

**IN THE SECURITIES APPELLATE TRIBUNAL
AT MUMBAI**

DATED THIS 15TH DAY OF DECEMBER, 2025

**CORAM: Justice P.S. Dinesh Kumar, Presiding Officer
Ms. Meera Swarup, Technical Member**

Appeal No.630 of 2024

Podium Market Research
Through its Proprietor Dr. Suman kumar
3rd Floor, Aadya Hospital
(Janki Memorial Hospital),
Opp. Kumhrar Park Main Gate,
Kankarbagh, Patna, Bihar – 800 026.Appellant

(By Mr. Saurabh Bachhawat, Advocate with Mr. Chinmay
Paradkar, Advocates i/b. Corporate Pleaders for the Appellant.)

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A,
G Block, Bandra Kurla Complex,
Mumbai- 400 051.Respondent

(By Mr. Manish Chhangani, Advocate with Mr. Sumit Yadav, Mr.
Abhay Chauhan and Mr. Atul Agrawal, Advocates i/b. The Law
Point for the Respondent.)

THIS APPEAL IS FILED UNDER SECTION 15T OF SECURITIES
AND EXCHANGE BOARD OF INDIA ACT, 1992 TO SET ASIDE

ORDER DATED AUGUST 16, 2024 (Ex-A) PASSED BY THE AO, SEBI.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON DECEMBER 4, 2025, COMING ON FOR PRONOUNCEMENT OF ORDER THIS DAY, THE TRIBUNAL MADE THE FOLLOWING:

ORDER

Per: Justice P.S. Dinesh Kumar, Presiding Officer

This appeal by a registered investment adviser is directed against order dated August 16, 2024, passed by the AO¹, SEBI² imposing a total penalty of ₹25 Lakhs on the appellant for violation of the SEBI Act, 1992³, SEBI (IA) Regulations, 2013⁴, SEBI (PFUTP) Regulations, 2003⁵ and its Circulars.

2. We have heard Shri Saurabh Bachhawat, learned Advocate for the appellant and Shri Manish Chhangani, learned Advocate for SEBI.

3. Brief facts of the case are, SEBI received a complaint on its SCORES platform against appellant firm. After examining the complaint, show cause notice dated May 16, 2024, was issued to the appellant and two other noticees. Appellant submitted its reply. After adjudication, SEBI has passed the impugned order.

¹ Adjudicating officer

² Securities and Exchange Board of India

³ Securities and Exchange Board of India Act, 1992.

⁴ Securities and Exchange Board of India (Investment Adviser) Regulations, 2013.

⁵ Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003.

4. Assailing the impugned order, Shri Saurabh Bachhawat submitted that following charges are levelled against the appellant:

- i. NISM certificate had expired;
- ii. Agreements with the clients were not produced;
- iii. As per Regulations, an adviser cannot receive more than ₹1.25 Lakhs from the client, but the appellant had received higher amounts from seven clients totalling to ₹20.89 Lakhs;
- iv. Appellant had failed to maintain confidentiality and due diligence and;
- v. Appellant had collected GST without obtaining registration from GST authorities.

5. With regard to the first charge, he submitted that when NISM⁶ certificate had expired (2022-24), he was not carrying on his advisory services.

6. With regard to the second charge, he submitted that he had maintained the agreements in the electronic form in the website and the website had crashed. Since, he had not maintained a backup, he was not able to furnish the agreements.

7. With regard to the third charge, he conceded that appellant accepts the charge.

8. With regard to the fourth charge, he submitted that the breach in confidentiality had occurred because of one of his

⁶ National Institute of Securities Markets

employee namely Prakash, who is also a noticee, had created a new email ID and approached the clients for money. Appellant has filed a police complaint against the said Prakash. He submitted that this explanation has been accepted by the SEBI in paragraph No.53 of the impugned order.

9. In reply, Shri Manish Chhangani, learned Advocate for SEBI submitted that appellant has taken inconsistent stands at different stages, namely while replying the show cause notice, at the time of adjudication and at the appellate stage.

10. With regard to the first charge, he submitted that Regulation 15(13) read with Regulation 7 of IA Regulations, 2013, makes it compulsory for an investment adviser to keep the NISM certificate alive throughout.

11. We have perused the said Regulations. Regulation 15(13) states that "it shall be the responsibility of the investment adviser to ensure compliance with the certification and qualification requirements as specified under Regulation 7 at all times". Regulation 7(2) states as follows:

*"(2) An individual investment adviser or principal officer of a non-individual investment adviser, registered under these regulations 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 -*

*(a) **from NISM;** or*

(b) from 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:

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

Provided further that fresh certification before expiry of the validity of the existing certification shall not be obtained through a CPE program.”

(Emphasis supplied)

12. Admitted position is, appellant did not have the NISM certificate. Mr. Chhangani submitted that in reply to the show cause notice, appellant did not refute the allegation but took a stand that the allegation was hit by *res judicata*. At the appellate stage, appellant has taken a stand that he had discontinued the business and had not received any money from the clients.

13. Thus, in our view, the violation is clear and in addition, appellant has taken inconsistent stands at various stages and not come with clean hands to this Tribunal.

14. With regard to the second charge, Shri Chhangani submitted that as per Regulation 19 of IA Regulations, appellant was required to maintain copies of agreements. In its reply to the show cause notice, appellant did not refute the allegation but took the stand of *res judicata*. At the appellate stage in this Tribunal, appellant's stand is discontinuation of service by the website provider 'godaddy.com'.

15. Shri Manish is right in his submission that the Regulation 19(1) (d) of IA Regulations, mandates that an investment adviser shall maintain the copies of agreements with clients. Regulation 19(3) provides that an investment adviser shall conduct yearly audit of compliance with the Regulations from a Chartered Accountant or a Company Secretary.

16. In our view, Shri Chhangani is right in contending that appellant has taken inconsistent stands. In paragraph No.5.5 of the memorandum of appeal, appellant has stated that the e-agreements are available on the website of the appellant which was taken through www.godaddy.com and appellant had discontinued the work from 2022 and had not renewed its subscription on godaddy.com. Therefore, godaddy.com had stopped its services and thus, appellant has lost the data.

17. We note that appellant has not complied with the Regulation 19(1)(d) and also taken inconsistent stands at different stages.

18. The third charge of receiving fee of more than ₹1.25 Lakhs from seven clients totalling to ₹20.89 Lakhs is admitted.

19. With regard to the fourth charge, Shri Chhangani submitted that Regulation 15(9) read with Code of Conduct under Third Schedule of IA Regulations, an investment adviser is required to maintain confidentiality. In its reply to the show cause notice, appellant has admitted the charge stating that Noticee No.2 was vested with access to confidential information and he had misused the same. Shri Chhangani argued that it

was incumbent upon the appellant to adopt adequate safeguards and ensure that confidentiality was maintained. He further submitted that though appellant claims to have filed a complaint against Noticee No.2, he has not taken any further action in the matter.

20. The charge is admitted by the appellant, however, it is sought to be explained that there was a breach by his employee, Prakash Kumar (Noticee No.2). This is not acceptable firstly because Regulation 15(9) makes it mandatory for an investment adviser to abide by the Code of Conduct in Third Schedule. Clause 4 of Third Schedule reads thus:

"4. Information about clients

An investment adviser shall seek from its clients, information about their financial situation, investment experience and investment objectives relevant to the services to be provided and maintain confidentiality of such information."

Secondly, the explanation that the employee had breached the confidentiality is not satisfactory because appellant has filed the FIR on December 1, 2019, but continued to employ the Noticee No.2 thereafter also. Further, maintaining confidentiality of clients' data is of utmost importance as it involves their personal information about their finances and investments etc.

21. With regard to the fifth charge, Shri Chhangani submitted that appellant did not have the GST registration, yet collected the GST. He submitted that SEBI as a Regulator can examine non-payment of GST because appellant's misconduct

of collecting money in the guise of GST amounts to fraud in terms of Regulation 2(1)(c)(1) of PFUTP Regulations and thus, appellant had violated Regulation 3(d) and Regulation 4(2)(p) read with Clause 1,5 and 8 of Code of Conduct under Third Schedule of IA Regulations.

22. In our view, the appellant's contention that SEBI has no jurisdiction to examine violation under GST statute is correct in law. It is settled that unless vested by a statute, an authority cannot exercise jurisdiction over an entity/person. The test of jurisdiction over the subject matter is whether the Court or Tribunal can decide the case at all. Admitted position is SEBI is a regulator created and functioning under the SEBI Act, 1992. The power of the adjudicating authorities such as AO⁷, WTM⁸, QJA⁹ etc. flows from SEBI Act. The learned WTM in this case, has imposed a penalty of ₹10 Lakhs for collecting GST. This is not permissible in law because he has no jurisdiction to decide any aspect relating to GST and there is a separate adjudicating authority created under the GST laws. (See : *Pankaj Bhargava v. Mohinder Nath*¹⁰). Hence, the penalty of ₹10 Lakhs imposed under Section 15HA for indulging in fraudulent practice is not sustainable. So far as the other violations are concerned, for reasons recorded by us against each violation hereinabove, no interference is called for.

⁷ Adjudicating Officer

⁸ Whole Time Member

⁹ Quasi-Judicial Authority

¹⁰ (1991) 1 SCC 556, para 20

23. Hence the following:

ORDER

- i. Appeal is ***allowed in part***
- ii. Penalty under Section 15HA *qua* the appellant is set aside.
- iii. Remaining portion of the order is undisturbed.
- iv. Pending interlocutory application(s), if any, stand disposed of.
- v. No costs.

Justice P.S. Dinesh Kumar
Presiding Officer

Ms. Meera Swarup
Technical Member

15.12.2025
RHN