

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 13301 OF 2015**

IN THE MATTER OF :-

Subrata Bhattacharya ...Petitioner

Versus

Securities and Exchange Board of India & Ors. ...Respondents

**COMPREHENSIVE CHART SHOWING THE STATUS
OF THE PROCEEDING SO FAR CONDUCTED BY
THE JUSTICE (RETD.) R.M. LODHA COMMITTEE
(IN THE MATTER OF PACL LTD.)**

**(IN COMPLIANCE WITH ORDER DATED 23.01.2024
PASSED BY THIS HON'BLE COURT)**

PAPER BOOK

(FOR INDEX : PLEASE SEE INSIDE)

ADVOCATES FOR RESPONDENT NO.1 (SEBI) : M/S. K.J.JOHN & CO.

INDEX

<u>SL. NO.</u>	<u>PARTICULARS</u>	<u>PAGE(S)</u>
I.	Background	1-2
II.	Order Of This Hon’ble Court dated 02.02.2016	2
III.	Constitution of the Committee	2
IV.	Meetings of the Committee	3
V	Status of the existing and sold out properties of PACL LTD.	4-33
	A. Commencement of work	4
	B. Property documents received by the Committee from CBI / others.	4-5
	C. Digitization and preservation of documents pertaining to properties of PACL.	5-6
	D. Attachment by SEBI	6-7
	E. Steps taken to bring the properties of PACL Ltd. to sale	7
	1. First Auction	7-9
	2. Second Auction	9-11
	3. Post second round of auction	11-12
	4. Steps taken by SEBI after receipt of PACL offer (2017-2018)	12-14
	5. Alternative modalities.	14-19
	6. Recommendation of the Committee.	19-21

F.	Acquisition of PACL lands /proposal to acquire PACL lands by Government /Public Authorities and compensation received /to be received.	22
G.	Recovery of monies diverted by PACL Ltd. to Australia	23
H.	Sale of vehicles of PACL Ltd.	23
I.	Other Realisations.	23
J.	Grievances of investors /others - appointment of Mr. R.S. Virk, Retired District Judge	23-24
K.	Transparent process	24
L.	The Refund process	25-29
M.	Uauthorised transfer of PACL properties and action taken with respect thereto.	30
N.	SEBI- PACL Cell	30-33
O.	Way forward	33

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I. BACKGROUND:

- (i) 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 Ltd. 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.
- (ii) 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.

- (iii) Pursuant to dismissal of the appeal, SEBI initiated recovery proceedings against PACL and its promoters/ directors and attached bank/ demat accounts of the defaulters.

II. ORDER OF THIS HON'BLE COURT:

- (i) In appeals challenging the order dated 12.08.2015 of the SAT, this Hon'ble Court vide a detailed order dated **02.02.2016**, in C.A. No.13301/2015 – Subrata Bhattacharya Vs. Securities and Exchange Board of India and other connected matters, inter alia 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.
- (ii) 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.

III. CONSTITUTION OF COMMITTEE:

- (i) SEBI constituted a Committee headed by Justice R M Lodha, former CJI, which is taking steps for disposal of properties of PACL Ltd. and effecting refund to investors thereof.
- (ii) The composition of the Committee is currently as follows:
- i. Mr. Justice R M. Lodha – Chairman
 - ii. Mr. Ananth Narayan Gopalakrishnan, WTM, SEBI – Member
 - iii. Mr. Biranchi Narayan Sahoo, ED, SEBI – Member
 - iv. Ms. Amy Menon, GM, SEBI – Nodal Officer cum Secretary.

IV. MEETINGS OF THE COMMITTEE:

The Committee has been meeting regularly since its constitution and till date has conducted 120 meetings and till date, has submitted the following Reports to this Hon’ble Court, and uploaded the same on the website of the Securities and Exchange Board of India (SEBI):

<u>SL. NO.</u>	<u>PARTICULARS</u>	<u>FILED ON</u>
1.	1 st Status Report of the Committee.	26.06.2016
2.	2 nd Status Report of the Committee.	11.04.2017
3.	3 rd Status Report of the Committee.	17.08.2018
4.	Report dated 08.02.2019 of the Committee.	08.02.2019
5.	Report of the Committee filed pursuant to the order dated 12.02.2019 of this Hon’ble Court.	09.05.2019
6.	Interim action taken report dated 28.08.2019 of the Committee.	30.08.2019
7.	Action Taken Report of the Committee filed pursuant to Order dated 30.07.2019 of this Hon'ble Court and in furtherance of action taken report filed on 30.08.2019.	14.11.2019
8.	Action Taken Report of the Committee dated 05.03.2020 filed before this Hon'ble Court with respect to action taken pursuant to Order dated 23.01.2020.	05.03.2020
9.	Report dated 24.09.2021 of the Committee.	24.09.2021
10.	Status Report dated 23.03.2023 of the Committee	23.03.2023

V. STATUS OF EXISTING AND SOLD OUT PROPERTIES OF PACL LTD.

A. COMMENCEMENT OF WORK

PUBLIC NOTICES AND FAQs:

- (i) 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.
- (ii) 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.

B. PROPERTY DOCUMENTS RECEIVED BY THE COMMITTEE FROM CBI / OTHERS:

- (i) The Committee had initially, pursuant to the order dated 02.02.2016 passed by this Hon'ble Court, received from the CBI around 29,087 documents, details whereof have been set out in the 2nd Status Report of the Committee submitted to this Hon'ble Court.
- (ii) The Committee has thereafter, received around 13,863 documents in tranches.
- (iii) On 07.04.2022, a further 860 documents have been received from the CBI.
- (iv) PACL Ltd. had on 11.10.2021 and 01.02.2022 forwarded 11 (Eleven) property documents to the Committee. These property documents pertain to an advance of Rs.67.22 crore given by PACL Ltd. to M/s Friends Associates (Mr. Sushil Gupta) in respect of MOU/agreement

between them for purchasing land/ immovable properties on behalf of PACL Ltd.

- (v) Subsequently, PACL Ltd. had forwarded 1 more property document on 22.04.2022 executed in favour of Pearls Structure Pvt. Ltd., an associate of PACL.
- (vi) On 11.05.2023, a further 109 documents have been received from the CBI.
- (vii) The aforesaid property documents received by the Committee have been digitised and published on the websites viz. **www.sebipaclauction.com** and **www.sebipaclproperties.com**, making them available to the public for instant reference and retrieval.
- (viii) The Committee has thus, received in all, 43,931 property documents.

C. DIGITIZATION AND PRESERVATION OF DOCUMENTS PERTAINING TO PROPERTIES OF PACL:

- (i) The digitization and preservation of PACL property documents have been detailed in the 2nd Status Report of the Committee submitted to this Hon'ble Court.
- (ii) Additional steps taken in respect of digitization and access thereto electronically are as given herein under:
- (iii) Additional property documents received by the Committee were digitised by Stock Holding DMS, (a wholly owned subsidiary of Stock Holding Corporation of India Limited), an agency engaged by the Committee.
- (iv) These digitised documents were hosted on the websites **www.sebipaclauction.com** and **www.sebipaclproperties.com** for easy access and instant retrieval for the public and prospective buyers.

- (v) A database of the properties mentioned in the property documents has been created and maintained for use in the process of effecting sale thereof.
- (vi) The data base of properties available for sale was made accessible to the public and prospective buyers on the website **www.sebipaclaction.com** for participating in sale process.

D. ATTACHMENT BY SEBI:

- (i) In view of the orders of this Hon'ble Court, as a preventive measure, on the recommendation of the Committee, SEBI has attached the bank/demat accounts of 640 associate companies of PACL.
- (ii) The Recovery Officer, SEBI has remitted following amounts in respect of recovery proceedings (Recovery Certificate No.832 of 2015 dated 11.12.2015) instituted against PACL Ltd., its Directors and group/associate entities of PACL Ltd.

Sl. No.	Date of Remittance	Remittance Amount (in Rs.)
1	03.08.2021	2,18,85,593.07
2	03.09.2021	2,05,59,963.43
3	17.09.2021	44,37,11,908.49
4	30.11.2021	42,80,056.14
5	27.07.2022	10,90,26,382.10
6	07.07.2023	145,95,752.24
7	07.07.2023	201,36,529.77

- (iii) The Recovery Officer has also initiated recovery proceedings against the following entities.

Recovery Proceedings	Date	Recovery Amount (in Rs)	Entities
Attachment proceedings 2644(1) of 2021	30.04.2019	19,04,08,000/-	25 associates of PACL Ltd
Attachment proceedings 2644(3) of 2021	01.03.2021	Rs. 49,67,00,000/-	32 associates of PACL Ltd
Notice for recovery proceeding	17.03.2022	1,87,06,616/-	Best Hotels & Resorts (India) Pvt. Ltd.
Notice for recovery proceeding	17.03.2022 04.05.2022	4,80,34,932/-	India Datsec Solutions Pvt. Ltd.
Attachment proceedings 2644(5) of 2021	10.11.2022	15,49,44,000/-	Vivaria Global Developers
Attachment proceedings 2644(5) of 2021	24.11.2022	20,93,76,885/-	Himlaksh Tradelinks Pvt. Ltd.

- (iv) The Committee has received the following amounts from entities who were given Inter-corporate loans and advances by PACL Ltd.
- a) Rs.1 crore by way of demand draft dated 19.06.2021 from Hafizabad Real Estate Pvt. Ltd.
 - b) Rs.2.32 crore from Petra Estates Pvt. Ltd. on 01.01.2022.
 - c) Rs.5 crore from Himlaksh Tradelinks Pvt. Ltd.

E. STEPS TAKEN TO BRING THE PROPERTIES OF PACL LTD. TO SALE

1. FIRST AUCTION

- (i) 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.

- (ii) The Committee engaged the services of SBI Capital Market, HDFC Realty Limited and M/s UTI infrastructure Technology and services Ltd., for valuation of properties with inspection and carrying out the e-auction process.
- (iii) The Committee, to ensure a fair and transparent disposal, decided that the sale thereof would be through “e-auction” mode alone.
- (iv) Notice dated 29.05.2016 was published by the Committee in various newspapers / dailies inviting prospective bidders to bid for these properties and the said Notice was also uploaded on the SEBI website for wider coverage and information. Site visits to such properties (67 properties located in Delhi and Gurgaon) were provided to the interested bidders and a few persons /entities did visit some of the properties. However, no Earnest Money Deposit (EMD) was received by the Committee against any of the properties put to auction and therefore the actual auction process could not be proceeded with.
- (v) The first auction process did not result in sale of any properties.
- (vi) The Committee inter alia observed following roadblocks and problems in selling properties:
 - glaring and deliberate non-co-operation by PACL in selling the properties;
 - defective documents in form of Agreement to sell; General Power of Attorney, unregistered sub-lease;
 - non-disclosure of the status of properties;
 - Third party possession;

- properties already sold by the Company (PACL);
 - properties acquired by State Governments;
 - properties attached by Income-Tax Department;
 - properties attached by Enforcement Department;
 - properties being part of residential projects where plots/flats have been sold;
 - properties given on lease;
 - properties not demarcated;
 - properties under development by company
- (vii) Based on the outcome of the 1st auction the Committee then decided that properties would be auctioned based on the reserve price and in batches.

2. SECOND AUCTION

- (i) The 2nd auction process started in December 2016, and was completed by May, 2017.
- (ii) More than **27500** number of properties spread across pan India for which EOI was invited.
- (iii) EOI was received in 4103 of properties, however single EOIs and properties in respect of which objections were received were excluded.
- (iv) Auction process was completed for 872 properties.
- (v) The sale proceeds from 113 properties is approx. Rs. 89 Crore.
- (vi) The Committee, submitted a report dated April 11, 2017 to this Hon'ble Court giving details of status of sale of properties and proposals received by the Committee expressing interest in bulk purchase of immovable properties.

(vii) The various issues encountered by the Committee in selling the properties including low participation in second round of auctions are crystalized as under:

- Non-cooperation of the Company in providing the status of the properties. Despite of several request and reminders by the Committee to provide details of the status of the properties which are free from encumbrances. However, no response has been provided by the Company.
- Number of properties have been sold or third party interest has been created with respect thereto by the Company.
- The Company or its subsidiaries have entered into MOU/ Agreement etc. and received advance consideration again such development projects.
- Upon examination of the property documents received found that about 80% of the sale were in the name of entities/ individuals other than PACL Ltd. and effectively only 20% documents in the name of the Company. The list of 639 associates/subsidiaries companies which has been used for the purchase of land/assets on behalf of the Company has never been verified by PACL.
- The documents received were old and reflected a position in relation of the property that was outdated and at most times diversion from the current status. The Committee has observed that new constructions have come up, third party interest has been created or lands have been acquired by the Government etc.
- They are many properties for which mere agreement to sell were executed.
- Many properties were in possession of third parties
- Property already sold by the Companies to the third party
- Properties are given on lease for the period of 20 years.
- Properties not clearly demarcated or divided

- Many of the properties having changed hands on several occasions and ownership having been transferred by way of sale deed registered/ unregistered agreement to sell etc.
- Improper demarcation/division of properties.
- Properties being under attachment by several agencies.
- Properties not having clear and marketable titles.
- Non-availability of complete chain of title documents.
- Photocopies of title documents.

(viii) From the past experience of the Committee with respect to auction sale of properties, it was quite clear that the PACL properties are having depressed values and parties are hesitant to come forward and purchase the properties even when the properties were sought to be auctioned on reserve prices which were at 90% of the Circle Rate. The auction proceedings were a complete failure in as much as the Committee was able to sell merely 113 properties, where H1 bid was higher than the price at which the properties were purchased by the owner of the property.

By proposing another round of auction, it will amount to turning the clock back with a similar result. Further, with passage of time, value of the PACL properties is depreciating due to complexities involved in each of the properties. The 2nd Status Report was filed on 11.04.2017.

3. POST SECOND ROUND OF AUCTION:

- (i) The Committee received a letter dated 17.11.2017 from PACL Ltd. seeking permission to recommend buyers for the sale of its assets at not less than circle rate and deposit the amount directly in the account of the Committee.

- (ii) An Interim Application dated 05.12.2017 was filed in this Hon'ble Court inter-alia, seeking appropriate orders directing PACL Ltd. to recommend buyers for the sale of its immovable properties and requiring directors of PACL to file an affidavit setting out the road map for sale of such properties.
- (iii) This Hon'ble Court, taking note of the reasons as enumerated in the 2nd Status Report submitted by the Committee, by order dated 23.02.2018, observed that the sale of the properties can be conducted in terms of the report of the Committee and permitted the Committee to explore the possibility of bulk sale of assets of PACL.
- (iv) In furtherance of the aforesaid order, proposal was invited from PACL Ltd.

4. STEPS TAKEN BY SEBI AFTER RECEIPT OF PACL OFFER (2017-2018):

- (i) The Committee, thereafter, on 16.03.2018, addressed a communication to PACL Ltd., specifying the terms and conditions on which PACL Ltd. could submit a proposal for the sale of the properties for consideration by the Committee. The Committee received a proposal on 14 April, 2018 from PACL Ltd. and thereafter, placed the copy of the communication dated 16 March, 2018 and of the proposal dated 14 April, 2018 on the website of SEBI and invited counter proposals from prospective bidding entities. A press release was also issued by the Committee. The Committee received nine counter proposals. Following this, it was decided that the members of the Committee shall meet the representatives of the entities which had offered a price higher than the value of the proposal submitted by PACL Ltd. Thereafter, by a public notice dated 10.07.2018, a final opportunity was granted to any person or entity including PACL Ltd. to submit a revised proposal

by 17.07.2018. In response, seven proposals have been received. The Committee found in a meeting held on 19.07. 2018 that only four proposals were received for the entirety of the properties. The Committee has analyzed each of the four offers received in paragraph 27 of its Report submitted to this Hon'ble Court. The Committee made a detailed analysis of the proposals, adverted to the deficiencies and has found that none of the offerors including PAFL Ltd. has fulfilled the conditions specified in the letter dated 16.03.2018 addressed by the Committee and approved by this Hon'ble Court by order dated 15.05.2018.

The Committee therefore sought the following directions from this Hon'ble Court to protect the interest of the investors:

- (a) for deposit of earnest money of Rs.500 crore by the offerors, within 15 days or such period that this Hon'ble Court may deem appropriate;
 - (b) the outer limit of three years within which properties have to be sold and the outer limit of deposit of the entire consideration;
 - (c) an undertaking by the offeror company and its Directors to this Hon'ble Court to abide by its offer and faithful compliance of all the terms; and
 - (d) any other direction which this Hon'ble Court may deem fit in the facts and circumstances of the matter.
- (ii) This Hon'ble Court, by an order dated 08.01.2019, inter alia directed as follows:

“...In our view, it is necessary that the process of conducting the sale of the properties is properly channelized through a specialized agency. During the course 10 of the hearing, learned counsel appearing on behalf of the diverse parties have

suggested that 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. At the present stage, we do not intend to foreclose the discretion of the Justice Lodha Committee and would leave it to the Committee to deliberate upon and suggest to the Court modalities for sale by the appointment of one or more such agencies. If the Committee considers that the appointment of single agency may impose a heavy burden of work and having regard to the locations of the properties, it will be open to the Committee to proceed to appoint more than one agency based on the areas or locations of the properties. In order to enable the Committee to deliberate on this aspect, we adjourn the hearing of the proceedings for a period of four weeks. We request the Committee to suggest alternate modalities which could be feasible in this regard....”.

5. ALTERNATIVE MODALITIES:

- (i) The Committee thereafter, made efforts to effect sale of PACL properties through ARCs or other specialized agencies. Meetings were held with ARCs in order to explore the sale of properties of PACL. It was brought to the attention of the Committee that under the provisions of Section 10(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), prior approval of Reserve Bank of India (RBI) is required, before any ARC could be engaged by the Committee to

undertake such an assignment. The Committee by a report placed the relevant facts before this Hon'ble Court, when by an order dated 12.02.2019, this Hon'ble Court authorized the Committee to proceed further along the lines indicated in the aforesaid Report dated 08.02.2019 submitted by the Committee to this Hon'ble Court.

- (ii) Accordingly, the Committee took up the matter with RBI and RBI vide letter dated 5.2.2019 accorded permission for ARCs to carry out the sale of properties of PACL Ltd. “*subject to the ARC not taking the assets on their book and not incurring any pecuniary liability*”. Thereafter, the Committee addressed letters to all ARCs registered with RBI inviting expression of interest in sealed envelopes for facilitating the sale of immovable properties of PACL listed on the website **www.auctionpacl.com** by 17:00 hrs on 18.03.2019. ARCs were required to provide information as to whether they would be interested in facilitating the sale of properties as a whole or properties situated in a particular zone or zones, and if so, the process (step-wise) envisaged for the sale of properties, the fees that would be charged and the time period within which such facilitation of sale would be carried out. The Committee addressed similar letters also dated 11.0.2019 to the 3 subsidiaries of banks/financial institutions, who had been engaged for the earlier sale processes and also to 6 international property consultants identified by the Committee after making necessary enquiries. The Committee also learnt that Non – Banking Financial Companies were primarily not involved in the facilitation of sale of properties but only provided finance for various business activities including Real Estate.
- (iii) The Committee, in pursuance of the order of this Hon'ble Court dated 12.02.2019, submitted a Report, which report in pursuance of the

earlier directions of this Hon'ble Court was also uploaded on the website of SEBI. The said Report contained an analysis and comparison of offers received including costs to be incurred, time period etc. it was found that the costs quoted by the 4 ARCs was considerable as also SBI Caps. There was no response from the International Property Consultants.

- (iv) This Hon'ble Court took up the said report for consideration on 30.07.2019, when an order was passed observing inter alia, as follows:

*“... We also leave it open to the Committee to receive any further offers and to explore them after duly publishing a further notice on the website. The intervenors in the present proceedings, would be at liberty to submit their Expressions of Interest to the Justice Lodha Committee for evaluation. We clarify that we have not expressed any opinion on the ‘viability’ or the genuineness of the offers which are purportedly being placed on behalf of the intervenors and leave it to the Committee to take a decision in the matter. **The Justice Lodha Committee is further authorised to negotiate with the ARCs or, the case may be, non-banking companies and renowned property consultants, as referred to in its report, to explore any alternative modalities for the sale of the properties.***

(emphasis supplied)

- (v) The Committee, in deference to the aforementioned order of this Hon'ble Court sought to negotiate with ARCs and also explored the possibility of involving other Bank/NBFCs/ Financial institutions etc. Hence, the Committee invited all the prevailing 29 ARCs through letter dated 11.03.2019 to submit their EOIs in sealed envelopes for **facilitating** the sale of PACL properties listed on Committee website.

The Committee pertinently did not call for bids from ARCs as the process of sale contemplated was facilitating sale of such properties utilising the services of ARCs as directed by this Hon'ble Court.

- (vi) The Committee in pursuance of the aforesaid order dated 30.07.2019 passed by this Hon'ble Court, issued a revised public notice dated 23.08. 2019, inter alia setting out a zone-wise distribution of properties of PACL Ltd. and inviting Expression of Interest (EoI) from prospective buyers for the said properties in one or more zones, aggregating in value not less than Rs.1000 crore. **The EoI was also required to clearly indicate therein list of properties in each zone, circle rate, the offer amount and relevant details and could also be submitted through ARCs.**
- (vii) The Committee received 17 proposals/ EoIs in response to the Public Notice dated 23.08.2019. Of these, 5 proposals from the following entities failed to meet the eligibility criteria of minimum offer size of Rs. 1000 crore as mentioned in Public Notice and hence were not pursued further. The remaining 12 proposals from the following entities met the eligibility criteria of minimum offer size of Rs. 1000 crores and therefore were considered for further analysis:
- i. Assets Reconstruction Company (India) Limited.
 - ii. Prudent AMC / Telecare Network India Pvt. Ltd., Delhi.
 - iii. Brij Gopal Construction Company Pvt. Ltd , New Delhi
 - iv. Meera Cleanfuels Limited, Mumbai
 - v. Trends Infra Organization, Bangalore
 - vi. Pixie Consulting Solutions Limited , Karnal, Haryana
 - vii. Next-Gen Advisors, Goa
 - viii. Riz United Infratech Pvt. Ltd, Mumbai

- ix. M G Global (Grain Merchants & Commission Agents), New Delhi
- x. SLF Realty, New Delhi
- xi. Peacock Shipping Private Limited (PSPL) along with consortium partners M/s. Asia Trade Consortium LLP (ATC) and their Investors
- xii. Shri Ashok Jain (submitted proposals from 25 entities).

(viii) In order to analyze the offers further, additional information with respect to financial details of the entities, expected time frame for completing the process of sale of properties, proposed payment terms, etc., was called for from the above entities vide email dated 23.09.2019. These entities were also requested to provide soft copy of list of properties bid by them in excel format. In addition to the above, the Committee also received a proposal from Indo-UK Health Institute (“IUIH”) for purchase of properties worth offer value of Rs 3971.79 crores vide their letter dated 26.09.2019. As the proposal was found to meet the eligibility criteria of minimum offer size of Rs. 1000 crore, the same was also taken into consideration along with the aforesaid proposals.

(ix) These 9 ARCs who had submitted its EOI pursuant to Committees letter dated 11.03.2019, attended the meeting with the Committee and discussed the modalities for effective auction to be carried out and came to the conclusion that auction process requires detailed exercise of due diligence and valuation of properties by ARCs. The cost implication/fees were also discussed which includes :-

- (a) cost in the assessment/identification of properties;
- (b) valuation of the properties;

- (c) Charge for using and E-auction platform for carrying out the auction;
 - (d) Out of pocket expenses.
- (x) On receipt of the requisite information, the said proposals were minutely examined by the Committee on the basis of different parameters such as offer price, financial net worth, charges for facilitating sale of properties, time period for completion for sale of properties, payment terms.
- (xi) Further discussion, were held between the Committee members and shortlisted entities on 10.10.2010 and 17.10.2019 and possible scenario had been placed before this Hon'ble Court by the Committee in its report along-with recommendation in favour.
- (xii) Thus there was an open and transparent offer by the Committee inviting everyone to bring the best offers including PACL ltd.
- (xiii) The public notices/revised public notices issued by Committee were posted on SEBI website
- (xiv) The expression of interest submitted by all the parties were uploaded on SEBI website
- (xv) Recommendations and reports issued by the Committee was uploaded on SEBI website

6. RECOMMENDATION OF THE COMMITTEE:

- (i) The Committee submitted a report dated 14.11.2019 to this Hon'ble Court with recommendation to sell properties worth Rs.2,000 crores through two ARCs viz. ARCIL and Prudent ARC.
- (ii) The said report and objections thereto were heard by this Hon'ble 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.

- (iii) The matter was taken up for hearing on 23.01.2020 and this Hon'ble Court was pleased to inter alia pass the following directions:

“Be that as it may, we are of the view that a level playing field should be allowed for genuine offerors to come forth with their offers. Before the process is opened up, it would be necessary to lay down and stipulate essential requirements. These in our view, should include the following:

- (1) Any EOI, in order to be entertained, must be accompanied by an earnest money deposit in the form of a demand draft of Rs 150 crores of a nationalized bank, which must be furnished to the Committee and/or to the nodal officer of the Committee;
- (2) Intending offerors must be placed on notice that if the offeror resiles from the offer after having submitted the EOI, this would result in a forfeiture of the earnest money deposit;
- (3) Offers should be submitted within two weeks this public notice being put up on the website of SEBI;
- (4) The time schedule for the completion of the sale should be fixed at four months from the date of acceptance of the offer;
- (5) It would be open to an offeror to submit a bid of at least Rs 1000 crores covering properties referred to in the revised public notice dated 23 August 2019 in one or more zones;
- (6) The offers must be expressly made on an “as is, where is, whatever is basis”
- (7) The intending offeror must, together with EOI, furnish a financial statement containing details, as may be notified by the Committee; and

- (8) Offers may be submitted by any of the twelve bidders that were shortlisted by the Committee as well as by other ARCs or, as the case may be, NBFCs or prospective purchasers.

The Committee will submit its Report after the conclusion of the above process.

List after six weeks on receipt of the Report of the Committee.”

- (iv) 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 this Hon'ble Court and also put up on the SEBI website.
- (v) None of the offerors deposited the Earnest Money of Rs.150 Crore along with their offer.
- (vi) COVID PERIOD (March 2020 onwards)

The Committee thereafter by a Report dated 24.09.2021 suggested 2 proposals/ options for sale of PACL properties, for consideration of this Hon'ble Court, viz.

Proposal I - Proposal to sell 1000 properties of the highest book value; and

Proposal II - Proposal for sale of all the properties in a cluster (District). The aforesaid Report is also pending consideration in this Hon'ble Court.

- (vii) **The matter was listed thereafter on various dates, however, the reports of the Committee were not taken up for consideration and the Committee is currently awaiting orders of this Hon'ble Court on the above Reports and various other Applications.**

F. ACQUISITION OF PACL LANDS /PROPOSAL TO ACQUIRE PACL LANDS BY GOVERNMENT /PUBLIC AUTHORITIES AND COMPENSATION RECEIVED /TO BE RECEIVED:

- (i) The Committee received the following amount as compensation for the acquisition of land of PACL Ltd.

Name of Authority Acquiring Land	No. of Survey Numbers/ No. of MR No.	Location of properties	Amount of compensation paid
Office of Collector Land Acquisition, Chandigarh, Punjab	15 Survey No. bearing 4 MR No.	Villages Sahbana and Dhanansu in the District-Ludhiana, Punjab	Rs.52,77,597/- on 16.02.2021
Office of Collector Land Acquisition, Chandigarh, Punjab	42 Survey No bearing 18 MR No.	Village Sahbana and Ramgarh in the District-Ludhiana, Punjab	Rs.1,44,99,246/- on 19.08.2021
Sub-Divisional Officer (Civil, Gurugram, PAtaudi and Sohna cum Competent Authority (Land Acquisition), on behalf of Ministry of Railways	86 Survey Nos. bearing 19 MR No.	Village Patli Hajipur, Tehsil Faruk Nagar, District Gurugram, Haryana	Rs. 15,66,02,778/-
Special District Revenue Officer Chennai Kanyakumari Industrial Corridor Project Tirunelveli, on behalf of Government of Tamilnadu	39 Survey No bearing 34 MR No.	Melapandiyapuram, Paraikuttam, Jambulingapuram, Savarimanaglam Ottapidaram Circle, District Thoothukudi, Tamilnadu	Rs. 2,28,04,685/- and Rs. 1,85,408 yet to be received

The Committee has so far received **Rs.19.91 Crore** from State Govt. Authorities for acquisition of land of PACL Ltd.

G. RECOVERY OF MONIES DIVERTED BY PACL LTD. TO AUSTRALIA:

- (i) 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.
- (ii) 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.

H. 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.

I. OTHER REALISATIONS:

The Committee has realised from PACL and its Associates **Rs.98.45** crore from FDRs and **Rs.308.04** crore lying in their bank accounts.

J. GRIEVANCES OF INVESTORS /OTHERS - APPOINTMENT OF MR. R.S. VIRK, RETIRED DISTRICT JUDGE:

- (i) The Committee routinely receives complaints from customers/ investors of PACL, which are suitably responded to.
- (ii) The Committee has also been receiving a large number of objections with respect to the attachment/ sale of properties of PACL, and in the first instance commenced hearing and making recommendations with respect to such objections etc.

- (iii) 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.
- (iv) This Hon'ble 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 this Hon'ble Court from time to time.
- (v) Shri R.S. Virk, Retired District Judge has been provided an office on the 4th Floor, Plot No.226, A-2, Sector-17, Dwarka, New Delhi-110075.
- (vi) 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 this Hon'ble Court.
- (vii) The recommendations of Shri R.S. Virk, Retired District Judge are being filed by the concerned parties before this Hon'ble Court for acceptance /setting aside as the case may be.

K. TRANSPARENT PROCESS:

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

L. THE REFUND PROCESS:

- (i) The Committee after a detailed study and analysis arrived at the total refund to be effected to investors as under:

Outstanding (principal) amount SLAB	Total number of applications received	Claim Amount (Rs. in crore)
Total	1,50,29,573 One crore fifty lakh twenty nine thousand five hundred seventy three	28733.80

The above claims are being subject to scrutiny and verification in phases as detailed herein below.

- (ii) The Committee in furtherance of its mandate, initiated the process of refund (First Process) to the investors of PACL Ltd. having outstanding claims upto Rs.2500/- in the year 2018 with the monies so far realized by it. The window for submitting claim applications was kept open for three months from 02.01.2018 to 31.03.2018. After verification of claims so received, the Committee distributed Rs. 18.16 crore in respect of 1,89,103 eligible claim applications having outstanding claim amount (principal) upto Rs.2500/-.
- (iii) Thereafter, the Committee invited claim applications (Second Process) from all investors of PACL Ltd., irrespective of the amount of their outstanding claims against PACL Ltd. The Committee decided to invite the claims online from the investors considering the large number of investors involved and they being spread across entire India and in this regard, a web portal (www.sebipaclrefund.co.in) was developed.
- (iv) The window was initially opened for around three months from 08.02.2019 to 30.04.2019. Subsequently, the last date for submission

of claims was extended till 31.07.2019 so as to afford enough time to the investors to submit their claims.

- (v) The Committee received 1,50,29,573 (One Crore Fifty Lakh Twenty Nine Thousand Five Hundred Seventy Three) claim applications with a total outstanding amount (principal) of Rs. 28,733.75 crore. Having received claims amounting to Rs. 28,733.75 crore and keeping in view the limited available corpus, the Committee decided to pay the claims to investors in a staggered manner, starting with small investors.
- (vi) Further, investors have been provided with the facility to check the deficiencies found in their claim applications during verification, and multiple opportunities have been given to them to make good the deficiencies found in their claim applications so that the rectified applications can be processed prior to making payment. Having an online process for accepting claims has facilitated in providing such opportunity. The multiple opportunities provided to investors to rectify their claim applications are detailed as under:

Sr. No.	Period during which opportunity provided to rectify claim applications	Claim Amount (Rs.)
1	24.01.2020 - 31.07.2020	Upto Rs. 5,000/-
2	01.08.2020 - 31.10.2020	Upto Rs. 7,000/-
3	01.01.2021 - 31.03.2021	Upto Rs. 10,000/-
4	01.11.2022 - 31.01.2023	Upto Rs. 15,000/-
5	15.06.2023 to 14.09.2023	Rs. 15,001/- to Rs. 17000/-

- (vii) The refunds are credited directly to the bank accounts of the investors, as provided by them in their claim applications, by way of electronic transfer. After effecting the payment to the investors, they are intimated of the same by way of SMS. Further, investors have also been provided with the facility to see the status of their applications on online portal.

- (viii) The Committee did not call for original certificates issued by PACL Ltd. from the investors with claims upto Rs 10,000/- for effecting payment, in view of the fact that the amounts involved are small, an elaborate system has already been set up for verification of the claims, and also taking into consideration the expenses to be incurred and various difficulties involved for small investors.
- (ix) Thereafter, the Committee decided to call for original certificates from eligible investors in respect of claim applications with claims more than Rs. 10,000/- for verification and effecting payment to eligible investors. In this regard, public notices were issued, informing investors to submit original certificates. Furthermore, SMSes were sent to investors in respect of eligible applications, requesting them to submit original certificates issued by PACL Ltd.
- (x) The response from the investors, with regard to submission of original certificates, was poor even after giving them sufficient time. The Committee, considering the poor response from the investors, possibly due to various reasons such as apprehension of the investors of losing original certificates in transit, original certificates already submitted to PACL Ltd., original certificates having been misplaced, etc., and keeping in view the strict verification process being adopted in the refund process, decided to effect payment in respect of eligible applications without calling for and verification of original PACL certificates from investors with claims of more than Rs. 10,000/- and upto Rs. 19,000/-.
- (xi) Claims of investors who could not file their claim in 2019 is not closed and they will be able to file their claims when the Committee decides to open window for fresh claims.

(xii) As of 31.01.2024, the Committee based on funds available, has effected refunds in respect of 20,84,636 eligible applications of investors having outstanding (principal) amount upto Rs. 19,000/-, amounting to a total of Rs. 1021.84 crore.

(xiii) The refunds effected to investors of PACL Ltd. are summarised as under:

Sr. No	Payment of claims with outstanding (principal) amount	Claim applications collection period	Payment period	Total Claim applications received	No. of eligible claim applications	Amount Paid (Rs. crore)
1	Upto Rs. 2500/-	02.01.2018 to 31.03.2018	07.09.2018 to 15.11.2018	14,48,986	1,89,103	18.16
2	Upto Rs. 5000/-	08.02.2019 to 31.07.2019	29.10.2019 to 26.12.2019	16,09,713	3,81,603	90.65
3	Rs. 5001/- to 7000/-	-do-	10.03.2020 to 24.03.2020	8,32,748	2,59,862	96.10
4	Rs. 7001/- to 8000/-	-do-	03.07.2020 to 07.07.2020	6,66,655	1,36,231	62.07
5	Rs. 8001/- to 10000/-	-do-	27.08.2020 to 28.08.2020	13,92,073	2,75,863	160.39
6	Rs. 10001/- to Rs. 15000/-	-do-	27.06.2022 to 21.08.2022	20,42,133	5,51,909	384.24
7	Rs. 15001/- to Rs. 17000/-	-do-	18.04.2023 to 28.04.2023	5,11,820	1,14,933	85.69
8	Rs. 17001/- to Rs. 19000/-	-do-	05.01.2024 to 24.01.2024	4,11,328	1,13,294	94.58
<u>RECTIFICATION OF DEFICIENT APPLICATIONS</u>						
	Payment of claims with outstanding (principal) amount	Claim Application collection period	Payment period	Applications found deficient	No. of applications rectified and found eligible	Amount Paid (Rs. crore)
7	Upto Rs. 5000/-	08.02.2019 to 31.07.2019	24.01.2020 to 31.07.2020	6,16,172	16,433	5.67

	(Window for rectification was kept open from 24.01.2020 to 31.07.2020)					
8	Upto Rs. 7000/- (Window for rectification was kept open from 01.08.2020 to 31.10.2020)	-do-	15.12.2020 to 16.12.2020	2,49,410	2,169	0.94
9	Upto Rs. 10000/- (Window for rectification was kept open from 01.01.2021 to 31.03.2021)	-do-	18.02.2021 to 01.07.2021	11,95,248	29,837	13.56
10	Upto Rs. 15000/- (Window for rectification was kept open from 01.11.2022 to 31.01.2023)	do-	18.04.2023 to 08.09.2023	17,08,215	10,828	7.33
11	From Rs.15001/- Upto Rs. 17000/- (Window for rectification was kept open from 15.06.2023 to 14.09.2023)	do-	31.10.2023 to 31.10.2023	1,49,973	2,570	2.46
			TOTAL		20,84,635	1021.84

M. UAUTHORISED TRANSFER OF PACL PROPERTIES AND ACTION TAKEN WITH RESPECT THERETO:

1. The Committee has from time to time, requested the authorities for registration and revenue of different states to take necessary steps and issue necessary directions to Land Revenue Officers and Sub-Registrar offices, to not effect registration/ mutation/ sale/ transfers, etc., of properties wherein PACL Ltd. and or its group or its associates have, in any manner, right or interest.
2. The Committee has also informed the authorities that transfer/ mutation/ registration of such properties would be in contravention of the orders of this Hon'ble Court and in this regard, the authorities were requested to take corrective measures.
3. The Committee has also forwarded to the CBI various issues pertaining to the property of PACL Ltd. that had been brought to the notice of the Committee and required further investigation.
4. The Committee has also brought to the attention of and sought appropriate orders/ directions from this Hon'ble Court with respect to illegal sale/ transfer/ alienation of properties of PACL by an Application viz. I.A. No.48174 of 2023, filed in this Hon'ble Court.

N. SEBI- PACL CELL:

A PACL Cell consisting of six officers and eight Data Entry Operator (DEOs) set up by SEBI has been assisting the Committee in following activities:

(i) Handing taking property documents from CBI & Other resources, Handing taking of possession of the properties and hotels, Recovery of Vehicles

1. In compliance of the order dated 02.02.2016 of this Hon'ble Court, CBI has been handing over property documents

recovered during their investigation to the Committee at New Delhi in tranches. The official of the PACL Cell inspect, verify and take over as and when they are called for the same by the CBI. The Committee has so far taken over 43,931 property documents from the CBI and other resources.

2. The Committee takes over the possession of the properties i.e. hotels, buildings and deploy the security guard to safeguard them. The Committee has so far taken over two such properties at New Delhi.
3. The Committee has taken over vehicles recovered and sold them through e-auction.

(ii) **Encumbrance and safeguarding of properties-**

The Committee has taken over 43,931 property documents from CBI & others in tranches. To ensure the safeguard of the said properties, the Inspector General of Registrar (IGR) of respective states and concerned authorities have been requested to enter the prohibition on transaction of properties unless the Committee permits the same. Officials of PACL Cell are also engaged in downloading encumbrance certificates from the online public land record (wherever available) to be aware of the status of property and to ensure prohibition on illegal transaction.

(iii) **Coordinating with outside agencies viz. CBI, Chief Secretaries, District Collectors, RoCs, Official Liquidators, MSTC etc.**

- a. On receipt of complaints of alleged illegal sale the Committee informs the CBI and request to enquire and take action in such matters.
- b. The Committee has vide letters request the office Inspector General of Registrars and concerned authorities to enter the

prohibition on transaction of properties unless transaction is allowed by the Committee.

- c. The Committee co-ordinates with MSTC for e-auction of the vehicles recovered in the matter of PACL Ltd.
- d. The Committee has filed claim with the office of the Official Liquidator attached to the Hon'ble High Court Delhi to cover the money from the company in liquidation.

(iv) **Meetings of the Committee-**

Officials of the SEBI PACL Cell assist in preparation of Agenda, Minutes of the Meetings (MoMs) and Action Taken Report (ATR), bringing out the relevant issues, analyse the same, propose various options available and make recommendations for consideration of the Committee, making arrangements for the meetings of the Committee and placing all the relevant documents and records for deliberation by the Committee

(v) **Legal Matters-**

Officials of the SEBI PACL Cell assist the Committee in implementation of orders passed by this Hon'ble Court in a time bound manner and preparation of reports for submission to this Hon'ble Court. They also assist in perusal, filing and uploading of Interlocutory Applications, in Civil Appeals/Writ Petitions in the matter of PACL, drafting Applications/Affidavits for appropriate orders to be filed in various Courts/ Authorities/ Forums, assisting and providing comments, advising Advocates on filing affidavits before various Courts/Authorities /Forums within stipulated time in respect of litigation filed by various parties and also assist in drafting of replies to Legal Notices received by the Committee from time to time.

(vi) **Objections-**

The SEBI PACL Cell examines various objections filed by third parties and refer the same to the office of Shri R.S. Virk, Dist. Judge (Retd.)

(vii) **Expression of Interest-**

The SEBI PACL Cell assists in publishing invitations for EoIs, resolving queries of prospective buyers, analysing the EOIs received and presenting findings thereon.

(viii) **Complaints from investors & Protest**

The SEBI PACL Cell assists the Committee in addressing queries received from investors through phone calls, physical letters, e-mails and the SEBI Complaint Redressal System (SCORES).

During the quarter November 2023-Jan 2024, the PACL Cell has responded to **10,672** of queries received from investors.

O. WAY FORWARD

The Committee seeks consideration by this Hon'ble Court of the Status Report dated 23.03.2023 and passing of appropriate orders/ directions with respect to future sale of properties of PACL Ltd.
