

IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 76 OF 2004

14/01/04

Securities and Exchange Board of India, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Head office at Mittal Court, B - Wing, 224 Nariman Point, Mumbai 400 021 represented by its Legal Officer, Shri Sharad Bansode.

24/01/2004

...Complainant

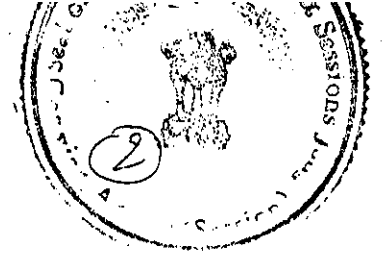
VERSUS

1. Jassowal Forests & Investments Ltd. a Company incorporated Under the Companies Act, 1956, having its Regd. Office at : Complex No. 6, Pushp Market, Near Bus Stand, Hoshiarpur-146001, Punjab.
2. Shri Malkiat Singh S/o Sh. Lachhman Singh, Director of Accused No.1, R/o:V&PO Jassowal, Distt. Hoshiarpur, Punjab.
3. Ms. Tarsem Kaur, Director of Accused No.1, R/o:V&PO Jassowal, Distt. Hoshiarpur, Punjab.
4. Shri Prem Singh Bhatoa, Director of Accused No.1, R/o:V&PO Budhipind

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Examiner	
Date	Contd. 4/08 (Sessions)

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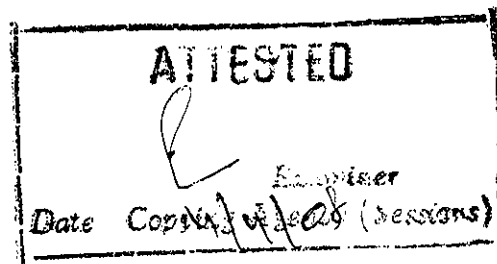


Inada, Distt. Hoshiarpur, Punjab.

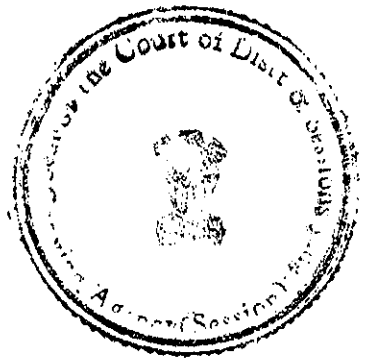
.....Accused

COMPLAINT UNDER SECTION 190 & 200 OF THE CODE OF CRIMINAL
PROCEDURE, 1973 READ WITH SEC. 24(1), 27 OF SECURITIES AND EXCHANGE
BOARD OF INDIA ACT, 1992

May It Please Your Honour:



CC No.154/2005



29.03.2008

Present: Sh. Sanjay Maan, Advocate for SEBI.

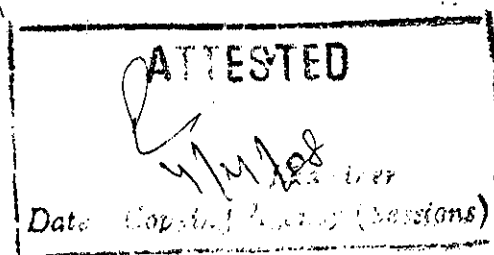
Accused nos. 2 & 3 are present on bail for self and for accused no. 1 with Sh. T.D. Shukla, Advocate.

Accused no.4 is P.O.

Vide separate Judgment of date, dictated and announced in the open court, accused nos. 1 to 3, have been held guilty under Sections 24 r/w 27 of Securities and Exchange Board of India Act, 1992.

Arguments on sentence have also been heard. Vide separate order, each one of convict nos. 1 to 3 is ordered to pay a fine in the sum of Rs.5,000/- failing which the defaulter (except convict no. 1) would undergo S.I. for one month. Out of the amount of fine, if realised, a sum of Rs.5,000/- be paid to SEBI in defraying the expenses incurred by it, in the prosecution of the present case. It is further directed that as per Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999, convict nos. 1 to 3 shall file winding up and repayment report with SEBI with in 2 months which shall be got audited by it and it would be free to initiate appropriate action, if any as per law.

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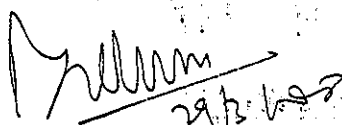


On behalf of convict no. 1 fine has been paid. Part amount of fine of Rs.3,000/- has been paid by convict no.2. An application for grant of time for payment of remaining amount of fine of Rs.2,000/- by convict no.2 and amount of fine by convict no.3, has been moved by ld. counsel for convict nos.2 and 3. Not opposed. Allowed. Put up on 3rd April, 2008 for the said purpose. Copies of judgment and order on sentence be supplied to convicts, free of cost.

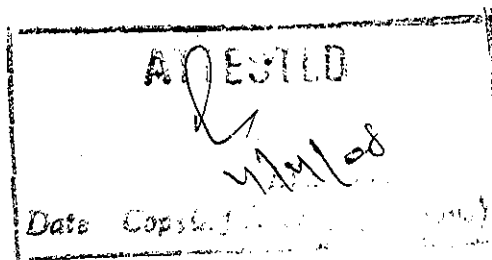
Accused is no. 4 is P.O.

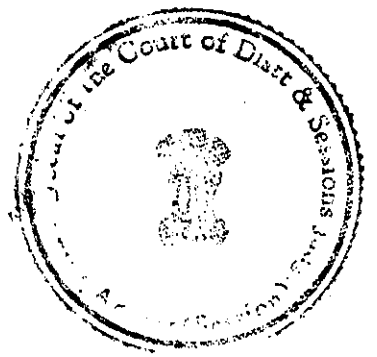
On request of Id. Counsel for SEBI the file be consigned to record room under Section 299 Cr.P.C., 1973 with a liberty to the complainant to get it reopened as and when the said accused is arrested.

Put up for deposit of fine on 3rd April, 2008.



(PADAM KANT SAXENA)
ADDL. SESSIONS JUDGE
Delhi:29.03.2008





IN THE COURT OF SH. PADAM KANT SAXENA,
ADDITIONAL SESSIONS JUDGE: DELHI.

CC No.76/04 (Old)

CC No. 154/2005 (New)

SECURITIES AND EXCHANGE

BOARD OF INDIA, (a statutory
body established under the provisions
of Securities and Exchange Board of
India Act, 1992). having its Regional
Office at Rajendra Place, New Delhi
represented by its Legal Officer,

Sh. Sharad Bansode.

.....Complainant.

Versus

1. Jassowal Forests and Investments Ltd. a

Company incorporated Under the Companies

Act, 1956, having its Regd. Office at :

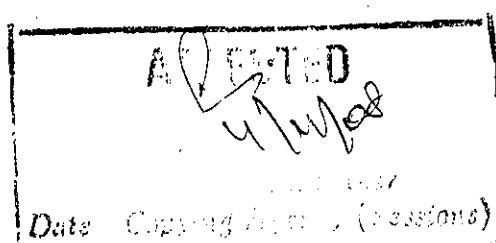
Complex no. 6, Pushp Market,

Near Bus Stand,

Hoshiarpur-146001, Punjab.

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2. Sh. Malkiat Singh,

S/o Sh. Lachhman Singh,

Occupation : Director of the Accused No. 1.

R/o: V & PO Jassowal Distt. Hoshiarpur,

Punjab.

3. Ms. Tarsem Kaur,

Occupation : Director of the Accused No. 1.

R/o: V & PO Jassowal Distt. Hoshiarpur,

Punjab.

4. Sh. Prem Singh Bhatia;

Occupation : Director of the Accused No. 1,

R/o: V & PO Budhipind Inada, Distt. Hoshiarpur,

Punjab. (Proclaimed Offender)

..... Accused

Date of Institution : 14.01.2004

Date of Final Arguments : 21.02.2008

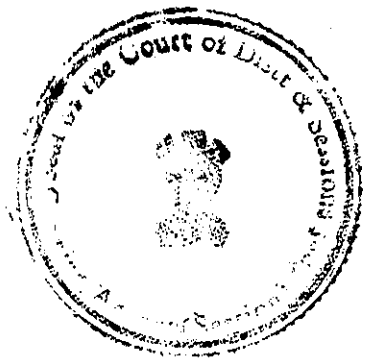
Judgment reserved on : 21.02.2008

Date of Judgment : 14.03.2008

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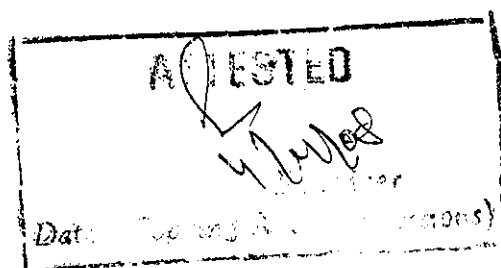
JUDGMENT

1. Accused no. 1 is a company incorporated under Indian Companies Act, 1956. Accused No. 2 to 4 are directors of accused No. 1. Accused No. 3 is a woman and aged about 74 years of age. As such she is a senior citizen also.

2. The complaint case in question was filed by M/s Securities and Exchange Board of India (for short referred to as 'SEBI'). As per section 12 (1B) of Securities and Exchange Board of India Act, 1992 (for short referred to as the 'SEBI Act, 1992') no person could collect money under Collective Investment Schemes (for short referred to as 'CIS') without getting it registered. Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (for short referred to as 'CIS Regulations') came into force w.e.f. 15.10.99.

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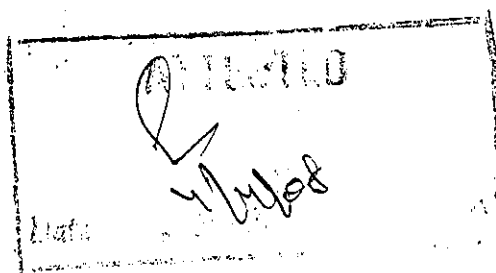
3. After filing of complaint before Id. ACMM, Delhi, notices were issued to the accused.

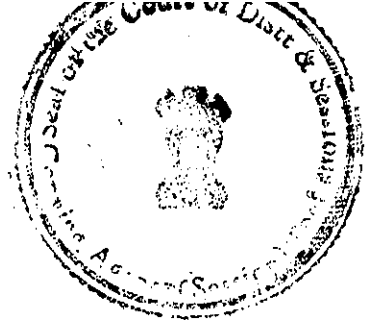
4. In pursuance of order no. F.3 (4)/ADJ/75650 dated 04.12.2004, passed by Id. District and Sessions Judge, Delhi, the complaint case in question came to be transferred to this court by Id. ACMM, Delhi vide order dated 02.04.2005.

5. Accused No. 4 is a proclaimed offender while remaining accused have been facing trial.

6. Notice of accusation was given to accused no.1 to 3 by Id. predecessor of this court on 23.02.2007 to which each one of them pleaded not guilty and claimed trial.

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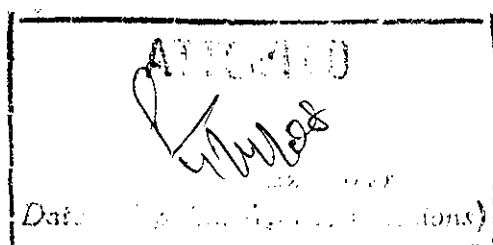
7. On behalf of SEBI, Sh. Aman Jain entered the witness box and examined himself as CW.1. He proved certified copy of the delegation of powers as Ex.CW1/13. CW.1 also proved various other documents namely Ex.CW1/1 to Ex.CW1/12. Thereafter ld. counsel for SEBI closed his evidence. This solitary witness also deposed about various facts on the lines of the averments made in the complaint.

8. Thereafter statements of the said accused no. 1 to 3 were recorded under Section 313 Cr.P.C., 1973. Accused no. 2 on his behalf and on behalf of accused no. 1 in his said statement also admitted various aforesaid incriminating facts and documentary evidence. In support of their defence, no witness has been examined by accused.

9. Now let us analyse the evidence available on the record of this case. As already stated, CW 1 Aman Jain apart from his oral deposition had also proved various

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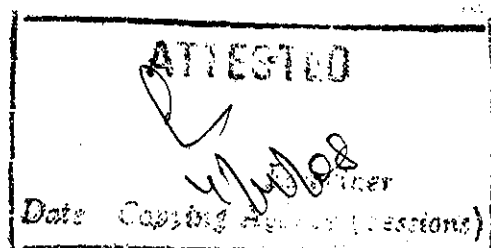
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documents as Ex. CW-1/1 to Ex. CW-1/12. Accused no. 1 came to incorporated on 19.06.97 and it commenced its business w.e.f. 28.7.1997 as per the Memorandum and Articles of Association, annexed with Ex.CW-1/2 dated 25.5.98 which was sent on behalf of accused no. 1 and was signed by accused no. 2 as its director. The first annexure appended to Ex. CW1/1 which was also signed by accused 2, gave names of accused nos. 2 to 4 as directors of accused no. 1. Similarly Ex. CW1/3 dated 18.8.98 was also sent on behalf of accused no. 1 by accused no. 2 stating that no new CIS would be floated and no funds were being mobilized under the existing schemes. According to CIS Regulation 73 (2) within 2 months of the intimation from SEBI, accused no. 1 had to circulate memorandum to investors. Also according to CIS Regulations accused no.1 had to obtain registration of its existing CIS and in case of its failure to do so, CIS had to be wound up, repayments made to investors and winding up and repayment report (for short referred to as 'WRR') had to be filed with SEBI as per CIS Regulations 73 and 74. Now accused no.1 was intimated of

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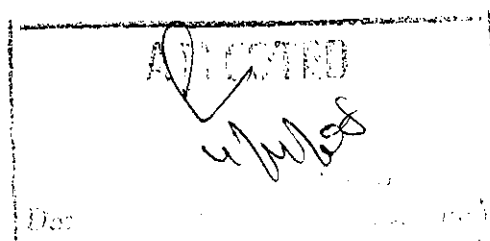


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the said relevant CIS Regulations by SEBI vide letters dated 10.12.1999 Ex.CW-1/5 and dated 29.12.1999 Ex.CW-1/6. Even show cause notice dated 12.05.2000 Ex.CW-1/8 was sent to accused no. 1. Directions dated 10.12.1999 Ex. CW-1/7 of Chairman SEBI issued under Section 11 B SEBI Act, 1992 to the aforesaid effect, were also published in the newspaper on 14.01.2001 vide public notice. Since accused no.1 failed to comply with the said directions, its name also appeared in the public notice at serial no. 223 in Ex.CW-1/12. CW.1 had further deposed that as per the intimation given by accused no.1, Shri Malkiyat Singh, Smt. Tarsem Kaur and Shri Prem Suri Bhatia were its directors and therefore incharge of its affairs. The said persons are accused nos. 2 to 4 before this Court. There is no challenge by the accused to the said sworn testimony of CW.1 Sh. Aman Jain including the aforesaid documents except putting up of only vague suggestion to the effect that accused nos. 3 & 4 had been falsely implicated in this case and that they had done nothing wrong, which was claimed by CW 1to be incorrect.

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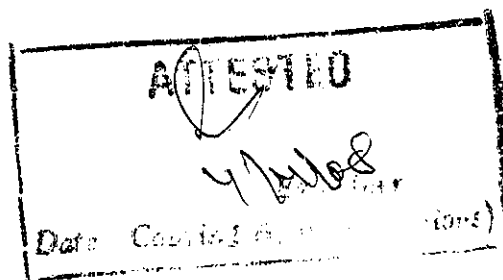


10. According to counsel for SEBI, the aforesaid evidence has clearly proved on record that accused no.1 is liable for breach of 12 (1B) SEBI Act, 1992 and CIS Regulations and as such is punishable under Section 24 SEBI Act, 1992. Further according to him, in view of Section 27 SEBI Act, 1992, accused nos.2 to 4 who are directors of accused no.1 are also liable to be punished.

11. The aforesaid discussion would reveal that as per admission of accused no.1 as contained in its own documents Ex.CW-1/1 to Ex.CW-1/3 it had been running CIS and did not get the same registered. Further, despite coming into force of CIS Regulations and intimation about the relevant CIS Regulations viz. 73, 74 etc. by SEBI to accused no. 1, neither it intimated about repayment to its investors nor filed WRR with SEBI. However, SEBI has failed to prove the amount, if any, mobilized by accused no.1 and during the course of arguments this fact was

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admitted even by Id. Counsel for SEBI. Admittedly, as per the annexure appended to Ex.CW-1/2, accused nos. 2 to 4 were directors of accused no.1. Mere assertion of accused no.3 in her statement under Section 313 of the Criminal Procedure Code, 1973 to the effect that she was not involved in day to day affairs of accused no.1 does not have any value particularly when it has remained unproved by way of evidence.

12. So in view of Section 27 SEBI Act, 1992 accused no.1. company and accused nos. 2 and 3 being its directors are liable for the aforesaid breaches. Hence they are liable to be punished under Section 24 of SEBI Act, 1992.

Dictated and announced

in the open court

today i.e. on 24.03.2008

[Signature]
29/3/08

(PADAM KANT SAXENA)

ADDITIONAL SESSIONS JUDGE:

DELHI.

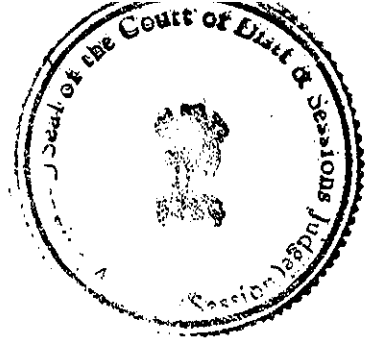
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in the Court of Sec. 313
24/3/08
24/3/08

marked for

[Circular Stamp] RTI of Tarsem Kaur

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ATTESTED
[Signature]
24/3/08



IN THE COURT OF SH. PADAM KANT SAXENA,
ADDITIONAL SESSIONS JUDGE: DELHI.

CC No. 154/2005 (New)

SEBI Versus Jassowal Forests and Investments Ltd. a

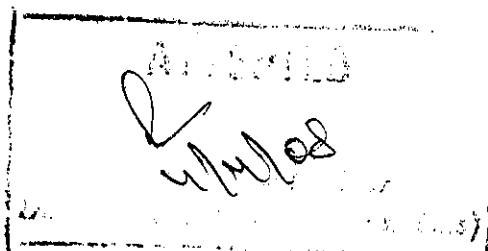
ORDER ON SENTENCE

Vide separate judgment passed today, accused nos. 1 to 3, have been held guilty under Sections 24 r/w 27 of Securities and Exchange Board of India Act, 1992.

Arguments on sentence have been heard. Id. Defence Counsel has prayed for a lenient view in the matter on the ground that no money had been mobilized by them and they have been facing trial for a long time. On behalf of convict no. 3, it has been additionally argued that she is a senior citizen and a woman.

As discussed in the judgment, convict nos. 2 & 3 being directors of convict no. 1, had been running collective investment schemes. It has also been held in the said judgment, that the said schemes were not got registered despite enforcement of Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999. Further as required by the said Regulations,

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winding up and repayment report was also not filed with SEBI.

In exercise of my powers under Section 24 of Securities and Exchange Board of India Act, 1992, each one of convict nos. 1 to 3 is ordered to pay a fine in the sum of Rs.5,000/- failing which the defaulter (except convict no. 1) would undergo S.I. for one month. Out of the amount of fine, if realised, a sum of Rs.5,000/- be paid to SEBI in defraying the expenses incurred by it, in the prosecution of the present case. It is further directed that as per aforesaid Regulations convict nos. 1 to 3 shall file winding up and repayment report with SEBI within 2 months which shall be got audited by it and it would be free to initiate appropriate action, if any as per law.

Dictated and announced
in the Open Court
today i.e. on 29.03.2008

[Signature]
29/3/08

(PADAM KANT SAXENA)
ADDITIONAL SESSIONS JUDGE:
DELHI.

Copy given to convict
in the Court at 9.00 am
29.03.08
29.03.08

Mukesh Singh

[Signature] RTI of Tansam Kaur

Office of the District & Sessions Judge	
Delhi	
Certified to be True Copy	
Date	29/03/08
By	<i>[Signature]</i>
Authorised Officer (Sessions)	
In witness whereof	