BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

APPEAL NO. 46/2001

In the matter of:

Highland Holiday Homes Pvt. Ltd. **Appellant**

Vs.

Securities & Exchange Board of India **Respondent**

APPEARANCE

Mr. H Karthik Seshadri
Advocate

Mr. Manohar P Bajaj
Managing Director
Highland Holiday Homes Pvt. Ltd. **for Appellant**

Mr. Praveen Trivedi
Asstt. Legal Adviser, SEBI **for Respondent**

(Appeal arising out of the order dated July 26, 2001 made by the Chairman, Securities & Exchange Board of India)

ORDER

The present appeal is directed against the Respondent's order dated July 26, 2001 "debarring the Appellant, its promoters, directors, managers and persons in charge of the business of the schemes, from operating in the capital market for a period of five years". Though the impugned order reaches not only the Appellant but its promoters, directors etc. also, no one other than the Appellant has so far filed any appeal against the order. The impugned order is a short order. The order is stated to be in continuation of the Respondent's earlier order dated May 18, 2000. Full text of the said orders are extracted below:

> "Vide Order dated May 18, 2001, directions under Section 11 B of the SEBI Act, 1992 read with Regulations 65 & 73 of SEBI (Collective Investment Schemes) Regulations, 1999 were issued to you as you, having failed to make an application for grant of registration, had failed to wind up your existing collective investment schemes and make repayments to your investors in accordance with the provisions of the SEBI (Collective Investment Schemes) Regulations, 1999. As per the said Order, you were directed to refund the money collected under the scheme(s) with returns which is due to the investors as per the terms of the offer within a period of one month from the date of the said Order.
>
> As you have failed to comply with the directions of the said Order, you have violated the provisions of Regulation 5 read with Regulations 68(1), 68(2), 73 and 74 of the SEBI (Collective Investment Schemes) Regulations, 1999.
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> Now, therefore, in exercise of the powers conferred under Section 11B of the SEBI Act, 1992, I hereby debar you / your promoters / your directors / your managers / persons in charge of the business of your schemes from operating in the capital market for a period of 5 years from the date of this Order".

Order dated 18.5.2001

"You had filed information / details with SEBI regarding your Collective Investment Schemes pursuant to SEBI Press Release dated November 26, 1997, and / or public notice dated December 18, 1997 and / or letter. Subsequently to the notification of SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as the said regulations) dated October 15, 1999, any person who immediately prior to the commencement of these regulations was operating a Collective Investment Scheme(s), shall make an application to SEBI for grant of registration within a period of two months from the date of notification, under the provisions of the said Regulations.

SEBI having regard to the interest of the investors and requests received from various entities, extended the last date for submitting application by existing entities upto March 31, 2000 and the same was intimated by SEBI vide a press release and a public notice. However, you did not apply for grant of registration with SEBI as provided under the said Regulations.

As per regulations 73 (1) of the said regulations, an existing Collective Investment Scheme which has failed to make an application for registration with SEBI, shall wind up the existing scheme(s) and repay the investors. Further as per regulation 74, an existing Collective Investment Scheme which is not desirous of obtaining provisional registration from SEBI shall formulate a scheme of repayment and make such repayment to the existing investors in the manner specified in Regulation 73.

SEBI vide letter dated December15, 1999 / December 29, 1999 and also by way of a public notice dated December 10, 1999, had given individual intimation in terms of regulation 73 (2) which casts an obligation on you to send an Information Memorandum to all the investors detailing the state of affairs of the scheme(s), the amount repayable to each investor and the manner in which such amount is determined. Accordingly, you were required to send the Information Memorandum to the investors latest by February 28, 2000.

You have neither applied for registration under SEBI (Collective Investment Schemes) Regulations, 1999 nor have taken any steps for winding up of the schemes in the manner provided under the said Regulation for repayment to the investors. It is, therefore, noted that you have prima facie violated the provisions of section 12 (1B) of SEBI Act, 1992 and regulations 5 (1) read with regulation 68(1), 68(2), 73 & 74 of the SEBI (Collective Investment Schemes) Regulations, 1999.

SEBI also issued a public notice dated March 31, 2000, in the newspapers inviting your attention to the aforesaid position.

Further, a notice dated May 12, 2000, was issued to you asking you to show cause as to why the action as stated therein be not initiated against you.

Although you have replied to the show-cause notice, you have failed to submit the "Winding Up and Repayment Report" to SEBI in accordance with SEBI (Collective Investment Schemes) Regulations, 1999.

Now, therefore, in exercise of the powers conferred upon me under section 11B of the SEBI Act, 1992, I hereby direct you to refund the money collected under the scheme(s) with returns which is due to the investors as per the terms of the offer within a period of one month form the date of this Order failing which the following actions would follow:

Initiation of prosecution under section 24 of SEBI Act, 1992 which prescribes imprisonment for a term which may extend to one year, or with fine, or with both against you / promoters / directors / managers / persons in charge of the business of your scheme.

You / promoters/ directors/ managers/ persons in charge of the business of your scheme would be debarred from operating in the capital market for a period of 5 years.

Writing to the state governments / local police to register civil / criminal cases against you for apparent offences of fraud, cheating, criminal breach of trust and mis-appropriation of public funds.

Writing to the Department of company affairs to initiate the process of winding up of your company".

The Appellant is a private limited company incorporated in 1995, under the provisions of the Companies Act, 1956. As per the Memorandum of Association of the Appellant, the main objects for which the company was established are "To carry on the business of running of boat clubs, entertainment shows, holiday resorts, motels or such other services as are lawfully provided for or rendered to tourists or lodges in a hotel". The Memorandum of Association contained several other objects also. In terms of the paid up capital, it is a small company. It's paid up capital is Rs. 3, 24, 500 consisting of 32, 450 equity shares. It has about 14 shareholders. The Appellant has stated that it has holiday resorts at Kodaikanal and Mahabalipuram in Tamil Nadu and plans to set up one at Lonavala, in Maharashtra. The Appellant provided five different types of memberships to its customers viz. Classic, Silver, Gold, Platinum and Diamond. Each category of membership reflects the permitted duration of stay for customer availing a particular scheme. It has been stated that in 1996, the Appellant decided to expand its business into plantations and decided to embark on growing 'Mangium' trees on 49. 50 acres of land acquired for the purpose, at Periyakulam. It has also been stated that the idea was that the Appellant would sell portions of the land along with the trees grown on them to various customers who would be entitled to get a return on the sale of grown trees, after a period of 10 years.

As per the scheme trees alone without land were also to be sold to the customers, who did not want the ownership over the land. According to the Appellant so far 22,000 trees have been planted.

The Respondent is a statutory Board established under the Securities and Exchange Board of India Act, 1992 (the Act). The object of the said Act is to protect the interests of investors in securities and to promote the development of and to regulate the securities market. Section 11 of the Act enumerates the functions of the Respondent. The section mandates the Respondent to protect the interests of investors by such measures, as it thinks fit. Registering and regulating collective investment schemes is one of the measures, which the Respondent is empowered to take. The Respondent in exercise of the powers so vested has notified the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (the CIS Regulation) which came into force from October 15, 1999. The said Regulation provides for registration of the existing collective investment schemes and also the new schemes. The Regulation also provides certain measures to regulate the activities of the said schemes. Though the Act provided for registration etc., of the collective investment schemes, till October 15, 1999 this requirement could not be enforced as the requisite regulation was not in position till then. Statutory requirement in this regard is clear from the provisions of section 12 (1B) of the Act as extracted below:

> "No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations:
>
> Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30."

Collective investment scheme has been defined in section 11AA of the Act, as under: -

11AA. (1) Any scheme or arrangement which satisfied the conditions referred to in sub-section (2) shall be a collective investment scheme.

(2) Any scheme or arrangement made or offered by any company under which, -

> (i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;
>
> (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property whether movable or immovable, from such scheme or arrangement;
>
> (iii)the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;

(iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

(3) Notwithstanding anything contained in sub-section (2), any scheme or arrangement: -

(i) made or offered by a co-operative society registered under the Co-operative Societies act, 1912 (2 of 1912) or a society being a society registered or demand to be registered under any law relating to co-operative societies for the time being in force in any State;

(ii) under which deposits are accepted by non-banking financial companies as defined in clause(f) of section 45-I of the Reserve Bank of India Act, 1934 (2 of 1934);
being a contact of insurance to which the Insurance Act, 1938(4 of 1938), applies;

(iii) providing for any Scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (19 of 1952);

(iv) under which deposits are accepted under section 58A of the Companies Act, 1956 (1 of 1956);

(v) under which the deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act, 1956 (1 of 1956);

(vi) falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982 (40 of 1982);

(vii) under which contributions made are in the nature of subscription to a mutual fund;

shall not be a collective investment scheme".

The CIS Regulations provides for regulating the new entrant collective investment schemes and the existing collective investment schemes. As per regulation 5 "any person who immediately prior to the commencement of the Regulations was operating a scheme, shall subject to the provision of chapter IX of the Regulations make an application to the Board for the grant of certificate within a period of 2 months from such date". Regulation 9 specifies the conditions / eligibility to get the certificate of registration in respect of the new schemes. Chapter IX prescribes the requirements to be followed by the collective investment schemes, which were operating on the date of notification of the Regulations (i.e. 15.10.1999). In fact Chapter IX by itself, to some extent is a self-contained code as far as the existing collective investment schemes are concerned. Since this chapter has a bearing on the issues involved in the appeal, the provisions enumerated therein are extracted below:

"68. Existing schemes to obtain provisional registration-

(1) Any person who has been operating a collective investment scheme at the time of commencement of these regulations shall be deemed to be an existing collective investment scheme and shall also comply with the provisions of this Chapter.

Explanation - The expression ‘operating a collective investment scheme’ shall include carrying out the obligations undertaken in the various documents entered into with the investors who have subscribed to the scheme.

(2) An existing collective investment scheme shall make an application to the Board in the manner specified in regulation 5.

(3) The application made under sub-regulation (2) shall be dealt with in any of the following manner:-

(a) by grant of provisional registration by the Board under sub-regulation (1) of regulation 71;

(b) by grant of a certificate of registration by the Board under regulation 10;

(c) by rejection of the application for registration by the Board under regulation 12.

69. No scheme to be launched until grant of registration-

No existing collective investment scheme shall launch any new scheme or raise money from the investors even under the existing scheme, unless a certificate of registration is granted to it by the Board under regulation10.

70. Consideration of application for grant of provisional registration-

(1) The applicant for the purpose of being considered eligible for the grant of provisional registration shall satisfy the Board that-

(a) the scheme of the applicant are in the nature of collective investment schemes;

(b) the affairs of the applicant are not being conducted in a manner detrimental to the interest of existing investors;

(c) the applicant has at least 50% independent directors at the time of making the application.

Explanation- "Independent directors" shall mean directors who are not associates of the persons operating the existing collective investment scheme;

(d) any person, directly or indirectly connected with it has not been granted registration by the Board under the Act.

(2) The Board for the purposes of grant of provisional registration may, inter alia, inspect the schemes, books of accounts, records and documents of the applicant.

(3) The Board shall recover from the applicant such expenses including fees paid to the auditor, appraising agency as may be incurred by it for the purposes of inspecting the schemes, books of accounts, records and documents of the applicant.

(4) The Board on being satisfied that the requirements specified in sub-regulation (1) are not fulfilled may reject the applications and the applicant thereupon shall wind up its existing scheme(s) in the manner specified in regulation 73.

71. Grant of provisional registration -

(1) The Board after being satisfied that the conditions specified in regulation 70 are fulfilled may grant provisional registration to the applicant subject to the following conditions, namely: -

(a) the applicant shall get the existing schemes rated by a credit rating agency within one year from the date of grant of provisional registration.

(b) the applicant shall get the existing schemes audited by an auditor within a period of one year from the date of grant of provisional registration;

(c) the applicant shall get existing schemes appraised by an appraising agency within a period of one year from the date of grant of provisional registration;

(d) the applicant shall create a trust and appoint trustee in the manner specified in Chapter IV of these regulations within a period of one year from the date of grant of provisional registration;

(e) the applicant shall comply with accounting and valuation norms in respect of schemes floated before the commencement of these regulations as specified in Part II of the Ninth Schedule within a period of one year from the date of provisional registration;

(f) the applicant shall meet the minimum net worth of Rupees one crore within one year from the date of grant of provisional registration which shall be increased by Rupees one crore each within two years, three years, four years, and five years from the date of grant of provisional registration;

(g) the applicant shall not dispose of the scheme property except for meeting obligations arising under the offer document of the scheme;

(h) the applicant shall comply with the conditions specified in regulation 11;

(i) such other conditions which the Board may impose.

(2) The applicant shall give a written undertaking to the Board to comply with the conditions specified in sub-regulation (1).

(3) The applicant who has been considered eligible for the grant of provisional registration by the Board, shall pay provisional registration fee as per the Second Schedule.

(4) An applicant who after grant of provisional registration fails to comply with the conditions as specified in sub-regulation (1) and regulation 9 shall not be considered eligible for the grant of certificate of registration under regulation 10 and shall wind up the scheme in the manner specified in regulation 73.

72. Registration to existing scheme -

(1) An existing Collective investment Scheme which satisfies the Board that the requirements specified in regulation 9 and the conditions specified under regulation 71 have been fulfilled, shall be granted a certificate of registration under regulation 10 upon payment of registration fees as specified in paragraph 2 of the Second Schedule and on such terms and conditions as may be specified by the Board.

(2) An existing collective investment scheme which has been granted certificate of registration under sub-regulation (1) may be allowed to float new schemes on such terms and conditions as may be specified by the Board

73. Manner of repayment and winding up. -

(1) An existing collective investment scheme which, -

(a) has failed to make an application for registration to the Board; or

(b) has not been granted provisional registration by the Board; or

(c) having obtained provisional registration fails to comply with the provisions of regulation 71;

shall wind up the existing scheme.

(2) The existing collective investment scheme to be wound up under sub-regulation (1) shall send an information memorandum to the investors who have subscribed to the schemes, within two months from the date of receipt of intimation from the Board, detailing the state of affairs of the scheme, the amount repayable to each investor and the manner in which such amount is determined.

(3) The information memorandum referred to in sub-regulation (2) shall be dated and signed by all

the directors of the scheme.

(4) The Board may specify such other disclosures to be made in the information memorandum, as it deems fit.

(5) The information memorandum shall be sent to the investors within one week from the date of the information memorandum.

(6) The information memorandum shall explicitly state that investors desirous of continuing with the scheme shall have to give a positive consent within one month from the date of the information memorandum to continue with the scheme.

(7) The investors who give positive consent under sub-regulation (6), shall continue with the scheme at their risk and responsibility:

Provided that if the positive consent to continue with the scheme, is received from only twenty-five per cent or less of the total number of existing investors, the scheme shall be wound up.

(8) The payment to the investors, shall be made within three months of the date of the information memorandum.

(9) On completion of the winding up, the existing collective investment scheme shall file with the Board such reports, as may be specified by the Board.
74. Existing scheme not desirous of obtaining registration to repay- An existing collective investment scheme which is not desirous of obtaining provisional registration from the Board shall formulate a scheme of repayment and make such repayment to the existing investors in the manner specified in regulation 73."

On a perusal of the above cited regulations, it is clear that a collective investment scheme which was in operation on the appointed day i.e. 15.10.1999 has three options i.e. (a) get registered with the Respondent or (b) wind up the schemes or (c) formulate a scheme of repayment and make such repayment.

It is evident from the averments made in the appeal memorandum and the submissions made by the learned Counsel for the Appellant that the Appellant is not in a position to get the schemes registered as per the Regulations for the main reason that its net worth is very small and also because of its inability to raise the minimum net worth to rupees one crore within a year from the date of grant of provisional registration.

The second alternative, that is, winding up of the schemes has not been favoured by the Appellant for the reason that it would not be in the interests of the investors to chop off the partly grown up plants and sell the same at fire wood price at this juncture. According to the learned Counsel, the Appellant is financially strong enough to meet the liabilities towards the investors, by retaining the scheme and ready to make refunds to those unit holders claiming refund of their investment in the Appellant's schemes.

Even though the learned Counsel had made an attempt to canvass that the Appellant is not a collective investment scheme to attract the CIS Regulation, on pointing out the provision of section 11AA of the Act and the nature of the business carried on by the Appellant, he did not press the argument. Since the learned Counsel was harping on the financial credibility of the Appellant, the Tribunal asked the Appellant as why in that case the Appellant was not pursuing the course available under regulation 74. The learned Counsel undertook to comply with the said requirements. It was on September 25, 2001. What transpired on September 25, 2001 is evident from the following minutes of the hearing that:

"The Counsel for the Appellant undertakes to comply with the requirements of regulation 73 of SEBI (Collective Investment Schemes) Regulations, 1999, relating to sending of information memorandum to the investors and obtaining their consent thereto, and to file the same with SEBI, within two months from today. Representative of the Respondent states that they will not proceed against the Appellant during the two months' period. Therefore, no interim stay is required in the matter. "

Thereafter Shri Syed Ibrahim one of the Directors of the Appellant filed an affidavit (on November 28, 2001) affirming:

"1. …….. that by order dated 25.09.2001 this Hon'ble Tribunal was pleased to pass

certain direction to the Appellant. The Appellant had undertaken to comply with the terms of Regulations 73 of the SEBI (Collective Investment Scheme) Regulations 1999 relating to the sending of information memorandum to the investors and obtaining their consent thereto and file the same with the SEBI within two months from that date.

2. ……. that the Appellant had accordingly complied with the terms of the said Regulation and duly circulated the information memorandum to the investors. The Appellant had taken steps to circulate the same to all the 898 investors in the Appellant by Under Certificate of Posting. The Appellant was approached by several investors and the Appellant has in the process settled 233 investors in full and final discharge of any claims against the Appellant.

3. The Appellant is yet to receive communication from the other investors. I submit that more than 25% of the investors in the Appellant have already been settled fully and thereby consented to the terms of the Information Memorandum. The balance investors would be also bound to give their consent to the terms. The Appellant is confident of settling the dues of the other investors shortly.

4. The Appellant submits that the above is done without prejudice to the contentions of the Appellant in the above Appeal.

In the circumstances it is prayed that this Hon'ble Tribunal may be pleased to take this Affidavit on file and record compliance of the undertaking given to this Hon'ble Tribunal on 25.09.2001 and thus render justice".

The Respondent in its counter affidavit filed on December 21, 2001, inter alia stated that the Appellant has not furnished full details to the Respondent in terms of the Tribunal's direction of September 25, 2001 and that the Information Memorandum does not contain the requisite disclosures as may be relevant to the investors in terms of the CIS Regulations.

On a perusal of the impugned order it is noticed that it is a common order meant for all the defaulting entities numbering few hundreds. It was not specific to the facts and circumstances relatable to the Appellant. The thrust of the order is to prevent the Appellant, its promoters, etc. from operating in the capital market for a period of 5 years. It is to be noted that the Appellant is a small private limited company, with no possibility of accessing the capital market to meet its fund requirements. As per the information available on record, the Appellant has about 800 investors in its scheme. The units of the scheme are not listed in any stock exchange.

There is not even any mention of the name of directors, promoters, managers and persons in charge of the business of the schemes on whom restraint has been put in the order, so as to identify them and prevent them from operating in the market in the next five years. The impugned order thus serves no purpose and in any case interest of the investors is not likely to be protected in any manner by the said order. It is a nil effect order. The Appellant's readiness to refund the money to the investors as conveyed by the learned Counsel in the context is therefore relevant and requires to be considered.

It is to be noted that the CIS Regulations are meant to protect the interests of the participants in the collective investment schemes floated by the various entities. While applying the said regulations, the object of the Regulations should not be pushed aside giving way to mere technicalities. Any measure in the interest of the investors which would pass the legal test provided in the Regulation should be welcome. Shri Kartik Seshadri in his submission had stated clearly that the Appellant is ready to refund the money to the participants in the scheme, but the Appellant is not in a position to do so, as no unit holder is coming forward claiming refund, despite the request from the Appellant. He did make a categorical statement that any legitimate claim of any unit holder in the schemes preferred directly to the Appellant or through the Respondent will be settled by the Appellant without any delay. He also agreed to publish suitable press notices in this regard, if so required by the Respondent, to inform the scheme participants of its readiness to refund the money. Learned Counsel explained the fund position of the Appellant to show that the Appellant is financially sound to meet refund claims and the proposal is not a time buying device. On January 2, 2002, at the time of arguments, the learned Counsel for the Appellant reiterated his earlier version that the Appellant is ready and financially capable of repaying the money to the investors, in case the investors come forward, and that the Appellant is ready to file an affidavit in a week's time i.e. by January 9, 2002, stating its readiness to honour the liability.

Since the proposal being an investor interest oriented one, it was felt that the same need be considered, and accordingly the Appellant was directed to file by January 9, 2002 an affidavit clearly stating its readiness to refund the money to the investors directly approaching the Appellant and also to pay to

those investors as directed by Respondent. In response to the said direction, the Managing Director of the Appellant filed an affidavit on January 9, 2002 interalia affirming that:

> "During the course of the submissions, the Appellant had without prejudice to their rights of impugning the Order of the Respondent had offered to settle any of the claims of the investors in the Appellant.
>
> The Appellant had already settled the claims of 450 investors as of 31.12.2001. The Appellant had already furnished the details about the same to the Respondent along with their letter dated 31.12.2001. A copy of letter is enclosed herewith as Annexure-1. The Appellant had also circulated the Information Memorandum to the 898 investors in the Appellant, outlining the manner of repayment to the investors in the course of winding up the schemes. Various investors had contacted the Appellant and their claims have been fully discharged by the Appellant.
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> The Appellant has so far paid a sum of Rs. 46, 93, 779/- to 469 investors in full discharge of any claim that they had against the Appellant. The Appellant is herewith enclosing the statement, duly certified by an Auditor as Annexure-2.
>
> The Appellant had proposed to wind up the various Schemes as per the information Memorandum circulated to the investors after deducting certain amounts expended by the Appellant in development, maintenance of the Plantation. The amount that would be repayable to the investors as per the Information Memorandum circulated among the investors is approximately Rs.27.50 lakhs. The Appellant is in a sound financial position. The Appellant is confident of settling the balance investors even by paying a higher rate if necessary for obtaining a full discharge from each and every investor. The cash balance in the Bank account of the Appellant is as on date Rs.19.66 lakhs. A copy of the Bank Statements are enclosed herewith as Annexure-3. The said funds can readily be made available for paying the investors. The Appellant undertakes to pay any investor who approaches the Appellant / SEBI.
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> Though the Appellant is in a position to keep the entire amount deposited in an Escrow account used exclusively for the purpose of discharging the claims of the investors, it would not serve any useful purpose as the investors have so far not made any claim with the Appellate / SEBI. The Appellant hereby undertakes to discharge the claims of the investors as undertaken by it in the Information Memorandum circulated among the investors.
>
> The Appellant has given the above undertaking without prejudice to its rights to impugne the Order Appealed against before this Hon'ble Tribunal
>
> In the circumstances it is prayed that this Hon'ble Tribunal may be pleased to take on file the above Affidavit and pass suitable Orders and thereby render Justice."

Shri Pravin Trivedi appearing for the Respondent submitted that the Respondent is concerned about the interests of the investors and if the Appellant is ready to refund the money to the investors, following the legal requirements, the Respondent has no objection in the matter.

In the light of the solemn commitment made by the Appellant and its Counsel to refund the money to the persons seeking refund and its readiness to comply with the requirements of regulation 74, it is felt that the prayer made by the learned Counsel for the Appellant to remand the matter is worth considering.

Accordingly the Appellant is directed to approach the Respondent and workout the modalities, to best suit the interests of investors, within 3 weeks from today and act upon without delay. The Respondent is directed to consider the proposals so received from the Appellant and take appropriate decision taking into consideration all the relevant factors to best suit the interest of the investors in the Appellant's schemes.

The matter is remanded for the above purpose and in this context the order is set aside.

Appeal allowed by way of remand

(C. ACHUTHAN)
PRESIDING OFFICER

Place: Mumbai
Date: March 19, 2002