

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

ORDER

Under Sections 11(1), 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999

In the matter of MVL Limited

In respect of MVL Limited and its Directors, viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') came across an advertisement issued by one MVL Limited (hereinafter referred to as 'MVL') dated October 16, 2011, published in the newspaper, whereby investments were solicited from the public in respect of its project, 'India Business Centre' (hereinafter referred to as 'IBC Project') at Gurgaon, promising an assured return. MVL was advised to submit certain details/ documents including the details and structure of plans or schemes launched/ proposed, number of investors and amount collected in each such plan or scheme, brochures pertaining to each scheme, application forms, sample copies of certificates, agreement letter or contract issued to the investors, details of location of projects, current and proposed to be developed under various schemes, etc., vide email dated October 19, 2011 and October 27, 2011, in order to ascertain whether it was carrying on the activities of a 'Collective Investment Scheme' (hereinafter referred to as 'CIS'). The said email also drew the attention of MVL to the provisions of Section 12(1B) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the 'SEBI Act').
2. MVL vide its letters dated November 04, 2011, December 09, 2011, January 07, 2012 and January 13, 2012, replied to the e-mail of SEBI and submitted that it is not receiving any contributions/ payments from any alleged investors and is doing real estate business. It was also submitted that MVL had arrangements with its customers purely for sale and purchase of immovable property. MVL also submitted the copy of the brochure and agreement to sell along with the aforesaid letters.
3. In order to further analyse the case, SEBI vide its letter dated December 27, 2012 sought details like executed sale deed, bye laws, maintenance agreement pertaining to the "assured

return scheme" and "buy back scheme", details regarding money collected from the buyers (investors), the purpose of utilization of money, number of buyers and amount collected in each such plan or scheme, details of land purchased by MVL for the said project(s), etc. from MVL. However, MVL failed to provide the details/ documents sought for by SEBI.

4. On the basis of material available on record, SEBI *prima facie* found that MVL, its directors namely Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta are engaged in mobilising funds from the public, by floating/ sponsoring/ launching CIS as defined in Section 11AA of the SEBI Act without obtaining a certificate of registration from SEBI for operating CIS as required under Section 12(1B) of the SEBI Act read with Regulation 3 of the SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as 'CIS Regulations').
5. Thereafter, SEBI vide an *ad interim ex-parte* order dated September 26, 2013 (hereinafter referred to as the '*interim* order') directed MVL, its directors namely Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta as under:

"a. not to collect any more money from investors including under the existing IBC project;
b. not to launch any new schemes;
c. not to dispose of any of the properties or alienate any of the assets of the IBC project;
d. not to divert any funds raised from public under the IBC project, which are kept in bank accounts and/ or in the custody of the company."

MVL and its directors were advised to file their reply, if any, within fifteen (15) days from the date of receipt of the said *interim* order and also avail opportunities of personal hearing, if they so desire. The *interim* order further stated that the order shall be treated as a show cause notice by MVL and its directors and they may show cause as to why appropriate directions under the SEBI Act and CIS Regulations; including directions in terms of the Regulations 65 and 73 of the CIS Regulations should not be issued against them.

6. MVL vide its letter dated October 29, 2013 submitted the reply to the *interim* order and requested for an opportunity of personal hearing. Accordingly, MVL was afforded an opportunity of personal hearing on December 24, 2013, which was later rescheduled to December 30, 2013. However, the Company Secretary of MVL vide email dated December 17, 2013 requested SEBI to reschedule the hearing to any date after second week of January. Accordingly, the same was kept for January 17, 2014. The same was later postponed to

January 23, 2014. On the date fixed for personal hearing, Mr. Sushil Aggarwal (V.P. (Legal), MVL) and Mr. Kapil Kher (Legal Consultant of MVL) appeared before me along with Mr. R.S. Loona and Mr. Ankur Loona from Alliance Corporate Lawyers and made submissions. They also filed certain documents like recent photographs of the project, 'list of clients/ investors', mutation record of land, loan documents of banks, etc. During the course of hearing, MVL and its directors were asked to submit the documents such as floor plans, etc. of the project to mark the units allotted to the clients w.r.t. IT/ Cyber space no./ unit number. MVL was also asked to submit the complete details/ documents in respect of the clients mentioned at serial numbers 118, 119 (instances where there is no buy back agreement) and 156, 157 (instances where there are buy back agreements) of the 'list of clients/ investors' as submitted by it, during the course of personal hearing. MVL and its directors were granted fifteen (15) days' time to submit the details/ documents. MVL vide its letter dated February 18, 2014, *inter alia* submitted the details/ documents (i.e. copies of the application form and assured return agreement) for client no. 156 and 157 (instances where there are buy back agreements) and floor plans. It is noted that MVL along with this letter has not submitted any documents for the clients no. 118 and 119 (instances where there is no buy back agreement).

7. The submissions made by MVL, in brief are as under:
 - a. The principal business of MVL is real estate development. In the usual course, it offers sale of flats/ IT space/ plots/ villas out of its land situated in various parts of the country at a price fixed by it upon assessment of costs of procurement and development of the same including incidental expenses thereto. MVL's IBC (India Business Centre) project is purely in the nature of sale of IT/ cyber space in the building constructed on the land which was acquired by the company pursuant to scheme of arrangement between MVL Infrastructure Limited (erstwhile name of MVL) and certain transferor companies. MVL has procured permission for change of land use from the Director Town and Country Planning, Haryana, whereby, MVL was permitted to set up an IT project over the project land for sale to prospective buyers. IBC Project is being implemented by MVL in accordance with the building plans approved by Senior Town Planner and will handover possession of IT/ cyber spaces to the allottees after procuring occupation certificate from the Competent Authority.
 - b. The buyer who intends to buy the IT/ cyber space in the IBC project is required to make an application for provisional registration as per the prescribed format. Every buyer is required to pay certain amount being part/ full consideration of the IT/ cyber

space allotted to him. On payment, allotment letter/ buyer's agreement is issued to the intending purchaser. It has been said that the buyer's agreement provides for the allotment of the area, location and number of IT/cyber space which are tentative as the building plans approved by the competent authorities are subject to change depending on additional needs of the project. The right, title and interest in the premises will be transferred on execution of the sale deed in favour of the buyer after receipt of occupation certificate by MVL and on receipt of full price and other dues/ charges from the allottee.

- c. It has sold IT/ cyber spaces with different sizes to 232 buyers at an aggregate consideration of 54,67,39,100 under assured return plan. There are about 17 allottees who have invested under construction link installment scheme, without any assured return obligation on the part of MVL, for an aggregate amount of 11,25,98,825.
- d. For the purpose of construction of IBC Project, MVL has availed financial assistance aggregating to 128 crore from Canara Bank and UCO Bank. The banks have determined the project cost as 216 crore out of which the cost of the land was determined as 32 crore which was acquired by MVL in the year 2008.
- e. The allottees of IT/ cyber space are at all times entitled to transfer their allotment to any persons as they may intend to do. Further, the option to surrender the unit allotted to the investors and receiving their money back at a stipulated rate is not compulsorily applicable to the developer. The investment made in real estate project is not only made for earning any monthly income out of it, it is the appreciation in the value of the property which attracts any person to make investment in immoveable property. There is no arrangement between the purchasers and MVL to share any profit.
- f. MVL offers an assured return to investors in the project till the first lease rent become payable/ the offer of possession. The payment of assured return is an additional tool of promoting the sale of the product especially where the location of the project is such where you cannot sell the property, without offering such additional advantage to the investors. The option of assured returns is available to select contracts who have entered into assured return agreement with MVL and the principles of privity of contract are applicable therein.
- g. The purpose of most purchasers is to earn a monthly income as opposed to profit.
- h. MVL has not included buy back clause in every agreement and this kind of comfort has been given to the selected investors only. The buy back option offered by it is not compulsory and only 46 allottees out of total 232 allottees have opted for such option. The return by way of buy back price is less than 5% p.a. and no allottee till date has

exercised it. Buy Back option is being offered as an incentive to such buyers who may at a later date like to exit from the project on account of change in their future plans/ personal financial problems/ market conditions of the real estate sector/ emergence of adverse factors affecting the viability of IBC project on account of the change in law or undue delay in completion of the project.

- i.** It is an understanding between MVL as a developer and the allottees that maintenance of the common areas in the buildings as well as the project land shall remain with the developer during the construction stage and till such time they are handed over to the 'association of allottees'. It has been also been said that the investors have agreed to assign the right to lease the property, receive the rent on their behalf, receive the security deposit etc. in favour of MVL, just to avoid inconvenience and to have better management and also to have bargaining power with the prospective tenants/ lessee.
- j.** After the execution of lease deed, the entire lease rent with respect to the IT premises shall belong solely to the allottees and MVL shall have no claim of any nature whatsoever on the said lease rent and once the IT premises have been leased, the company shall have no liability of any nature, whatsoever, to make payment towards assured return to the buyer. If the allottee obstructs or neglects or defaults to sign the necessary documents of lease after the same have been finalized by MVL, then the company shall have the right to cancel the allotment/ terminate the 'assured return agreement' and in such an event the developer shall return the total payment to allottee, after forfeiting Earnest Money (i.e. 30% of the total consideration) and after deducting the amount of the assured return paid to the allottee.
- k.** It is always obligatory on the part of the allottees to take NoC from the developer before giving effect to the transfer, lease etc. of the premises till the association of allottees/ Housing Co-operative Society is formed as required by law. In the event of any breach or non performance of the terms of contract, the purchaser is at liberty to approach the competent court of law for enforcement of provisions of Specific Relief Act.
- l.** Cases where option of lease is not availed by MVL and possession of the cyber unit is delivered to the allottee, the allottee undertakes not to sub divide the area/ premises agreed to be allotted to it and where the allottee transfers the premises by way of mortgage, tenancy, license, gift or in any other manner in favour of any person then such person shall also be bound by the terms of the buyer's agreement.
- m.** The IBC project is currently in final stages of its completion and any assured return will come to an end shortly. The allottees would be put to substantial loss if they are not

given allotted premises which will become ready for delivery within a period of few months.

8. I have considered the *interim* order, the oral and written submissions of MVL, the documents furnished by MVL and the material available on record. The main allegation as against MVL is that the plans/ schemes operated by it are in the nature of CIS and that MVL is offering these schemes without obtaining registration from SEBI in contravention of the provisions of Section 12(1B) of the SEBI Act, 1992 and Regulation 3 of the CIS Regulations read with Section 11AA of the SEBI Act, 1992. The directors of MVL have also been alleged to be responsible for the illegal conduct of the business of MVL. The issue that now arise for my consideration is: Whether MVL is operating a CIS without obtaining registration from SEBI?

9. **Whether MVL is operating a CIS without obtaining registration from SEBI?**

a. I note the argument of MVL that it is in the real estate development business and offers sale of flats/ IT space/ plots/ villas out of its land situated in various parts of the country at a price fixed after the assessment of costs of its procurement and development including incidental expenses thereto. As per the submission of MVL, IBC project is in the nature of sale of IT/ cyber space in the building being constructed on the land acquired by MVL in the year 2008. It is observed that the buyer who intends to buy the IT/ cyber space in the IBC project of MVL is required to make an '**application for provisional registration**' as per the prescribed format and pay certain amount being part/ full consideration of the IT/ cyber space allotted to him. On payment of consideration, '**allotment letter/ buyer's agreement**' is issued to the intending purchaser mentioning therein the tentative area, location and number of IT/ Cyber space. It has been submitted that the right, title and interest in the premises will be transferred on execution of the sale deed in favour of the buyer after receipt of occupation certificate by MVL and on receipt of the full price and other dues/ charges from the allottee. It has also been said that the buyer may choose any of the payment plans, like down payment plan/ construction linked plan/ assured return plan.

b. I have perused the sample copy of the application for provisional registration of IT/ Cyber space in the IBC project (as submitted by MVL) which contains the details such as name and father's name of the applicant, address, payment mode. The application is a pre printed document which reads as under:

*"I/we/ am/ are desirous of obtaining allotment of an IT/ Cyber space in India Business Centre
I/we request that I/ we may provisionally be allotted an IT/ Cyber space tentatively measuring ... (super
area)."*

The application form *inter alia* contains the following terms and conditions:

"2. That the Applicant(s) has/ have satisfied himself/ herself/ themselves about the interest and right of the Company in the land on which the said India Business Centre is being constructed and has/ have understood all limitations and obligations in respect thereof. ...

3. That the Applicant(s) has/ have seen and accepted the typical plans, ... which are tentative and indicative and may be changed, if and when as directed by the Competent Authority and/ or Architect at any time ...

4. Confirmation of booking of space on any floor by the company shall be considered as allotment of space and developer shall not be bound to give any specific unit no. of the space allotted.

*...
7. That the Company shall transfer to the Applicant(s) on allotment an undivided and impartible proportionate share in the land underneath the building in the same proportion ...*

*...
10. The sale deed for the IT/ Cyber space shall be executed and got registered upon receipt of the full Sale Consideration ...*

*...
17. The Applicant(s) agrees and undertakes that he/ she/ they shall not sell, transfer, assign or part with his/ her/ their right, title, or interest, in the said IT/ Cyber space or any portion thereof, till the formalities pertaining to allotment of the said IT/ cyber space are made in his favour, and until all the dues payable to the Company are fully paid. ..."*

Upon perusal of the 'application form', it can be seen that the plans/ specification of the IT/ cyber space are tentative. The 'application form' only specifies the area (in sq. ft.) and floor, but no specific IT/ cyber space number is identified at this stage. However, in the 'application form', no option is given to the applicant for opting any 'buy-back'/ 'lease' by MVL, as claimed by MVL. The Company gives an undivided and impartible proportionate share in the land underlying the building. I also note that MVL in the terms and conditions written on the 'application form' states that *'developer shall not be bound to give any specific unit no. of the space allotted'*, which clearly hints that the customers are making application with the knowledge that they are not obtaining any specific unit of space.

- c. I have also perused the copy of sample 'assured return agreement' (as applicable in the case of allottee opting for assured return plan). The same also specifies only the area (in sq. ft.) and floor, no specific number is identified even in this document. The 'assured return agreement' contains the following clauses:

"ii. Developer is in the process of developing the Project Land and constructing an IT Complex, ...in accordance with the building plans which is sanctioned by Competent Authority.

*...
iv. the Allottee(s) has opted for the Assured Return Scheme*

v. Under the Assured Return Scheme, the Allottee(s) is desirous of allotment and purchase of the IT space admeasuring tentatively ____ sq. ft. super area on the ____ floor of the Complex ...

...
vii. The Allottee(s) is aware that upon registration of conveyance deed he shall only acquire undivided and impartible pro-rata share in the entire land underneath the IT project.

...
1.2 ... super area of Premises as mentioned herein above is subject to modifications and final confirmation of the same shall be made upon completion of Complex/ at the time of offer of possession of Premises.

...
2.1 ... the Developer shall be fully entitled to lease the Premises to any third party as per the terms of this Article.

2.2 ... the Allottee(s) shall not grant the Premises on lease to any third Party or deal otherwise with the Premises without obtaining the written consent of Developer.

2.3. The Allottee(s) hereby authorizes Developer to enter into and execute letter of intent, agreement to lease and lease deed or any other documents in favour of the lessee in terms of the ARA and also receive Security Deposit on behalf of the Allottee(s). ...

3.1 Assured Return: The Developer shall pay to the Allottee(s) an Assured Return at the rate of 10/- per sq. ft. per month of super area of premises till the receipt of full/ total consideration/ Payment. Once the full consideration is received the assured return shall be paid at the rate of 42/- per sq. ft. per month till tenant is inducted, possession is delivered to it and lease commences and rental is received by the allottee(s) from the tenant.

3.2 Subsequent to the execution of Lease Deed in favour of the Lessee and after receipt of Balance Payment, Sale/ Conveyance Deed shall be executed as per terms of this ARA and the Buyer's Agreement in favour of the Allottee(s).

... ..
3.4 Developer shall continue to pay to the allottee(s) an assured return (as the case may be), from the date of execution of this agreement till the first lease rent becomes payable to the allottee(s) from the lessee.

... ..
3.10 The allottee(s), on expiry of 30 months from the date of this agreement, shall have an option to offer to the Developer for cancellation of IT space allotted to him and upon such cancellation of agreement, the developer shall pay to the Allottee(s) 4,704/- per sq. ft. (hereinafter referred to as 'buy back price') of the super area allotted ...

... ..
... ..
6.3 Buyer Agreement: The developer shall execute the Buyer Agreement in favour of the Allottee(s) in respect of the Premises only upon the Premises being Leased out and all the accounts with the Allottee(s) being settled and all the dues being duly paid to the Developer as per this ARA... ..
... ..".

A reading of the above clauses indicates that MVL has an 'assured return plan'. It is noted that under this plan, MVL offers to pay assured return at the rate of 10/- per sq. ft. per month till the receipt of full/ total consideration. On payment of the full consideration, the assured return is offered at the rate of 42/- per sq. ft. per month till the tenant is inducted, possession is delivered to it, the lease commences and the rental is received by the allottee(s) from the tenant. I note that that the 'assured return agreement' itself contains the provision for buy back.

MVL in its reply has submitted that the assured return is linked to the execution of the first lease of the premises. Thereafter, the role of MVL ends as per the contract for sale and it has no right or title in the said land. MVL has also submitted that 'assured return plan' means an assurance to the allottees that the premises being acquired by them will readily fetch rent and will give return on investment.

For buy back, it is seen (from the clause 3.10 of the 'assured return agreement') that the allottee after expiry of 30 months from the date of the assured return agreement gets an option for cancellation of the IT/ cyber space allotted to him. As noted from the clauses of the agreement, the allottee, upon exercise of the option becomes entitled to the 'buy back price' and the simple interest at the rate not exceeding 5%. MVL has submitted that as the return is not attractive, the allottees prefer to stick to the terms for acquiring title in the premises. As per MVL only 46 of its customers have opted for buy back plan and no one has exercised this option till the date of reply. MVL has not submitted the sample documents of customers who have not entered into the 'buy back' agreement (i.e. the customers at serial number 118 and 119).

- d. It is observed that in a regular real estate transaction, whenever, a plot/ land/ flat is sold, the developer clearly demarcates the area of plot/ land/ flat to be allotted to its customers. In other words the plot/ land/ flat is clearly identifiable. I note that the application form and the assured return agreement do not clearly mention/ demarcates the units. MVL has given no explanation to this. I also note that the lay-out plan/ floor plan as submitted to SEBI are not forming part of the agreements with the customers. From the same, it can be said that the units are not identifiable.
- e. There is one more document (by the name of 'buyer's agreement') which is required to be executed between MVL and the allottee which has also been referred as a 'contract for sale'. The said document states as under:

"AND WHEREAS the DEVELOPER has accepted the request/ application of the ALLOTTEE(S) ... and has allotted IT/ Cyber space No. _____ on _____ floor having super area of approximately _____ sq. ft.

The aforesaid area, number of IT/ Cyber Space and its location are tentative and subject to change upon completion of construction.

... ..

2. That the provision of Basement in the said building does not entitle the ALLOTTEE(s) to the facility of parking ... unless he has acquired the right to use of car parking space in the Basement under a separate arrangement with the DEVELOPER. ... The ALLOTTEE(s) recognizes that the DEVELOPER shall have the absolute right to allot and/ or assign the interest in the parking area along with the undivided proportionate share in "India Business Centre (IBC)" to any person(s) at its sole discretion. ...

3. That the ALLOTTEE(s)'s allotment and right to use and occupy the Unit shall be in accordance with and subject and subordinate in all respect to the provisions of the Byelaws & Maintenance Agreement of IBC ...

6. That the DEVELOPER shall transfer to the ALLOTTEE(S) undivided and impartible proportionate share in the land underneath the building in the same proportion which the super area of the premises ... The ALLOTTEE(S) shall not be entitled to seek partition of the land underneath the project. ...

... ..
16. That the ALLOTTEE(S) shall only be entitled to transfer, assign or lease or part with possession of the premises with the prior consent of the developer, ...

... ..
18. That in case of allottee has opted for assured return plan till first lease, it shall be the absolute discretion of the DEVELOPER to lease out the entire building/ a particular floor

... ..
20. That the ALLOTTEE(S) covenants with the DEVELOPER that he shall raise no objection to the DEVELOPER raising finance/ loan by creating charge/ mortgage on the said premises. ..."

f. MVL has argued that the amount received by it from the buyers is classified as consideration against 'stock in trade' and not as deposits received from the general public or loan or borrowing from creditors. It has been said that the amount collected from the investors is utilized for the general business purpose including the construction of the project. It has also been said that the absolute right in the project shall be transferred only after registration of sale deed in favour of the investors as MVL has engaged contractors/ consultants for the purposes of completion of the project and managing the affairs of the construction. According to MVL, managing the affairs of construction by more than 200 investors may create total confusion and chaos. MVL has submitted that though the allottees are not concerned with the construction activity (as the company has agreed to deliver premises on completion of the project), they will certainly participate in the maintenance and upkeep of the buildings/ common facilities after completion of construction of the building as a member of the 'association of allottees' in terms of the Haryana Apartment Ownership Act. It has also been said that every occupant is required to execute maintenance agreement with the maintenance agency appointed for the purpose.

MVL has also said that on receipt of the occupation certificate by it from the Competent Authority, the allottees are entitled to acquire the premises on execution of the sale deed/ conveyance deed. The allottees being many in numbers will not be able to find and negotiate with the prospective tenant; therefore, it will search for a competent tenant for the first lease and negotiate the deal for the benefit of the allottees. Thereafter, the right of MVL to lease the premises comes to an end and the allottees will acquire an absolute right to deal with the premises the way they deem fit. As per MVL, at the time of execution of

the sale deed, the premises shall be free and clear of all encumbrances, liens and charges whatsoever.

- g.** MVL has submitted that it has sold IT/ Cyber space to 232 buyers for an aggregate consideration of 54,67,39,100 under assured return plan. The same shows that majority of its customers have opted for assured return plan. As discussed above, the 'assured return agreement' itself contains the provision for buy back. MVL during the course of personal hearing was advised to submit the floor plans of the IBC project and to mark the units allotted to its investors w.r.t. IT/ Cyber space no./ unit number. MVL pursuant to the personal hearing has submitted the floor plans of only 3rd, 4th and 6th floor mentioning therein the unit number and area of the said unit. From a perusal of the floor plan, it is noted that the area allocated to each of its investors have not been mapped in the floor plans and only the units allotted to investors picked up on sample basis are mapped i.e. the investors/ clients at serial numbers 118, 119, 156 and 157 of the 'list of clients/ investors' as submitted by MVL. During the personal hearing, MVL was also advised to submit the complete details/ documents in respect of the investors mentioned at serial numbers 118 & 119 (instances where there is no buy back agreement) and 156 & 157 (instances where there are buy back agreements). Though MVL has submitted the 'application form' and 'assured return agreement' for investors at serial numbers 156 and 157, it has not submitted any documents for the investors at serial numbers 118 and 119 (instances where there is no buy back agreement). Further, MVL has depicted the 'area allotted' only to investors at serial numbers 118, 119, 156 and 157 only.

At this stage, I must refer to the application form which only mentions the area and floor number of the unit. No details of any unit number or IT/ cyber space number as mentioned in the 'floor plan' has been mentioned either in the 'application form' or in the 'assured return agreement' as submitted by MVL for its client at serial number 156 and 157 (i.e. the instances of buy back agreements) which were picked up on sample basis. I note that MVL during the personal hearing was asked to submit the complete details/ documents of the said clients; however, the buyer's agreement has not been submitted by MVL for such clients (which identifies the IT/ Cyber space no.).

At this juncture, it is relevant to refer to the clause stated in the 'assured return agreement' i.e. *"The developer shall execute the Buyer Agreement in favour of the Allottee(s) in respect of the Premises only upon the Premises being Leased out and all the accounts with the Allottee(s) being settled and all the dues being duly paid to the Developer as per this ARA. ..."* I note from the documents submitted

by MVL for its investors at serial number 157, that entire payment has been made by them, still the 'buyer's agreement' has not been executed for these. Whereas, in case of the its investors namely Mr. Manoj Kumar and Mr. Dinesh Chand (information submitted by MVL vide its letter dated January 13, 2012, i.e. prior to the issuing of the *interim* order), it is noted that on making of entire payment, the 'buyers agreement' has been executed on the very same day when the 'assured return agreement' was executed. The same shows that MVL is not consistent w.r.t. the execution of buyer's agreement.

- h.** At this stage, I refer to the samples of assured return agreement and buyer's agreement for its clients namely Mr. Manoj Kumar and Mr. Dinesh Chand as submitted by MVL vide its letter dated January 13, 2012 (i.e. prior to the issuing of the *interim* order). From these samples, it is seen that the 'assured return agreement' and the 'buyer's agreement' mentions the IT space no. It is noted that Mr. Manoj Kumar had applied for IT space no. 610 admeasuring 500 sq. ft. of 'super area' on the 6th floor and Mr. Dinesh Chand had applied for IT space no. 625 admeasuring 500 sq. ft. of 'super area' on the 6th floor. However, on perusal of the floor plan as filed by MVL (vide letter dated February 18, 2014) for 6th floor, I note that it does not mention the unit nos. 610 / 625. The units in the submitted floor plan of the 6th floor are numbered from 01 to 137 and it is not possible to map the IT space number allotted to Mr. Manoj Kumar and Mr. Dinesh Chand on the floor plan as submitted by MVL. Further, it is also noted that the list of 232 allottees as submitted by MVL during the personal hearing does not find mention of the names of the said two persons.
- i.** I note that MVL has stated that it gives a 'buy back option' to its customer. In the case of buy back, it is seen from the 'clause 3.10' of the 'assured return agreement' that the allottee after expiry of 30 months from the date of the assured return agreement gets an option for cancellation of the IT/ cyber space allotted to him. MVL has submitted that as the return is not attractive, the allottees prefer to stick to the terms for acquiring title in the premises. MVL has submitted that out of 232 allottees (who have entered into 'assured return agreement'), 46 allottees have opted for 'buy back' option but no one has exercised this option till the date of reply. As mentioned earlier, SEBI during the course of personal hearing, had sought the copies of complete details/ documents in respect of the clients mentioned at serial nos. 118, 119 (i.e. instances where there are no 'buy back' agreement) and 156, 157 (i.e. instances where there are 'buy back' agreements). It is observed that MVL has provided the copies of the documents of customers at serial nos. 156 and 157 only (where there are buy back agreements) and has failed to provide the documents of

customers at serial nos. 118 and 119 (i.e. the customer who said to have not entered into the 'buy back' agreement) inspite of granting sufficient opportunities. From the same and from the samples of the 'application form' and 'assured return agreement' as submitted by MVL, it is noted that the 'buy-back' clause is one of the various clauses and has been offered to all its customers. Also, there is no separate provision in the 'application form' or in the 'assured return agreement' to opt for the buy-back. I note that MVL has failed to submit documents of investors/ clients who have not opted for buy-back.

- j. Before proceeding further, let me examine the sample documents submitted by MVL for its investors/ clients at serial numbers 156 and 157 as per the list submitted by it, who made applications to MVL on the same date i.e. September 29, 2011 and entered into 'assured return agreement' on the same date i.e. October 14, 2011. I have perused the documents of investor/ client at serial no. 156 as submitted by MVL and note that she has purchased 500 sq.ft. @ 2,400 per sq.ft. The total consideration to be paid by the said investor is 12,00,000/-. I note from the payment schedule that the investor has paid 11,00,000/- and 1,00,000/- shall be paid at the time of possession. As per the agreement she is now eligible for an 'assured return' of only 10/- per sq.ft. per month, as she had not paid the full consideration. On payment of the full consideration (which as per the agreement is 'at the time of possession'), she will be eligible for assured return of 42/- per sq.ft. per month, till the tenant is inducted and possession is delivered. I further note that the said investor is also given a buy-back option after 30 months from this agreement and the buy-back amount is 4,704/- per sq.ft. subject to realization of 100% of the total payment, otherwise the buy-back price shall proportionately be reduced. An analysis of the above data for the said investor reveals that if she opts for buy-back, she will get a return of about 96% after 30 months.

I have also perused the documents of investor/ client at serial no. 157 as submitted by MVL, who has purchased 1,000 sq.ft. at 40,74,000/- and the buy-back price offered to her is 4,704 per sq.ft., which, comes to 47,04,000/-. The assured return of 42/- per sq.ft. per month has been agreed by MVL. In view of the same, if this investor/ client opts for buy-back, she will get a return of only 15.5%.

Taking note of the same, the argument of MVL that the investors/ clients do not opt for buy-back as it provides a return of 5%, do not find merit. As seen from the samples analyzed above, the investors/ clients of MVL are getting return in the range of 15% -

96%. Further, it is also noted that MVL does not have any rationale for varying offers on return for investors who opted for similar plan/ scheme, around the same time.

k. Having considered the above, I now proceed to deal with the charge leveled against MVL in the SCN i.e. it is operating CIS without obtaining registration from SEBI. Before proceeding further in the matter, it is necessary to note the background of CIS Regulations and how the provisions came to be framed. Several entities were mobilizing huge money by issuing various instruments and offering very high rates of return inconsistent with the normal rate of returns and then misutilizing these funds, for the purposes not disclosed at the time of inviting the investments, thereby not only causing loss to the investors who lost their life savings to such unscrupulous entities, but also eroding the confidence of the general public. Considering the high element of risk associated with such schemes, the Government of India felt that it was necessary to set up an appropriate Regulatory framework to regulate such entities. Hence, in order to protect the interest of the investors and to ensure that only legitimate investment activities are carried on, vide press release dated November 18, 1997, the Government of India communicated its decision that schemes through which instruments such as agro bonds, plantation bonds, etc., are issued by the entities, would be treated as Schemes under the provisions of the SEBI Act and directed SEBI to formulate Regulations for the purpose of regulating these CISs. It was against this background that Section 11AA of the SEBI Act and the CIS Regulations came to be framed. Thereafter, several press releases and newspaper advertisements/ notices were issued by SEBI from time to time in the leading newspapers bringing to the notice of the investors and the persons concerned, the various instructions issued by SEBI/ Central Government from time to time in respect of the functioning of the CIS. The press releases further stated that instruments such as agro bonds, plantation bonds should be treated as CIS coming under the SEBI Act. All the companies having such activities were required to file information with SEBI. Moreover, general public was also informed that no person can sponsor or cause to be sponsored any new CIS and thereafter raise further funds. Meanwhile, a committee was formed to examine and finalize the draft regulations for CIS to structure a comprehensive regulatory framework. Subsequently, the notification of SEBI (Collective Investment Schemes) Regulations 1999 was issued on October 15, 1999. As per the CIS Regulations, any person who has been operating a CIS at the time of commencement of the CIS Regulations was required to make an application to SEBI for the grant of registration under the provisions of the regulation, within a period of two

months from the date of the notification. No entity was allowed to run a CIS scheme without obtaining the Certificate of Registration from SEBI.

1. Now, it is required to be determined whether the scheme of MVL is in the nature of CIS. For testing the same, the relevant provisions in this regard needs to be considered first. The definition for 'collective investment scheme' was inserted in the SEBI Act, 1992, vide the Securities Laws (Amendment) Act, 1999 w.e.f. February 22, 2000. According to the definition, CIS means any scheme or arrangement which satisfies the conditions specified in Section 11 AA of the SEBI Act, which provides as under:

"(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) or [sub-section (2A)]¹ shall be a collective investment scheme.

[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under the exemptions from CIS sub-section (3), involving a corpus amount of one hundred Crore rupees or more shall be deemed to be a collective investment scheme.]²

(2) Any scheme or arrangement made or offered by any [person]³ under which,
(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely 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."

The term "securities" in section 2(h) of the Securities Contracts (Regulation) Act, 1956 was amended vide the Securities Laws (Amendment) Act, 1999, w.e.f. February 22, 2000, to include units or any other instrument issued by any collective investment scheme to the investors in such schemes.

- m. Having discussed the above, I note that a scheme, in order to qualify as a CIS, has to satisfy all the four conditions mentioned in Section 11AA(2) of the SEBI Act:

- The first condition, under Section 11AA(2), is that the contributions or payments made by the investors, by whatever name called, are pooled and utilised for the purposes of the scheme/ arrangement. The customers of MVL are required to execute an application form, an assured return agreement and buyer's agreement. It is noted that none of these initial documents mention the exact identity/ location of the IT space

¹ Inserted by Securities Laws (Amendment) Ordinance, 2014

² Inserted by Securities Laws (Amendment) Ordinance, 2014

³ Substituted for 'company' by The Securities Laws (Amendment) Ordinance, 2014

allotted to the customer. These documents only mentions the area (in sq. ft.) and floor number.

As discussed above, the documents of two customers namely Mr. Manoj Kumar and Mr. Dinesh Chand do mention IT space numbers. However, these numbers cannot be identified in the floor plans (map) as submitted by MVL. In view of the same, it can be concluded that MVL does not identify the IT space at the time of accepting the application form. MVL in the floor plans has also not indicated the units allocated to each of its investors and only makes a mention about the investors/ clients at serial numbers 118, 119, 156 and 157.

It is an admitted fact that the construction of the project is being undertaken by MVL. From the scheme of its business as submitted by MVL and the documents furnished in this proceedings, it is noted that against the payment of consideration, the customers are allotted units in the IBC Project. MVL has undertaken to hand over the units in IBC Project to the customers after the conveyance and identifying prospective lessees for the operational convenience of its customers. It has been said that the maintenance of the common areas in the building and the project land on possession will be handed over to the 'association of allottees'. It has also been said that a 'maintenance agency' will be appointed for maintaining the IBC project after the exit of MVL.

Though MVL vide its submissions say that its IBC Project is real estate transaction, the following aspects of this project also differentiates the same from a pure real estate deal:

- the space is not identified at the time of making application;
- only 'area' is mentioned in the application;
- MVL does not state as to in which part of an undivided floor the 'area' so allotted to the customer lies (floor plan does not form part of the application form or the agreement);
- the agreement does not specify as to how the customer will take the possession/ use exclusively/ sell exclusively such unidentified space on an undivided floor.

These facts indicate that MVL pools the investment of its customers and utilizes the same for its IBC project. It is noted that the assured return agreement/ buy back assurance by MVL are all without identifying the specific IT space location in the floor as the entities are not allotted the unit number as depicted by MVL in the floor plan. At

the time of investments/ subscription by the investor/ customer, he does not know the exact location of the space he is buying, for which he is transacting with MVL.

MVL in its reply has also stated that the amount collected from the investors are utilized for its general business purpose including the construction of the IBC Project. MVL in its submissions dated February 18, 2014, has submitted that it is simultaneously implementing other real estate projects and the consideration amount received from the allottees of IT/ cyber space units is not exclusively used for the development of the IBC project. In this regard, it is observed from the submission of MVL that it has sold IT/ cyber spaces with different sizes to 232 buyers at an aggregate consideration of 54,67,39,100 under the assured return plan. Under the construction link installment scheme, as per MVL it has allotted space to 17 buyers for an aggregate amount of 11,25,98,825. Thus, a total of 65,93,37,925 (i.e. 54,67,39,100 + 11,25,98,825) has been received by it from the customers. MVL has argued that the IBC project is not funded entirely from the amount of investment taken from the investors as it has taken a term loan of 128 crore from Canara Bank and UCO Bank, for the purpose of construction.

At this stage, I note from the submissions of MVL that the banks have determined the project cost as 216 crore out of which the cost of the land (on which the project is coming up) is determined as 32 crore. Against this, MVL as per its own submissions has received only 65,93,37,925 from the customers. From the same, it can reasonably concluded that the payments received from the customers were being pooled by MVL and utilized solely for its scheme. Further, I also note that the banks have given a term loan of 128 crore for the construction against the security of "*entire assets including land, building, ..., other assets, current assets, future receivables, etc.*". A reading of the same makes it clear that MVL has created charge of banks on its assets (movable and immovable) pertaining to the IBC project, that is being sold to its investors.

In view of the above, the first condition that 'contributions or payments made by the investors, by whatever name called, are pooled and utilised for the purposes of the scheme/ arrangement, as stipulated in Section 11AA(2)(i) of the SEBI Act is satisfied.

- The second condition, under Section 11AA(2), is that 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. In this regard, I note that MVL offers assured return to its investors under the assured return plan and the same is given every month to the allottee by MVL on the contribution or investment made by the allottee till the first lease rent becomes payable. MVL in its reply has submitted that assured return plan is a type of assurance to the allottees that the premises will readily fetch rent and will give return on the investment. MVL also provides buy back option to its investors. MVL in the 'application form' has stated that it does not to give any unit no. of the space allotted, which, hints that the customers are making application only with the objective of receiving returns/ profits. Under those circumstances, it is clear that the investor makes payment with a view to receive the profits/ income/ property on their initial investments that may accrue to them as applicable, thus the second condition as stipulated in Section 11AA(2)(ii) of the SEBI Act is attracted.

- The third condition under Section 11AA(2), is that the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors. By its own admission, MVL engages contractors/ consultants for the construction activity at IBC project, as according to it the interference of more than 200 investors may create confusion/ chaos. MVL has submitted that the absolute right shall be transferred only after execution of the sale deed on completion of the project. MVL has also submitted that pursuant to the completion of the building, the maintenance/ upkeep of the buildings shall be handed over to the 'association of allottees/ owners'. From the above, it can be inferred that the IT/ cyber units are not managed by the investors at any stage of the scheme. The same satisfies the third condition as stipulated in Section 11AA(2)(iii) of the SEBI Act, however, the investors themselves have agreed to hand over the maintenance to the 'association of allottees/owners' on receiving the possession from the developer.
- The fourth condition under Section 11AA(2), is that investors do not have day to day control over the management and operation of the scheme or arrangement. As stated above, MVL is constructing the buildings and the absolute right shall be transferred to the investors only after the execution of the sale deed on completion of the project. As the construction of the IBC project is being managed by MVL, the investors do not have any role in their management. The allottees do not have any day to day control on the construction of IBC project, though in the terms of the agreement they are entitled to commercial space when it is developed. It is seen that MVL is entitled to lease the premises to any third party and the investor does not have any right to either lease the

property to any third party or to deal with the premises otherwise without the prior written consent of MVL. This makes it clear that the customer does not have day to day control over the plot of land/ property as the same remained in the custody/ use of MVL which satisfies the fourth and last condition as stipulated in Section 11AA(2)(iv) of the SEBI Act.

- n. Considering the above discussion, it can be said that the transactions between MVL and its customers are not pure real estate transactions, rather they satisfy all the ingredients of a CIS as defined under Section 11AA of the SEBI Act. In this regard, I place my reliance on the observations of the Hon'ble Supreme Court, made in the matter of *PGF Limited & Ors. Vs. Union of India & Anrs.* (Civil Appeal No. 6572 of 2004):

"Therefore, the paramount object of the Parliament in enacting the SEBI Act itself and in particular the addition of Section 11AA was with a view to protect the gullible investors most of whom are poor and uneducated or retired personnel or those who belong to middle income group and who seek to invest their hard earned retirement benefits or savings in such schemes with a view to earn some sustained benefits or with the fond hope that such investment will get appreciated in course of time. Certain other Section of the people who are worstly affected are those who belong to the middle income group who again make such investments in order to earn some extra financial benefits and thereby improve their standard of living and on very many occasions to cater to the need of the educational career of their children.

38. Since it was noticed in the early 90s that there was mushroom growth of attractive schemes or arrangements, which persuaded the above vulnerable group getting attracted towards such schemes and arrangements, which weakness was encashed by the promoters of such schemes and arrangements who lure them to part with their savings by falling as a prey to the sweet coated words of such frauds, the Parliament thought it fit to introduce Section 11AA in the Act in order to ensure that any such scheme put to public notice is not intended to defraud such gullible investors and also to monitor the operation of such schemes and arrangements based on the regulations framed under Section 11AA of the Act. ...

... ..

40. It will have to be stated with particular reference to the activity of the PGF Limited, namely, sale and development of agricultural land as a collective investment scheme, the implication of Section 11AA was not intended to affect the development of agricultural land or any other operation connected therewith or put any spokes in such sale-cum-development of such agricultural land. It has to be borne in mind that by seeking to cover any scheme or arrangement by way of collective investment scheme either in the field of agricultural or any other commercial activity, the purport is only to ensure that the scheme providing for investment in the form of rupee, anna or paise gets registered with the authority concerned and the provision would further seek to regulate such schemes in order to ensure that any such investment based on any promise under the scheme or arrangement is truly operated upon in a lawful manner and that by operating such scheme or arrangement the person who makes the investment is able to really reap the benefit and that he is not defrauded It is, therefore, apparent that all other schemes/arrangements operated by all others, namely, other than those who are governed by sub-section 3 of Section 11AA are to be controlled in order to ensure proper working of the scheme primarily in the interest of the investors.

... ..

42. Therefore, in reality what sub-section (2) of Section 11AA intends to achieve is only to safeguard the interest of the investors whenever any scheme or arrangement is announced by such promoters by making a thorough study of such schemes and arrangements before registering such schemes with the

SEBI and also later on monitor such schemes and arrangements in order to ensure proper statutory control over such promoters and whatever investment made by any individual is provided necessary protection for their investments in the event of such schemes or arrangements either being successfully operated upon or by any misfortune happen to be abandoned, where again there would be sufficient safeguards made for an assured refund of investments made, if not in full, at least a part of it.

... .. In the light of our above conclusions on this ground it will have to be held that Section 11AA is a valid provision, not suffering from any infirmity, as it does not intrude into the specific activities of sale of agricultural land and its development.

... ..

It is needless to state that as per the agreement between the customer and the PGF Limited, it is the responsibility of the PGF Limited to carry out the developmental activity in the land and thereby the PGF Limited undertook to manage the scheme/arrangement on behalf of the customers. Having regard to the location of the lands sold in units to the customers, which are located in different states while the customers are stated to be from different parts of the country it is well-nigh possible for the customers to have day to day control over the management and operation of the scheme/arrangement. In these circumstances, the conclusion of the Division Bench in holding that the nature of activity of the PGF Limited under the guise of sale and development of agricultural land did fall under the definition of collective investment scheme under Section 2(ba) read along with Section 11AA of the SEBI Act was perfectly justified and hence, we do not find any flaw in the said conclusion.

... ..

53. We, therefore, hold that Section 11AA of the SEBI Act is constitutionally valid. We also hold that the activity of the PGF Limited, namely, the sale and development of agricultural land squarely falls within the definition of collective investment scheme under Section 2(ba) read along with Section 11AA (ii) of the SEBI Act and consequently the order of the second respondent dated 06.12.2002 is perfectly justified and there is no scope to interfere with the same. In the light of our above conclusions, the PGF Limited has to comply with the directions contained in last paragraph of the order of the second respondent dated 06.12.2002"

- o.** It is noted that MVL has uniformly priced the units in 'IBC project', situated at different locations/ floors. This gives an inference that the units are being sold at a fixed price, which is generally not the practice in a real estate transaction.
- p.** At this stage, I refer to a complaint received by SEBI on May 16, 2014, wherein it has been alleged that since the year 2012, MVL has regularly defaulted on payment of agreed assured return. In another investor complaint received by SEBI on August 31, 2014, the complainant alleged that MVL is not giving the assured returns, assured rental income to its customers and that MVL has advised for cancellation of the 'buyers' agreement' and 'assured returns agreement' pertaining to IBC Project. A copy of these complaints have been forwarded by SEBI to MVL. The contents of these complaints further strengthens the observations made above that the IBC Project is not purely a real estate transaction.
- q.** In view of the foregoing, I am of the considered view that the plans/ schemes of MVL is in the nature of a CIS as all the four conditions specified under Section 11AA (2) of the SEBI Act are satisfied. I, therefore, find that the Company is engaged in the fund mobilising activity from the public by floating/ sponsoring/ launching 'collective

investment schemes' as defined in Section 11AA of the SEBI Act. Therefore, I have no hesitation in holding that MVL and its directors, viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta are engaged in the fund mobilising activity by floating/ sponsoring/ launching, unregistered/ unauthorised CIS, as defined in the Section 11AA of the SEBI Act.

10. With the above observations, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Sections 11(1), 11(4) and 11B thereof and Regulation 65 of the SEBI (Collective Investment Scheme) Regulation, 1999, hereby issue the following directions:
 - a. MVL Limited [PAN:AAF2372M] and its directors viz., Mr. Prem Adip Rishi [PAN:AGQPR9177H; DIN: 00020611], Mr. Praveen Kumar [PAN:ADQPK8192E; DIN: 01332414], Mr. Rakesh Gupta [PAN:AAJPG3712C; DIN: 00020638], Mr. Vinod Malik [PAN:ABLPM6562D; DIN: 01275161], Mr. Vinod Kumar Khurana [PAN:AAIPK7996F; DIN: 01863652], Mr. Vijay Kumar Sood [PAN:ACBPS9229G; DIN: 01325491] and Ms. Kalpana Gupta [PAN:AAGPG5434L; DIN: 02300348] shall abstain from collecting any money from the investors or launch or carry out any Collective Investment Schemes including the schemes which have been identified as a Collective Investment Scheme in this Order.
 - b. MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta, shall wind up the existing Collective Investment Schemes and refund the monies collected by the said company under the schemes with returns which are due to its investors as per the terms of offer within a period of three months from the date of this Order and thereafter, within a period of fifteen days, submit a winding up and repayment report to SEBI in accordance with the SEBI (Collective Investment Schemes) Regulations, 1999, including the trail of funds claimed to be refunded, bank account statements indicating refund to the investors and receipt from the investors acknowledging such refunds.
 - c. MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta, shall not alienate or dispose off or sell any of the assets of MVL Limited except for the purpose of making refunds to its investors as directed above.

- d.** MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta are also directed to immediately submit the complete and detailed inventory of the assets owned by MVL Limited.
- e.** In the event of failure by MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta, to comply with the above directions contained in subparagraphs (a) to (d) above, the following actions shall follow:
- i.** MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta, shall remain restrained from accessing the securities market and prohibited from buying, selling or otherwise dealing in securities market, till all the Collective Investment Schemes of MVL Limited are wound up and all the monies mobilized through such schemes are refunded to its investors with returns which are due to them.
 - ii.** SEBI would make a reference to the State Government/ Local Police to register a civil/ criminal case against MVL Limited, its promoters, directors and its managers/ persons in-charge of the business and its schemes, for offences of fraud, cheating, criminal breach of trust and misappropriation of public funds; and
 - iii.** SEBI would make a reference to the Ministry of Corporate Affairs, to initiate the process of winding up of the company, MVL Limited.
 - iv.** SEBI shall also initiate attachment and recovery proceedings under the SEBI Act and rules and regulations framed thereunder.
- f.** Without prejudice to the above, MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta are restrained from accessing the securities market and are prohibited from buying, selling or otherwise dealing in securities market for a period of four (4) years.
- 11.** This order shall come into force with immediate effect.
- 12.** Further, for the contraventions as found in this Order and the contravention of Regulation 4(2)(t) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003, SEBI may examine whether to initiate appropriate

proceedings under Sections 11(4) and 11B of the SEBI Act read with Regulation 65(e) of the CIS Regulations and Chapter VI A of the SEBI Act against MVL Limited and its directors viz., Mr. Prem Adip Rishi, Mr. Praveen Kumar, Mr. Rakesh Gupta, Mr. Vinod Malik, Mr. Vinod Kumar Khurana, Mr. Vijay Kumar Sood and Ms. Kalpana Gupta.

13. Copy of this Order shall be forwarded to the stock exchanges and depositories for necessary action.

DATE : December 19, 2014
PLACE: MUMBAI

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA