

IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 13/ OF 2004

14/01/04

62401RS17-09/02/04

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.

...Complainant

VERSUS .

1. Sai Cultivators (P) Ltd. a Company
incorporated Under the Companies
Act, 1956, having its Regd. Office at
:128/323, Y Block, Kidwai Nagar,
Kanpur-U.P.
2. Shri A.K. Sharma, Director/Promoter of
Accused No.1, R/o: 128/323, Y Block,
Kidwai Nagar, Kanpur-U.P.
3. Ms Uma Sharma, Director/Promoter of
Accused No.1, R/o: 128/323, Y Block,
Kidwai Nagar, Kanpur-U.P.

.....Accused

COMPLAINT UNDER SECTION 190 AND SECTION 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:

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23/3/10

SD

CC No.20/09


SEBI Vs. Sai Cultivators (P) Ltd.

24.04.2009

Present : Sh. Yogesh Chauhan, proxy counsel with Sh.
Pradeep Kumar, Legal Officer for SEBI.

Accused are PO.

Statement of CW-1 Sh. Manish Vashisht recorded
under Sec. 299 CrPC. File be consigned to record room under
sec. 299 CrPC. SEBI is at liberty to get it revived as and when
accused persons are traceable.


(PRATIBHA RANI)
ASJ-01(Central)/Delhi

23/3/10

(31)

CC No.20/09

SEBI

vs

Sai Cultivators (P) Ltd

C.W.1 Sh. Manish Vashist, AGM, SEBI, 5th floor, Bank of Baroda Building, Parliament Street, New Delhi on S.A.

I am working as AGM, SEBI and competent to continue the present case on behalf of SEBI by virtue of delegations of powers dated 21.4.2003 wherein officers of the rank of Manager or above are empowered to act as complainant on behalf of SEBI. Photocopy of the delegation of powers is Ex.CW1/1. (Original seen and returned). During the year 1997-98 large number of companies had floated Collective Investment Schemes (CIS) and the Govt. Of India vide Press release dated 18.11.1997 directed that all the CIS would be governed under Sec. 11(1) of SEBI Act. Thereafter SEBI issued press release dated 26.11.1997 and 18.12.1997 interalia called upon such entities to file information about the Promoters and Directors of the Companies, number and name of schemes and funds mobilized therein under those CIS. This information was called upon from all entities who were desirous of taking benefit u/s 12(1)(b) of SEBI Act.

Manish

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Accused No.1 – company in pursuance thereof filed names of promoters, details of Scheme with assured return and amount received in all the schemes and registered office address of accused No.1. This letter was signed by the Sh. A.K. Sharma, Director of the Company. As per information filed by the company vide letter dated 12.1.1998 Sh.A.K. Sharma and Uma Sharma were shown to be the promoters and Persons Incharge of day to day affairs of accused No.1. The letter dated 12.1.1998 is Ex.CW1/2 (2 pages). Vide letter dated 20.4.1998 accused No.1 filed certain additional information. The letter is Ex.CW1/3. Vide letter dated 29.7.1998 accused No.1 sought some more time to comply with the directions of SEBI. The letter is Ex.CW1/4.

On 15.10.1999 SEBI CIS Regulations, 1999 were notified and intimation of the same was sent to accused No.1 vide letter dated 21.10.1999, which was received back undelivered. The same is Ex.CW1/5. The statutory requirements/obligations caused upon such entities who were running CISs were communicated to all such entities vide public notice dated 10.12.1999, published in Hindustan Times on 19.12.1999 and other national newspapers. The copy of the Public Notice is Ex.CW1/6. (original seen and returned).

The statutory obligations under the CIS Regulations,

23/3/10

1999 were also intimated to the accused No.1 through specific letter dated 10.12.1999 and also through letter dated 29.12.1999, both these letters were received back undelivered. The same are Ex.CW1/7 and 8. Since the accused No.1 and other accused did not comply with the requirements under the SEBI CIS Regulations, show cause notice dated 12.5.2000 was sent to accused No.1 and the same was also received back undelivered with AD card. The same is Ex.CW1/9. Under the CIS Regulations, the accused No.1 and persons Incharge of the company i.e. Accused No.2 and 3 were required to either obtain registration from SEBI for their CISs or in failure were required to repay the investors with returns promised as per the their original offer documents, and file winding up their schemes as prescribed under Regulation 73 and 74. The accused did not file any reply to the show cause notice and thereafter SEBI vide letter dated 31.7.2000 forwarded the format of winding up and repayment report for compliance. The said letter returned 'undelivered' with AD card and the same is Ex.CW1/10. Accused did not file any winding up and repayment report with SEBI and as such directions u/s 11(b) of SEBI Act were issued against accused No.1 and the persons Incharge of accused No.1 vide order dated 7.12.2000. The said directions were forwarded to accused No.1 vide letter dated 18.12.2000 and the same was

Hand

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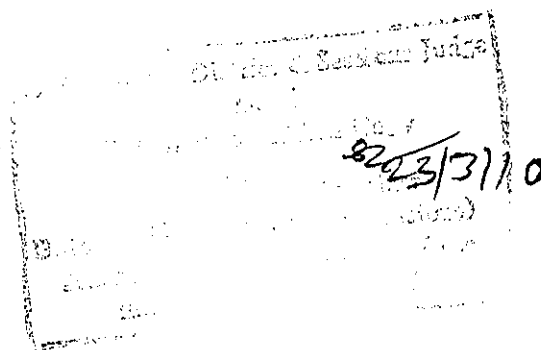
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received back undelivered. The returned envelope is Ex.CW1/11. Since the letters have returned undelivered, the directions u/s 11(b) were communicated to the accused vide public notice published on 14.1.2001 and the same is Ex.CW1/12. (Original seen and returned). The name of accused No.1 company is mentioned at Sl. No.382 at point mark A. Accused No.1 and remaining accused did not take permission/registration from SEBI for sponsoring and causing to be sponsored CISs prior to starting mobilization etc. Accused never obtained registration from SEBI for their CISs. Till date accused persons have not filed any winding up report in compliance of directions u/s 11(b) of SEBI Act or SEBI CIS Regulations, 1999.

RO&AC

24.4.2009

(PRATIBHA RANI)
ASJ-01(Central)/Delhi



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