

**THE JUSTICE (RETD.) R.M. LODHA COMMITTEE  
(IN THE MATTER OF PACL LTD.)**

**1. BACKGROUND**

- The Whole Time Member (WTM), SEBI, vide a final order dated 22.08.2014 held that PACL Ltd. had mobilised Rs 49,100 crore from the investors in violation of provisions of the SEBI – Collective Investment Schemes (CIS) Regulations and, inter alia, directed PACL to wind up their existing schemes and refund the monies collected by it along with returns due to the investors as per the terms of the schemes.
- The order of the WTM, SEBI was challenged before the Securities Appellate Tribunal (SAT), which upheld the order of SEBI vide an order dated August 12, 2015.
- Pursuant to dismissal of the appeal, SEBI initiated recovery proceedings against PACL and its promoters/ directors and attached bank/ demat accounts of the defaulters.

**2. ORDER OF HON'BLE SUPREME COURT**

- In appeals challenging the order dated 12.08.2015 of the SAT, the Hon'ble Supreme Court vide a detailed order dated February 2, 2016 in C.A. No.13301/2015 – Subrata Bhattacharya Vs. Securities and Exchange Board of India and other connected matters, directed SEBI to constitute a Committee under the Chairmanship of Mr. Justice R M Lodha, former CJI, for disposing of the lands purchased by PACL so that the sale proceeds can be paid to the investors.
- The CBI was directed to hand over title deeds of properties of the company attached by it during the investigation conducted by it into the illegal money mobilisation.

**3. CONSTITUTION OF COMMITTEE**

- SEBI constituted a Committee headed by Justice R M Lodha, which is taking steps for disposal of properties of PACL Ltd.
- Currently the composition of the Committee is as follows:

Mr. Justice R M. Lodha – Chairman

Mr. G Mahalingam, Whole Time Member ,SEBI - Member

Mr. Anand Rajeshwar Baiwar Executive Director,SEBI-Member

Further, Shri. Anindya Kumar Das, General Manager, SEBI is the Nodal Officer cum Secretary to the Committee.

- On an Application filed by SEBI, the Hon'ble Supreme Court vide an order dated April 5, 2016 directed that the Committee shall have right (for sale of properties of PACL) in respect of all properties wherein PACL has a right **even if such properties are situated outside India.**
- Further, vide an order dated July 25, 2016, the Hon'ble Supreme Court restrained PACL, its Directors/ promoters/ agents/ employees/ group or associate companies from transferring/ alienating any of the properties wherein PACL has right/ interest situated either within or outside India.

#### 4. **COMMENCEMENT OF WORK**

##### **PUBLIC NOTICES AND FAQs:**

- Public Notices were published in English and regional languages in leading dailies, bringing to the notice of investors and general public of the constitution of the Committee and inter-alia cautioning them to retain the original documents relating to their investment and not to part with or deal with anybody until further notice in this regard.
- FAQs in English as well as in Hindi and 11 regional languages have been uploaded on the website of SEBI and displayed on the notice boards in Regional Offices and Local Offices of SEBI for the information of investors from their respective regions.

##### **STORAGE AND DIGITIZATION OF PROPERTY DOCUMENTS INCLUDING TITLE DEEDS FROM CBI AND OTHER SOURCES:**

- The Committee engaged the services of Stock Holding Document Management Service Ltd. (SHDMSL) for scanning title documents, hosting scanned documents, data entry and physical storage of properties/title documents of PACL Ltd.

- The documents are being kept in safe custody in physical and digitized form by SHDMSL.

#### **ATTACHMENT BY SEBI**

- In view of the orders of the Hon'ble Supreme Court, as a preventive measure, on the recommendation of the Committee, SEBI has attached the bank/ demat accounts of 640 associate companies of PACL.

#### **5. STEPS TAKEN TO BRING THE PROPERTIES OF PACL LTD. TO SALE**

- The Committee initially decided the procedure to be adopted for the sale of properties which would include valuation from 2 approved valuers, fixing of reserve price, opening of escrow /current account for receiving the EMD and balance consideration after the auction process, eligibility criteria for bidders, properties to be auctioned on "*As is where is basis*" and "*As is what is basis*", release of sale notices /advertisements etc.
- The Committee, to ensure a fair and transparent disposal, decided that the sale thereof would be through "e-auction" mode alone.
- The first auction process did not result in sale of any properties.
- Based on the outcome of the 1<sup>st</sup> auction the Committee then decided that properties would be auctioned based on the reserve price and in batches.
- The 2<sup>nd</sup> auction process started in December 2016, and was completed by May, 2017.
- More than 27500 number of properties for which EOI was invited.
- EOI was received in 4103 of properties, however single EOIs and properties in respect of which objections were received were excluded.
- Auction process was completed for 872 properties,.
- The sale proceeds from 113 properties is approx. Rs. 89 Crore.
- The Committee, submitted a report dated **April 11, 2017** to the Hon'ble Supreme Court giving details of status of sale of properties and proposals received by the Committee expressing interest in bulk purchase of immovable properties.

- The Committee received a letter dated November 17, 2017 from PACL Ltd. seeking permission to sell its assets at not less than circle rate and deposit the amount directly in the account of the Committee.
- An Interim Application dated **December 05, 2017** was filed in the Hon'ble Supreme Court *inter-alia*, seeking appropriate orders directing PACL Ltd. to sell its immovable properties and requiring directors of PACL to file an affidavit setting out the road map for sale of such properties.
- The directors of PACL Ltd. on **January 08, 2018** filed an affidavit of undertaking in Hon'ble Supreme Court with a proposal for disposal of assets.
- The Hon'ble Supreme Court by order dated **February 23, 2018** observed that the sale of the properties can be conducted in terms of the report of the Committee.
- In furtherance of the aforesaid order, proposal was invited from PACL Ltd..
- The proposal so received from PACL was placed in the public domain and counter proposals invited.
- The Committee found that none of the offers including offer of PACL Ltd. have fulfilled the terms and conditions (viz., EMD, circle rate of property and its proof, etc.) specified.
- The Committee, thereafter, submitted its report dated August 17, 2018 in the Hon'ble Supreme Court to facilitate the sale of the properties of PACL.
- Hon'ble Supreme Court, after considering the report dated August 17, 2018 of the Committee and hearing other parties observed in order dated January 08, 2019 :

*"...In our view, it is necessary that the process of conducting the sale of the properties is properly channelized through a specialized agency... the Committee may consider appointing one or more specialized agencies for the said purpose, with reference to different zones or areas. One of the suggestions which has emerged before this Court is for the appointment of an asset reconstruction company which has the experience and resources to ensure a transparent process of sale...."*

- The Committee filed a report on February 8, 2019 in the Hon'ble Supreme Court detailing the steps taken for obtaining approval from RBI for engaging with ARCs to facilitate in selling the properties.
- The Hon'ble Supreme Court by order dated 12.02.2019 authorised the Committee to proceed further with respect to sale of properties of PACL by engaging the services of ARCs as well as exploring other alternatives.
- Thereafter the Committee submitted a report to the Hon'ble Supreme Court in May 2019 containing therein analysis of offers received from ARCs for facilitating sale of properties.
- The Hon'ble Supreme Court by an order dated 30.07.2019 left it open to the Committee to receive further offers and to explore them after duly publishing a further notice on the SEBI website and further to negotiate with ARCs or non-banking companies and renowned property concerned to explore alternative modalities for the sale of PACL properties.
- The Committee submitted a report dated 14.11.2019 to the Hon'ble Supreme Court with recommendation to sell properties worth Rs.2,000 crores through two ARCs viz. ARCIL and Prudent ARC.
- The said report and objections thereto were heard by the Hon'ble Supreme Court and by an order dated 23.01.2020 requested the Committee to finalise and notify terms and conditions for sale of properties of PACL including the terms and conditions set out in the said order and to submit its report after the conclusion of the above process.
- The Committee accordingly, finalised terms and conditions and issued a public notice on 06.02.2020, Inviting Expression of Interest (EOIs).
- The EOIs received were processed and a report dated 05.03.2020 submitted to the Hon'ble Supreme Court as well as put up on the SEBI website.
- The Committee is currently awaiting orders of the Hon'ble Supreme Court on the above Report and various other Applications.

## 6. **THE REFUND PROCESS:**

### **REFUND PROCESS - I**

- The decision of the Committee to start the refund process was communicated to the public at large vide a Press Release dated January 02,2018 informing the

broad terms of the refund process and the last date for the submission of applications.

- The above process of refund initiated vide Press Release dated January 02, 2018 closed for receipt of applications on March 31, 2018. Consequent thereto, the verification of claim applications commenced.

## **REFUND PROCESS- II**

- The Committee decided to initiate a second refund process by allowing claim applications from all the investors of PACL, irrespective of the amount of their outstanding claim(s) against PACL.
- Pursuant to the above, a web-platform (<http://sebipaclrefund.co.in/>) has been developed for the receipt of claim applications from all Investors.
- The Committee issued a press release dated 08.02.2019 regarding commencement of the refund process.
- The initial deadline for submission of claims was April 30, 2019, which was extended to July 31, 2019 vide Press Release dated April 26, 2019.
- The Committee has received around 1.5 crores claims and till date a total of Rs 434.9 crores have been paid in respect of 12.63 lakh claim applications.
- The Committee has vide notice dated December 16, 2021, as well as through SMS messages, intimated Claimants with claims upto Rs.10,000/- to rectify /make good deficiencies in their claims, on or before March 31, 2021.

## **7. RECOVERY OF MONIES DIVERTED BY PACL LTD. TO AUSTRALIA:**

- As directed by the Committee, SEBI filed a claim petition before the Federal Court, Australia seeking the assets acquired out of money diverted by PACL to Australia or the proceeds thereof.
- The Committee under an order of the Federal Court dated 03.06.2020, has received an amount of INR 3,69,20,34,883.00 for effecting refund to investors.

## **8. SALE OF VEHICLES OF PACL LTD. :**

- The Committee has realised Rs. 14.64 crore, by auction of 75 vehicles through e-auction conducted on the platform provided by MSTC Ltd., a Government of India Enterprise.

**9. OTHER REALISATIONS:**

- The Committee has realised from PACL and its Associates Rs. 98.45 crores from FDRs and Rs.308.04 crores lying in their bank accounts.
- The Committee has taken steps to recover compensation payable pertaining to acquisition of properties of PACL and has since received an amount of Rs. 52,77,597/- from the Collector Land Acquisition, Punjab

**10. GRIEVANCES OF INVESTORS /OTHERS:**

- The Committee routinely receives complaints from customers/investors of PACL, which are suitably responded to.
- The Committee has also been receiving numerous objections with respect to the properties of PACL, and in the first instance commenced hearing and making recommendations with respect to such objections etc.
- The Committee thereafter recommended the appointment of a retired District Judge Shri R.S. Virk, to hear and make recommendations with respect to such objections.
- The Hon'ble Supreme Court was pleased to act on the recommendation of the Committee and appoint Shri R.S. Virk, Retired District Judge and the tenure of Shri R.S. Virk is being renewed by the Hon'ble Supreme Court from time to time.
- Shri R.S. Virk, Retired District Judge has been provided an office on the 4<sup>th</sup> Floor, Plot No.226, A-2, Sector – 17, Dwarka, New Delhi – 110 075.
- The recommendations of Shri R.S. Virk, Retired District Judge are being placed on the SEBI website and it has been made clear that all such recommendations made required the approval of the Hon'ble Supreme Court.

**11. PROCEEDINGS INSTITUTED BY INVESTORS IN VARIOUS COURTS**

- Various investors of PACL Ltd. have instituted suits for recovery and other proceedings pertaining to investments /deposits against PACL Ltd., arraying therein as parties/ Defendants, the Hon'ble Chairman and other Members of the Committee and/or the Securities and Exchange Board of India.

- On an interim Application (I.A.No.7) being preferred by SEBI, by an order dated 02.05.2016, the Hon'ble Supreme Court was pleased to direct that no Civil Court or other Authority or Forum shall entertain any suit or other proceeding in respect of any claim or related matter(s) pertaining to PACL Ltd. and/or its Directors /Promoters / Group Companies /entities /individuals etc.
- However, various Petitions continue to be filed in various Courts and the Committee has been taking appropriate measures in this regard.

## 12. UPDATES

- The Committee constantly updates information /notifications etc. with respect to matters related/ connected to PACL Ltd. by a dedicated corner in the SEBI website.
- Public notices are put up and press releases issued at frequent intervals /whenever necessary.

## 13. REFERENCES:

1. PACL – Status Report - Vol I, Vol II, Vol III, Vol IV dated 11.04.2017;
2. Report of the Committee dated 17.08.2018;
3. Report of the Committee with respect to action taken pursuant to order dated 08.01.2019 of Hon'ble Supreme Court dated 08.02.2019;
4. Report of the Committee filed pursuant to the order dated 12.02.2019 of the Hon'ble Supreme Court - Vol I, Vol II, Vol III, Vol IV, Vol V, Vol VI, Vol VII dated May, 2019;
5. Interim action taken report of the Committee filed pursuant to order dated 30.07.2019 of the Hon'ble Supreme Court of India dated 30.08.2019;
6. Action Taken Report of the Committee filed pursuant to Order dated 30.07.2019 of the Hon'ble Supreme Court of India and in furtherance of Action Taken Report filed on 30.08.2019 dated 14.11.2019;
7. Action Taken Report dated 05.03.2020 filed before the Hon'ble Supreme Court with respect to action taken pursuant to Order dated 23.01.2020 dated 05.03.2020; and
8. List of Offers dated 18.08.2020, 07.10.2020, 24.12.2020, 21.01.2021 and 12.02.2021.

**(All of the above are available on the SEBI website)**

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