal hearing on 07.09.2023 was once again granted to the noticee vide hearing notice dated 08.08.2023 which was sent by SPAD and also emailed to the email ID waghmarearvind11@gmail.com. The hearing notice dated 08.08.2023 was delivered on 16.08.2023 as per the online tracking on India Post. Further the noticee was also provided the link for the meeting in case he desired to attend it online. The details for online hearing link was sent vide letter dated 22.08.2023 though SPAD and email (waghmarearvind11@gmail.com). The letter dated 22.08.2023 was delivered on 28.08.2023 to the noticee as per the online tracking on India Post. A reminder email was also sent to the Noticee on 04.09.2023 seeking his reply to the SCN as well as informing him of the scheduled hearing. Further, even on the date of the hearing i.e 07.09.2023, emails w.r.t hearing alongwith the webex link were sent to the Noticee at the above email ID. It is noted that these emails have not bounced back either.
8. However, on the scheduled date i.e. 07.09.2023, the Noticee viz Mr. Arvind Rameshwar Waghmare did not appear either in person nor online i.e via the video conferencing link sent to him.
9. In this regard, I find it relevant to refer to the order of Hon'ble SAT in the matter of Dave Harihar Kiritbhai v. Securities and Exchange Board of India (Appeal No. 181 of 2014 dated December 19, 2014), wherein, it was observed, “...*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..."

10. I note that despite proper service of SCN and hearing notice, the Noticee has not responded. It is also seen that the Noticee has not responded during the examination when he was asked to submit his reply to certain information that was sought from him nor during the current proceedings. Therefore, it is presumed that Noticee has nothing to submit in respect of the allegations levelled in the SCN. Further, in this context, I find it apt to also refer to and rely on the observation of the Hon'ble Securities Appellate Tribunal ("SAT") in the case of **Sanjay Kumar Tayal & Others vs SEBI (Appeal No. 68 of 2013-Order dated February 11, 2014)**, wherein the Hon'ble SAT has observed "*.....appellants have neither filed reply to show cause notices issued to them nor have 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...*".

11. I also note that the receipt of SCN and hearing notice has been refused by the family when attempted to be delivered at the given address of the noticee. In this regard I note that the Hon'ble Supreme Court of India vide its order dated 13.10.2023 w.r.t Transfer Petition Civil No. 2090/2019 in respect of Priyanka Kumari (Petitioner) Versus Shailendra Kumar (Respondent) IA No.126261/2019 has recorded the following :

" The word 'refusal' can be interpreted in synonymous to the word "unclaimed". As held by the Hon'ble Supreme Court in the above decisions, when a notice is served to the proper address of the addressee, it shall be deemed to be served unless contrary is proved. Thus, when the notice is returned as unclaimed, it shall be deemed to be served and it is proper service. Therefore, service of notice to the sole respondent which has returned as unclaimed is considered as deemed to be served but none has entered appearance."

12. Hence, I am convinced that the SCN and hearing notice has been served on the noticee. Further, even though the Noticee has remained ex parte, I observe that the principles of natural justice have been adequately complied with in the present matter, and as the Noticee has chosen not to participate in the present proceedings before me, I am constrained to deal with the SCN on merits, based on the material available on record.

CONSIDERATION OF ISSUES AND FINDINGS

13. I have considered the allegations made in the SCN alongwith the findings of the examination by SEBI stated therein and the documents available on record. The Noticee has neither submitted reply to the SCN issued to him nor has he provided information sought from him during the examination. The SCN and the hearing notice have been sent to the following address i.e. OO, Siddharth Nagar, Akola, Near Siddharth Vihar, Tarfail, Akola (Municipal Corporation), Akola, 444001. I note that this is the same address given by the Noticee while opening his bank account with HDFC Bank. The same address had also been provided by the noticee while taking a licence under the Maharashtra Shops and Establishments (Regulations of Employment and Conditions of Service) Rules, 2018. I further, note that a chartered accountant has also certified the same address of the noticee from the documents submitted by him while opening the bank account. The reminder letter, hearing notices and links have also been sent to the email ID provided by the noticee to the bank and these emails have not bounced back. Therefore, as stated in the preceding paragraphs, I am convinced that the service of SCN and hearing notice has been completed in accordance with principles of natural justice. I note that the issue for consideration is whether the Noticee has been providing investment advisory services without obtaining a certificate of registration from SEBI in violation of Section 12 (1) of the SEBI Act, 1992 read with Regulation 3 (1) of the IA Regulations, 2013.

14. The complainant, vide email dated 05.02.2021 had alleged that he had transferred Rs.50,000/- to JSR Makers in order to open a demat account and for investments

for which a profile was generated. However, after making the payment, the complainant was neither given the details of his account nor was the Noticee responding to him. To substantiate his allegation, the complainant also provided the documentary evidence of the payments made by him to account number 502xxxxxxxx353 with HDFC Bank, the profile created as well as confirmation of receipt of funds by noticee.

15. I note from the screenshots of payments given by the complainant as well as bank account of noticee that complainant had transferred a total amount of Rs.50,000/- in three days to the HDFC Bank A/c No. 502xxxxxxxx353 of the Noticee which establishes the fact that the amount was paid by the complainant to the Noticee. The payments made by complainant into the HDFC Bank of the Noticee are as follows:-

Table No. : 1

Sr. No.	Date of payment by Complainant	Amount (Rs.)	Payment details
1	21.12.2020	20,000/-	Payment made through NEFT
2	22.12.2020	10,000/-	IMPS
3	24.12.2020	20,000/-	IMPS
TOTAL		50,000/-	

16. I also note from the webpages which were downloaded when the website was active (*website is currently not available*) that the Noticee was engaged in offering investment advisory services to its clients upon payment of fees. The Noticee had, *inter alia*, advertised the following on their website which was also brought out in the SCN: -

About Our Company

JSR maker is an Investment Advisory Company basically providing recommendations for Stocks – Cash and F&O traded in NSE & BSE,

commodities including bullions, metals and agro-commodities traded in MCX, NCDEX.

We also provide weekly & daily newsletters for preparing you for trading; we have other services like FOREX Calls & Commodity Calls for Commodity Comdex International Exchange.

We provide recommendations Live through SMS. We know how is it important to be instant of time in this business so we have the best instant SMS facility or tally calls (if recommend) with a very efficient system ensuring the instant delivery of Message without any loss of time. So, the clients get adequate time to enter into the trade and fetch the profit.

Possible any problem with mobile network, Technical fault or maintenance messaging will be stop temporarily.

We offer diversified range of services as per the investments of an investor, trader or broker. We assure more than 90% accuracy in our recommendations and provide a second to none customer support. We believe in giving each and every member a special treatment by providing online and telephonic assistance round the clock for 12 hours in a day.

Our Services:

Equity :

The JSR Maker provides wide variety of services in Equity Market, suitable for Investors. Equity in the share market is broadly defined as a part of the company's capital that is held closely by a singular group of people comprising of investors, promoters. Institutions and alike, any investor looking to invest in equity is free to do so by means of IPO, mutual funds or direct trading in stock markets. Equity, In essence, is the market where both shares are issued as well as exchanged. There are two such modes of exchange namely trading and over the counter. Often referred to as the Share Trading System, equity is the standout singular market in an economy, the most indispensable of all markets which allow an organisation to access capital directly. From the Indian perspective, NSE

(National Stock Exchange) and BSE (Bombay Stock Exchange) are two such exchange market to trade in equities.

Commodity:

The JSR Maker provides wide variety of services in Commodity Market, suitable for Investors. An online commodity market that deals in trading of monetary segments rather than objects that are manufactured. There are examiners and speculators from over 50 important markets here accessing monetary trading which predominates any physical trading when a set of items are passed from one hand to another. In simple terms, prospects contracts are genuinely the best strategy that one can be equipped with to do a successful business. Online Commodity Market similar to equity also enjoys online commodity trading on the exchange across four prominent categories namely;

Derivative:

The JSR Maker provides wide variety of services in Derivative Market, suitable for Investors. A derivative is a financial security with a value that is reliant upon, or derived from, an underlying asset or group of assets. ... The most common underlying assets include stocks, bonds, commodities, currencies, interest rates and market indexes. Derivatives can either be traded over-the-counter (OTC) or on an exchange.

Forex:

The JSR Maker provides wide variety of services in Forex Market, suitable for Investors. Forex, also known as foreign exchange, FX or currency trading, is a decentralized global market where all the world's currencies trade. The forex market is the largest, most liquid market in the world with an average daily trading volume exceeding \$5 trillion.

Additionally, I also note the following from the downloaded pages of the website:-

Why Choose Us

Quality

Quality is the major strength of JSR Maker Research, Committed to provide quality trading tips to our clients.

Best in Market

Never Settle. try us and get the best result. we are providing the best in invertment market. JSR maker team are always here to supply best as they do (sic).

Customized Service

Report help you get update about market and you can get benifit of movement of market via our tradsheet and reports (sic)

17. Further, it is also noted from the downloaded pages of the website that the Noticee was offering various products against payment of fees. The fees charged depended on the period of subscription viz monthly: Rs. 8,500/- , quarterly Rs. 18,000/-, half yearly Rs. 28,000/- and yearly Rs. 46,000/- for following products i.e.

- Basic Stock Cash,
- Basic Stock Future,
- Basic Stock Option,
- HNI Stock Cash,
- HNI Stock Future,
- HNI Stock Option,
- Index Option,
- Index Future,
- BTST,
- Premium Stock Cash,

- Premium Stock Future and
- Premium Stock Option.

18. I note from the Para 16 above, that the Noticee has in clear terms admitted to be an “Investment Advisory Company” Further, from Para 17, it is clear that the Noticee was also providing various kinds of products for consideration.

19. I note that at the time of opening the current account with HDFC Bank, Noticee has provided certain documents to the bank i.e receipt of the Maharashtra Shops and Establishments (Regulations of Employment and Conditions of Service) Rules, 2018 and also a Chartered Accountant’s certificate wherein it has been stated / certified that the Noticee is in the business of ‘online marketing’.

20. Further I also note that in one of the submissions dated 17.08.2020 given by the noticee to HDFC Bank, noticee has stated the following :-

“I/we undersigned Proprietor/Partners of JSR MAKERS wants to open new Firms Current Account with your bank, for that I have submitted all required documents but on Stamp/Cheque of firm is in JSR MAKER and on Shop Act name is JSR MAKERS ther is typing misteck on Stamp/Cheque, Request you to Kindly open my firms account in name of JSR MAKERS. I have no objection to open our account in name as JSR MAKERS....” Therefore, JSR Maker (i.e name appearing on website) and JSR Makers (name appearing in the bank account) are one and the same.

21. The bank account No. 502xxxxxxx353 with HDFC Bank was opened on 04.09.2020 and was active as on 14.02.2022 and was in the name of JSR Makers, sole proprietorship firm of Mr. Arvind Rameshwar Waghmare. The total amount credited / deposited in the account was Rs.26,24,141/-. The last credit entry in the account was on 08.09.2021 and the last transaction was on 16.09.2021. The account balance was zero as on 14.02.2022. I further note from the account statement that the account status is shown as “No Debit”.

22. It is also observed from the bank statement that against certain credits there are narrations such as “share market”, “investment”, ‘JSR Maker Share Ma”, “TPT Share M”, “TPT –Share Market”, “trade” which confirms that the noticee was receiving funds from the clients for advisory services for investment in the share market.

23. During the examination, SEBI vide letter and email dated 17.03.2022 (email sent to him at the email ID provided by noticee in the bank documents i.e. waghmarearvind11@gmail.com) asked the noticee to submit certain information relating to the alleged unregistered investment advisory activities offered by him *inter alia*, details of client names, amount collected as fees, details of bank in which the amount was collected, date of collection. However, no reply was received from him. Further, vide SCN dated 08.08.2022, the Noticee was provided with the details of the bank account, total amount deposited / credited in his account alongwith the bank statement. The noticee has neither refuted the alleged charges levelled nor has he provided a defense and has not co-operated during the examination nor during the current proceedings. Hence, the entire amount of Rs.26,24,141/- is being considered as amount received by Noticee for the unregistered investment advisory activities.

24. W.r.t the issue whether the Noticee has acted as an unregistered investment adviser in violation of the provisions of the SEBI Act, 1992 and the IA Regulations, the definition of "Investment Adviser" as given under Regulation 2(1)(m) of the IA Regulations is relevant:-

"investment adviser" means any person, who for consideration, is engaged in the business of providing investment advice to clients or other persons or group of persons and includes any person who holds out himself as an investment adviser, by whatever name called;"

25. Further, Regulation 2(1)(l) of the IA Regulations defines "investment advice" as under:

"investment advice means advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client and shall include financial planning:...."

26. For ease of reference, the provisions of the SEBI Act, 1992 and IA Regulations alleged to have been violated by the Noticee are also reproduced hereunder :-

SEBI Act, 1992

"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 ⁵³[regulations] made under this Act.”

SEBI (Investment Adviser) 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:”

27. From a collective reading of (a) complaint (b) the webpages of Noticee and (c) the bank account opening form and transaction statement, I find that the Noticee was providing investment advice through the website, and also received consideration in lieu of the same and hence Noticee is covered under the definition of “investment adviser” and the money received from individuals was in the nature of fees in lieu of investment advice provided by it. The definition of “investment adviser” under Regulation 2(1)(m) of the IA Regulations states that if an entity is engaged in providing advice relating to investing in, purchasing, selling or otherwise dealing in securities or investment products, and advice on investment portfolio containing securities or investment products, whether written, oral or through any other means of communication for the benefit of the client in lieu of consideration, including those entities which are holding themselves out as investment advisers, such entity will be covered by the definition of “Investment Adviser” as given in Regulation 2(1)(m) of the IA Regulations. Therefore, I find that the Noticee i.e. Mr. Arvind Rameshwar Waghmare, proprietor of M/s. JSR Makers, was engaged in the business of providing investment advice to its clients, for consideration, and thus, is acting as an investment adviser, as defined under Regulation 2(1) (m) of the IA Regulations.

28. I note that in terms of Section 12 (1) of the SEBI Act and Regulation 3 (1) of the IA Regulations, no investment adviser shall act as an investment adviser or hold itself

out as an investment adviser unless it has obtained a certificate of registration from SEBI.

29. I note that for seeking a certificate of registration for acting as an investment adviser, an entity is required to satisfy, *inter alia*, the following requirements, as provided under IA Regulations:

- (i) An application for seeking certificate of registration to be made to Local Office, Regional Office or Head Office, of SEBI, as the case may be, in Form A as specified in the First Schedule to IA Regulations, 2013 along with requisite non-refundable application fee;
- (ii) The applicant, in case of an individual investment adviser or its principal officer in case of a non-individual investment adviser shall be appropriately qualified and certified as under:
 - (a) A professional qualification or post-graduate degree or post graduate diploma (minimum two years in duration) in finance, accountancy, business management, commerce, economics, capital market, banking, insurance or actuarial science from a university or an institution recognized by the Central Government or any State Government or a recognized foreign university or institution or association or a professional qualification by completing a Post Graduate Program in the Securities Market (Investment Advisory) from NISM of a duration not less than one year or a professional qualification by obtaining a CFA Charter from the CFA Institute;
 - (b) An experience of at least five years in activities relating to advice in financial products or securities or fund or asset or portfolio management;
 - (c) Applicant in case of individual investment adviser or its principal officer in case of a non-individual investment adviser, and persons associated with investment advice shall have, at all times a certification on financial planning or fund or asset or portfolio management or investment advisory services, from (a) NISM; or (b) any other organization or institution including Financial Planning

Standards Board of India or any recognized stock exchange in India provided such certification is accredited by NISM.

- (iii) Individual applicant must have net worth of not less than 5 lakh rupees and non-individual applicant must have net worth of not less than 50 lakh rupees.

30. I note that the safeguards provided under IA Regulations, 2013 requires continued minimum professional qualification and net-worth requirement for investment adviser, including disclosure of all conflict of interest, prohibition on entering into transactions which are contrary to advice given for 15 days, risk profiling of investors, maintaining documented process for selecting investment for client based on client's objective and risk profile, understanding the nature and risks of products or assets selected for clients, etc. These requirements are aimed at protection of investor interest.

31. I note that the activities of the Noticee i.e. Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, as described in the preceding paragraphs, were that of an investment adviser. However, neither JSR Makers nor its proprietor were registered with SEBI in the capacity of Investment Adviser. I find that these activities were being carried out by the Noticee without obtaining the necessary certificate of registration as an investment adviser and therefore, the Noticee has violated Section 12(1) of the SEBI Act along with Regulation 3 of the IA Regulations.

32. The SCN referred above also called upon the Noticee to explain as to why appropriate penalty should not be imposed upon him under Section 15EB of the SEBI Act, 1992 for the alleged violations. In this regard, before going ahead with the determination of monetary penalty, it would be relevant to place hereunder the extracts of the appropriate penalty provisions for necessary reference. The relevant extract of Section 15EB of the SEBI Act, 1992, is reproduced, hereunder:

“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.”*

33. I note that the allegation that the Noticee has acted as an investment adviser without obtaining a certificate of registration from SEBI has been clearly established in the preceding paragraphs and therefore, the Noticee has violated Regulation 3(1) of the IA Regulations read with Section 12 of the SEBI Act. In view of the same, I find that the penalty under Section 15EB of the SEBI Act, 1992 is clearly attracted.

34. For imposition of penalties under the provisions of the SEBI Act, 1992, Section 15J of the SEBI Act, 1992 provides as follows:

“Factors to be taken into account while adjudging quantum of penalty.

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

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
- (b) the amount of loss caused to an investor or group of investors as a result of the default;*
- (c) the repetitive nature of the default.”*

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

35. As discussed in the aforesaid paragraphs, I note that a total of ₹26,24,141/- has been received by the Noticee in the bank account for the investment advisory services provided by it. Thus, in the light of the findings in the preceding paragraphs, I am of the considered view that the Noticee is liable to refund the aforementioned amount collected as an unregistered investment adviser in addition to monetary penalties which are attracted for the said violations under Section 15EB of the SEBI Act.

DIRECTIONS

36. In view of the foregoing, I, in exercise of the powers conferred upon me in terms of Sections 11(1), 11(4) and 11B (1), 11B (2) read with of Section 19 of the SEBI Act, and Rule 5 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995, do hereby pass the following directions:

- (a) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers shall, within a period of three (3) months from the date of coming into force of this direction, refund the money received from any complainant/ investor/ client, as fees or consideration or in any other form, in respect of its unregistered investment advisory activities;
- (b) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, shall issue public notice in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact person such as names, addresses and contact details, within 15 days of coming into force of this direction;
- (c) The repayments to the complainants/ investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, which ensures audit trails to identify the beneficiaries of repayments;
- (d) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, is prevented from selling his assets, properties and holding of mutual funds/shares/ securities held by him in demat and physical form except for the sole purpose of making the refunds as directed above. Further, the banks are directed to allow debit only for the purpose of making refunds to the clients/ investors/ complainants who were availing the investment advisory services from the Noticee, as directed in this order, from the bank accounts of the Noticee;

- (e) After completing the aforesaid repayments, the Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, shall file a report of such completion with SEBI addressed to the “Division Chief, Division of Post-Inspection Enforcement Action, Market Intermediaries Regulation and Supervision Department (MIRSD), SEBI Bhavan II, Plot No. C7, G Block, Bandra Kurla Complex, Bandra (East) Mumbai –400051”, within a period of 15 days, after completion of three months from the coming into force of the directions at Para 36 (a) and (b) above, duly certified by an independent Chartered Accountant and the direction at para 36 (d) above shall cease to operate upon filing of such report on completion of refunds to complainants/investors;
- (f) The remaining balance amount shall be deposited with SEBI which will be kept in an escrow account for a period of one year for distribution to clients/complainants/investors who were availing the investment advisory services from the Noticee. Thereafter, remaining amount if any will be deposited in the ‘Investors Protection and Education Fund’ maintained by SEBI;
- (g) In case of failure of the Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, to comply with the aforesaid directions in sub-paragraphs 36 (a) and (f), SEBI, on the expiry of the stipulated time period therein from the date of coming into force of this order, may recover such amounts, from the Noticee, in accordance with Section 28A of the SEBI Act, 1992 including such other provisions contained in securities laws;
- (h) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, is debarred from accessing the securities market, directly or indirectly and is prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in any manner whatsoever, for a period of two (2) years from the date of this order or till the expiry of two (2) years from the date of

completion of refunds to complainants/ investors as directed in paragraph 36 (a) above, whichever is later;

- (i) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of M/s. JSR Makers, is hereby imposed with a penalty of Rs. 1,00,000/- (Rupees One lakh only) under Section 15EB of the SEBI Act, 1992 and further directed to pay the penalty within a period of forty-five (45) days, from the date of receipt of this order;
- (j) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, shall remit / pay the said amounts of penalty 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 EDs/CGMs -> PAY NOW. In case of any difficulties in online payment of penalties, the Noticee may contact the support at portalhelp@sebi.gov.in The details/ confirmation of e-payment should be sent to "The Division Chief, Market Intermediaries Regulation and Supervision Department (MIRSD), Division of Registration-2, SEBI Bhavan II, Plot no. C-7, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai -400 051" and also to e-mail id:- tad@sebi.gov.in in the format as given in table below:

Case Name	
Name of Payee	
Date of Payment	
Amount Paid	
Transaction No.	
Payment is made for: (like penalties/ disgorgement/ recovery/ settlement amount/ legal charges along with order details)	

- (k) The Noticee, Mr. Arvind Rameshwar Waghmare, Proprietor of JSR Makers, shall not undertake, either during or after the expiry of the period of debarment/restraint as mentioned in paragraph 36 (h) above, either directly or indirectly, investment advisory services or any activity in the securities

market without obtaining a certificate of registration from SEBI as required under the securities laws.

37. The direction for refund, as given in paragraph 36(a) above, does not preclude the clients/investors to pursue the other legal remedies available to them under any other law, against the Noticee for refund of money or deficiency in service before any appropriate forum of competent jurisdiction.

38. This order shall come into force with immediate effect.

39. A copy of this order shall be sent to the Noticee, recognized Stock Exchanges, the relevant banks, Depositories and Registrar and Transfer Agents of mutual funds to ensure that the directions given above are strictly complied with.

Date: October 27, 2023

Place: Mumbai

**DR. ANITHA ANOOP
CHIEF GENERAL MANAGER**

SECURITIES AND EXCHANGE BOARD OF INDIA