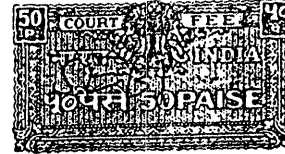
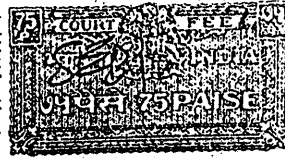


in the court of Mr. Ashu Mehta, AS J, Delhi.



IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 1724 OF 2003

16/12/03

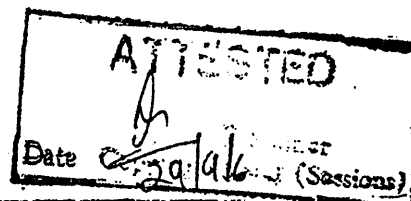
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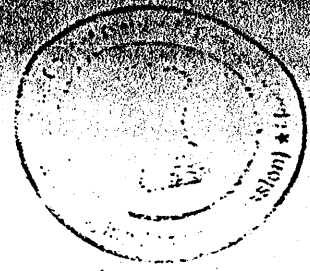
Securities and Exchange Board of India, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Head office at Mittal Court, B - Wing, 224 Nariman Point, Mumbai 400 021 represented by its Asst. General Manager, Rakesh Bhanot.

...Complainant

VERSUS.

1. Rajshree Agricultural Private Ltd. a Company incorporated under the Companies Act, 1956 and having its Regd. office at : 887, Janta Flats, Nand Nagri, Delhi. 110093 and having its corporate office at: 419, Ansal Chambers -II, Bhikaji Cama Place, New Delhi. And having its office at: 1977, Ganjmeer Ganj, New Delhi.
2. Shri Redhey Shyam S/o Bishan Dayal, Director of accused No.1, R/o: 532-A, Gali: Khokhrewali, Lado Sarai, Main Meharuli Road, New Delhi.
3. Dr. Pardeep Sharma S/o Shri Inder





Sharma, Director of accused No.1, R/o:  
887, Janta Flats, Nand Nagri, Delhi

.....Accused

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

ATTESTED  
*[Signature]*  
Date 29/9/16 (Sessions)

ASJ : 25.9.06

26.9.06

Present : A-2 & 3 on bail also for A-1.

Vide separate orders, accused have been found guilty of the offence punishable under Section 24(1) read with section 27 of the SEBI Act, 1992. They are heard on quantum of sentence.

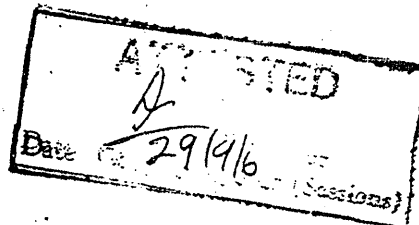
Vide separate orders the accused company Rajshree Agricultural Pvt. Ltd. and its directors accused Radhey Shyam and accused Dr. Pradeep Sharma are sentenced to a fine of Rs.5,000/- each. On failing to pay the fine accused Radhey Shyam and accused Pradeep Sharma shall undergo SI for three months.

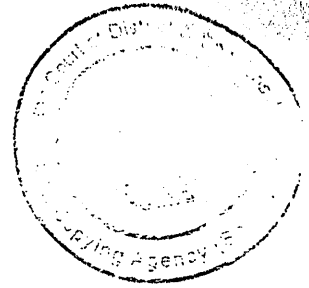
On deposit of fine the personal bonds and surety bonds of accused shall stand cancelled and sureties are discharged.

File be consigned to the records.

Announced in open  
Court on 26-9-06

Asha Menon  
ASJ : 26.9.06  
(ASHA MENON)  
Addl. Sessions Judge





IN THE COURT OF MS. ASHA MENON: ASJ: DELHI.

CC NO.134/2005

SECURITIES & 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 Asstt. General Manager, Rakesh Bhanot.

... Complainant

VS.

1. Rajshree Agricultural Private Limited  
Incorporated under the companies Act, 1958, having  
its registered Office at 887 Janta Flats, Nand Nagri Delhi-110 093  
and having its corporate office at 419 Ansal Chambers II, Bhikaji  
Cama Place New Delhi and having its office at 1977, Ganj Meer  
Ganj, New Delhi.

2. Sh. Radhey Shyam S/o Bishan Dayal, Director of accused no.1,  
R/o 532A, Gali Khokhre Wali, Lado Sarai, Main Mehrauli Road,  
New Delhi.

3. Dr. Pradeep Sharma, S/o Inder Sharma, Director of accused no.1,  
R/o 887, Janta Flats Nanad Nagari, New Delhi.

.... Accused

### JUDGMENT:

#### BACKGROUND FACTS:

1. The complaint has been filed by the Securities and Exchange Board of India (hereinafter referred to as the SEBI) for short, alleging violation of the SEBI (Collective Investment Schemes) Regulations, 1999.

2. To give a brief background to the case, the Government of India had set up the SEBI under the Securities and Exchange Board of India Act, 1992. The Act itself was brought into existence with the aim of protecting investor interests, in the backdrop of large

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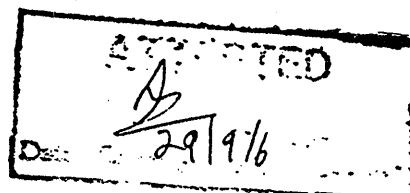
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ATTESTED  
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Date

scale floating of plantation and agro bonds by companies with no financial viability. The uncontrolled proliferation of such companies led to the duping of lakhs of gullible people who lost their money by investing in such non-viable projects.

3. This prompted the Government to intervene and the SEBI Act came into force, under which SEBI itself was established. The SEBI has the obligation to regulate the securities and stock market and has been vested with extensive powers to discharge these obligations. Various offences have been created with prescribed penalties. adjudicatory authorities have been created to deal with violations. The SEBI is required to file a criminal complaint just as this one, to commence prosecution of the violators.

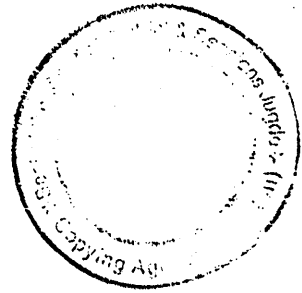
4. In order that the provisions of Section 12 (1B) of the SEBI Act were to be given effect to the government announced its intentions to bring out regulations in respect of Collective Investment Schemes specifically. It issued a public notice to this end on 26.11.1997 and 18.12.1997. Under the provisions of Section 12 of the SEBI Act, 1992 those entities which had been operating Collective Investment Schemes immediately prior to coming into effect of the provisions were given two month's time to apply for registration. By means of the public notice/press release, SEBI required all those interested in benefiting under the provisions of Section 12, to furnish all details about the company and the



schemes and the amounts mobilized etc. to the SEBI.

ALLEGATIONS IN THE COMPLAINT

5. The accused company had in response to the press release/public notice, apparently furnished their details to the SEBI. The SEBI (Collective Investment Scheme) Regulations were notified on 15.10.99. The SEBI asked all companies dealing with Collective Investment Schemes to issue information memorandum to all investors detailing the state of affairs of the schemes, the amount repayable to each investor and the manner in which such amount was determined. This was to be sent by 28.2.2000. This date was extended to 31.3.2000.
6. Under the regulations of 1999, 73(1) those existing Collective Investment Schemes which had not applied for registration, were required to wind up their schemes and repay the investors. Under regulation 74 those entities which were not desirous of registering with the SEBI even provisionally were also obliged to draw up and formulate a scheme for repayment and make the repayment in terms of the regulation 73.
7. The allegation in the complaint is that the accused neither applied to the SEBI for registration nor took steps to wind up the schemes and repay the investors. Therefore, the SEBI Chairman directed the accused vide orders dated 7.12.2000 that they refund the money collected within a month in terms of the original offer.



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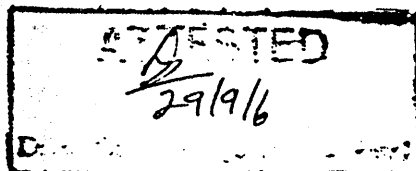
Yet, and despite repeated directions of the SEBI, the accused failed to comply with the regulations, as stated in the complaint.

8. On these allegations the SEBI submitted in the complaint that the accused had violated Regulations 68(1), 68(2), 73 & read with Regulation 5 (1) of the SEBI Regulation 1999 read with Section 11B & 12(1B) of the SEBI Act, 1992 punishable under Section 24 read with Section 27 SEBI Act, 1992. Vide orders dated 16.12.2003, the accused Rajshree Agricultural Private Limited, Radhey Shyam and Dr. Pradeep Sharma were summoned to appear for trial for these violations.

9. On their appearance notice of allegations were served upon the accused under Section 251 Cr.P.C to which they pleaded not guilty. The complainant examined Sh. Rakesh Bhanot as his witness.

#### EVIDENCE

10. Sh. Rakesh Bhanot, AGM was examined as CW-1 on behalf of the SEBI. During his testimony he has brought on record the letter dated nil sent by the accused to the SEBI which was received by SEBI on 15.1.98 as Ex.CW1/1. The letter contained the names of the directors/promoters. It also contained the information that the company had raised about Rs.5,00,000 - under their different schemes. The letter contained the terms and conditions of the Schemes launched by the company promises and



11. He further deposed that the SEBI had sent various letters to the accused company informing it about the requirements under the regulations and which were returned undelivered to the SEBI. He brought on record all the undelivered letters along with their envelopes. He also deposed that when show cause notice dated 12.5.2000 was issued, that was also returned undelivered. He deposed that the format for winding up was also sent to the accused company and once again the communication returned undelivered to the SEBI. He deposed to the public notice issued in the Hindustan Times listing the accused company at serial no.353. He deposed to the non-compliance despite the public notice, by the accused company and the accused directors till the filing of the complaint.

29/9/16



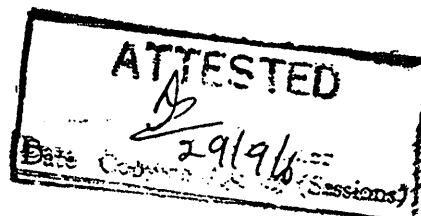
company was completely under the control of Sh. B.B. Sharma. The witness admitted as correct that many cases were pending against B.B. Sharma including police cases but he was not aware whether B.B. Sharma was in custody at Tihar Jail. The witness was unable to affirm or deny that the signatures on Ext.CW1/1 did not belong to accused Radhey Shyam.

13. The accused Pradeep Sharma also cross-examined this witness. The witness denied the suggestion that the accused had been only an employee of Hoffland Finance Ltd and had no concern with the affairs of accused no.1. He denied the suggestion that the accused had not been incharge of the affairs of the company or that he was not a director of the company.

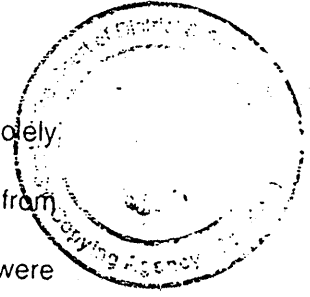
14. The statements of the accused were recorded under Section 313 Cr.P.C. They submitted the certified copy of form 32 from the ROC in defence.

CONTENTIONS:

15. The Learned Counsel for the SEBI Sh. Sanjay Mann has argued that the complainant had fully proved the case against the accused. He has submitted that it was the accused which had provided details of its directors and the collections made under its schemes. He has argued that the accused failed to repay the investors and submit the winding up and repayment report with the SEBI. He has submitted that the accused failed to inform the SEBI



about the change in their address and so the accused were solely responsible for not being able to receive the communications from the SEBI. Learned counsel has submitted that the accused were therefore, fully liable for the defaults committed.

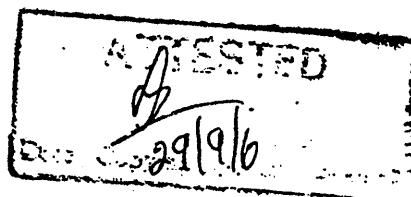


16. The Learned counsel argued that the public notices issued by the SEBI would have also sufficed to bring to the notice of the accused that there were several requirements that were to be met under the regulations. It has been argued that in these circumstances, lack of knowledge was not a plea available to the accused. It has been argued that the accused had raised Rs.5,00,000/- but it could have been more. It has been submitted that the accused could not claim that they had no responsibility even assuming they had lent their name to the company, since they would have done so for some profit. Thus keeping in mind the purpose of the enactment the default of the accused had to be viewed seriously and the accused convicted and punishable.

17. On the other hand, the Learned Defence Counsel Sh.T.S. Upadhyay has submitted that the accused were innocent. It has been pointed out that none of the accused had been served with any communication and were thus in the dark about the regulations. Learned counsel has submitted that on the basis of the form 32 certified copy of which had been placed on record by the accused it was apparent that the accused were never directors of the accused

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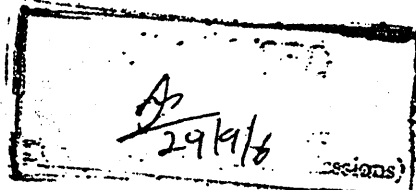
no.1. The Learned Counsel has submitted that neither accused no.1 nor accused no.3 had signed the letter Ext.CW1/1. Learned counsel has submitted that the business had been conducted by one B.B. Sharma and the accused had been only his employees and could not be saddled with the responsibilities under the regulations of the SEBI. Hence he has prayed that the accused be acquitted.

FINDINGS:

18. Before proceeding to the merits of the case I consider it appropriate to call for the record of ROC in order to ascertain the role of B.B. Sharma in the company since both the accused had claimed that they were only his employees and since it was submitted that B.B. Sharma was facing several prosecutions even under the penal code. Sh. K.G. Mathur from the ROC produced the record finally on 22.9.06 and I have perused the same.

19. The record of the ROC does not come much to the aid of the accused. From a perusal of ROC record, it appears that Sh. Ramesh Kumar Murolia and Smt. Roopa Devi Murolia were the first directors as per the articles since incorporation. The company was incorporated vide certificate of incorporation issued on 24.4.1996.

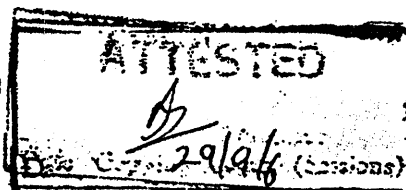
AN The form 32 had been submitted however, on 15.4.96. The next change intimated to the ROC, it appears, was vide letter dated 13.3.97 under the signature of N.C. Pandey described as director.



As per the form 32 submitted on 30.3.97 Ramesh Kumar Muroli and Roopa Devi Muroli are stated to have resigned on 12.3.97. As per this form 32 Mr. Vinod Pant and Mr. N.C. Pandey were appointed as "additional" directors on 1.3.97. There are no other documents to show any change in the constitution of the Board of Directors of the company.

20. It is no doubt true that on the basis of the records produced by the ROC the date of appointment of accused no.2 Radhey Shyam and accused no.3 Dr. Pradeep Sharma to the Board of Directors remains unknown. However, Ext.CW1/1 was received by the SEBI on 15.1.1998 and in this letter the names of the accused no.2 and 3 have been mentioned as "present" directors. It is the obligation of the company to intimate to the ROC any change that takes place in the Board of Directors. If the ROC records have not been updated no presumption can be drawn that the accused Radhey Shyam and Pradeep Sharma have been wrongly described in Ext.CW1/1 as the present directors.

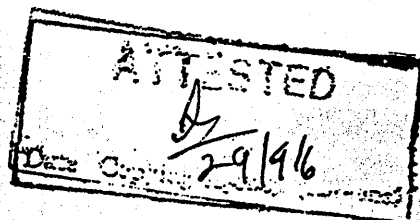
21. Moreover, the accused Radhey Shyam has himself admitted in his statement u/s 313 Cr.P.C that he had been joined as director in this company but claimed that it had been done so in an informal way. It was for him to have proved this claim as required under the proviso to Section 24(1) SEBI Act, 1992. Neither he nor accused Dr. Pradeep Sharma have placed on record

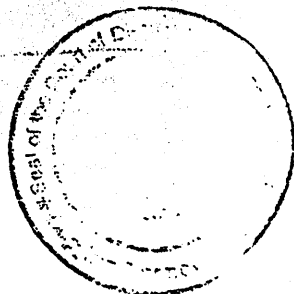


convincing and cogent evidence which ought to have been available to them to prove that their status in the company had been only that of an employee. Except for their statements made u/S 313 Cr.P.C. no documentary proof of employment has been produced and proved. They have only relied on the form 32, which as discussed herein above does not help prove their claim.

22. The accused Rahdey Shyam has denied the signatures on Ext.CW1/1 and its annexures. The alphabet "R" and the word "Shyam" can be easily discerned from the signatures appended to Ext.CW1/1 and the annexures. However, the accused has signed only in Hindi on the vakalatnama and statements. That may or may not have been a clever device, however, much need not be made of it. Suffice it to note that when both accused claim to have been employees of the accused company neither of them could specify who could have signed Ext.CW1/1. Thus the denial of the signatures to my mind will not suffice to extricate the accused from the admission of their status qua the accused company as made in this communication to the SEBI.

23. The accused were aware of the intention of the Government to regulate business of Collective Investment Schemes. It was in response to the first public announcement that the accused had sent their letter Ext.CW1/1 to the SEBI. The accused had informed the SEBI themselves that they had





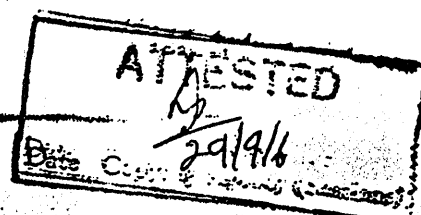
collected Rs.5,00,000/- through their Collective Investment Schemes. Assuming that the accused had not received the communications sent by the SEBI in the name of the accused company; they ought to have responded to the public notice in newspapers where the name of the company was mentioned clearly. Neither accused has disclosed when the company had stopped functioning. There is no fact on the basis of which this Court can therefore, conclude that the accused were truly unaware of the requirements under the regulations of 1999.

24. The accused are not ignorant rustics roped in by some scheming cheat. Even as per their own case they were known to who ever was floating this company and had voluntarily participated as directors. Their background even as per their own claims, was with other companies, may be belonging to one B.B. Sharma. It was for the accused to have proved that during the course of such other employment they had had no exposure to company matters familiarizing them with the requirements of law in respect of the business of companies.

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A blanket denial and claim of ignorance does not stand the test of unsullied evidence on which the court could rely completely and so conclude that the accused were innocent.

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In the absence of such cogent evidence no such inference can be drawn in favour of either accused, in the face of the documentary proof comprised in Ext.CW1/1.

25. In the totality of the circumstances and on the basis of the evidence that has come on record it has to be concluded that the accused no.2 and 3 being directors of accused no.1 and the accused no.1 had failed to comply with the requirements under the regulations of 1999 and had failed to submit the repayment report and the winding up report to the SEBI to confirm with the SEBI that their CIS had come to a close and all investors had been duly repaid as per the promised offers.

CONCLUSION:

26. I, therefore, hold the accused company Rajshree Agricultural Private Limited, its Directors/accused Sh. Radhey Shyam and Dr. Pradeep Sharma guilty for the violations of Regulation 5(1) read with Regulations 68(1), 68(2), 73 & 74 of the SEBI (CIS) Regulations 1999 read with Section 24 r/w S.27 of the SEBI Act 1992. They are entitled to be heard on sentence.

Announced in the Open Court.

Dated: 26.9.06

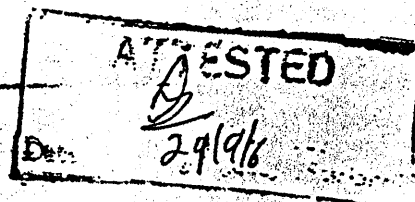
Ashash Menon  
(ASHA MENON)

Addl. Sessions Judge:  
Delhi.

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in open court at POC  
26/9/06*

*16/11/06  
26/9/06*

*Dr. J. J. J.  
26/9/06*



IN THE COURT OF MS. ASHA MENON: ASJ: DELHI.  
CC NO.134/2005

SEBI VS.

RAJSHREE AGRICULTURAL PVT LTD & ORS.

ORDER ON SENTENCE:

I have heard both the accused on point of sentence. They have both stated that they were not responsible as directors since they were only employees. This matter has already been dealt with by me in the judgment.

The accused have been found responsible for discharging the obligation under the regulations of 1999. There is nothing to show that the money collected by the accused company has been refunded to the investors. There is also nothing to show that the SEBI had been at some point of time informed about such repayment. Neither accused have placed on record any material to show that the company was still continuing its business with some other Board of Directors.

In the circumstances, I sentence all three accused for the violation punishable under Section 24(1) read with section 27 of the SEBI Act, 1992.

I sentence the accused Rajshree Agricultural Pvt. Ltd., accused Radhey Shyam and accused Dr. Pradeep Sharma to a fine of Rs.5,000/- each. On failing to pay the fine accused Radhey Shyam and accused Pradeep Sharma shall undergo SI for three months.

On deposit of fine the personal bonds and surety bonds of accused shall stand cancelled and sureties are discharged.

File be consigned to the records.

Announced in the Open Court

Dated: 26.9.06.

*Asha Menon*  
(ASHA MENON)

Addl. Sessions Judge: Delhi.

*Copy sent to accused  
in open court at POC  
26/9/06*

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*W.S. 26/9/2006*

*26/9/06*

