

BEFORE THE RECOVERY OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

Certificate No. 0436 of 2014

Defaulter: M/s Four Season Farms Limited

Cello Infrastructure Private Limited.....Applicant

ORDER UNDER RULE 11 OF THE SECOND SCHEDULE TO THE INCOME-TAX ACT, 1961 READ WITH SECTION 28A OF THE SEBI ACT, 1992 IN THE MATTER OF FOUR SEASON FARMS LIMITED.

BACKGROUND:

1. Securities and Exchange Board of India (SEBI) vide order dated February 13, 2002 directed M/s Four Season Farms Limited (hereinafter referred to as “**Defaulter**”) to refund Rs.15.20 crore collected in violation of SEBI (Collective Investment Schemes) Regulations, 1999 together with assured returns, interest, cost, etc. to the investors.
2. Since the Defaulter failed to refund the monies so collected, as directed by SEBI, recovery proceedings were initiated by SEBI against the Defaulter under Recovery Certificate No. 436 of 2014 dated September 19, 2014. A Notice of Demand dated September 19, 2014 was issued to the Defaulter directing them to make the payment of the aforementioned amount within 15 days and vide Notices of Attachment dated September 19, 2014, the bank/demat accounts and mutual fund folios of the defaulter were attached.
3. In spite of the said notices, the Defaulter failed to pay the entire dues and the amount available in the bank/demat accounts of the Defaulter was insufficient to pay the entire dues, as detailed in the Recovery Certificate No. 436 of 2014. Therefore, the Recovery Officer, SEBI vide Prohibitory order dated November 21, 2014 under section 28A of SEBI Act, 1992 read with Rule 16 and 48 of the

Second Schedule of the Income-tax Act, 1961, prohibited the Defaulter from disposing, transferring, alienating or charging in respect of:

a. *“all the immovable properties held by the Defaulter including the following:*

i. *17 flats in Vasundhara Building, situated at Plot No. 620 (Pt), Bengali Compound, behind Minaxi Tower, Gokuldharm, Goregaon (East), Mumbai – 400063*

ii. *252.06 acres of agricultural land at Taluka: Mahad and Mangaon with approx. 500 cashew trees and 40,000 teakwood trees.*

iii. *Prawns Hatchery Plant at Village: Kothrude, Taluka: Mahad District: Raigad*

b. *All other movable properties held by the Defaulter.”*

4. Further, the abovementioned Prohibitory Order dated November 21, 2014 also directed the Defaulter to furnish the following:

a. *“complete details of all the movable and immovable properties held by the defaulter and charges, if any thereon in the format prescribed in the Annexure, duly certified by the Board of Directors within one week from the date of this order.*

b. *copies of all the title deeds, valuation reports of all the properties held by it within two weeks from the date of this order.*

c. *list of all schemes floated by the defaulter along with brochure/ scheme information document for each of the schemes and details of all activities undertaken under each of the schemes within two weeks from the date of this order.*

d. complete list of all investors along with address, telephone number, bank details, details of investments, the amounts due in each of the schemes etc., both in electronic and physical form within one month from the date of this order."

5. At this point of time, the Defaulter challenged the said recovery proceedings initiated by SEBI in Appeal No. 62 of 2015 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'the Hon'ble SAT'). In appeal, the Defaulter contended that the amount collected from the investors have already been refunded pursuant to the proceedings initiated under the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (MPID Act).
6. Accordingly, the Hon'ble SAT vide order dated August 4, 2016 disposed of Appeal No. 62 of 2015, and observed as under:

"If the amount is already refunded, the proper course for the appellant is to satisfy the Recovery Officer with facts and figures and by furnishing requisite particulars called for and not to challenge the order passed by the Recovery Officer by filing an appeal before the Tribunal.

In these circumstances, the counsel for the appellant seeks to withdraw the appeal and seeks four weeks' time to furnish requisite particulars called for by the Recovery Officer.

Accordingly, the appeal is allowed to be withdrawn and the appellant is granted four weeks' time to furnish the particulars as per the list set out in the impugned order dated November 21, 2014."

7. However, the Defaulter failed to furnish any of the details of repayment to the investors or the information directed to be submitted by the Recovery Officer

(in the order dated November 21, 2014) within four weeks' time as directed by the Hon'ble SAT, i.e. by September 6, 2016. Subsequently, the Defaulter vide letters dated September 7 and September 26, 2016, informed SEBI that there are no investors whose claims remain unsettled and requested for extension of time till October 4, 2016 for complying with the Hon'ble SAT's order as the records are in the custody of the Hon'ble MPID Court/ Economic Offences Wing (EOW). Since sufficient time has already been given to the Defaulter, the Recovery Officer, SEBI vide letters dated September 14, 2016 and October 4, 2016, directed the Defaulter to submit the information regarding repayment made to the investors and other details as per the directions of SEBI and the Hon'ble SAT.

8. Vide letter dated October 5, 2016 the Defaulter submitted six volumes of photocopies of documents claimed to be pertaining to repayments made to the investors. After analysing the said documents and submissions of the Defaulters, Recovery Officer, SEBI passed an order on November 22, 2016 holding that it would not be possible to conclude that the Defaulter has repaid the entire money to the investors. Accordingly, the claim of the Defaulter that it had repaid entire dues to all the investors was rejected.
9. The Recovery Officer, SEBI, thereafter proceeded to dispose-of the attached assets and in this regard, Notice of Sale for e-auction of 17 flats in Vasundhara Co-Op. Housing Society Limited, Vatika Road, Off Film City Road, Gokuldhara, Goregaon (East), Mumbai – 400063 was issued by SEBI on August 10, 2018, *inter alia*, against the properties of the Defaulter and the same was published in Times of India, Lokmat and Dainik Jagran.
10. Against the said Notice of Sale for e-auction, Cello Infrastructure Limited had filed Writ Petition No. 1951 of 2019 before the Hon'ble High Court of Bombay on September 6, 2018 seeking to direct SEBI to abstain from auctioning certain flats. Vide order dated September 12, 2018, the Hon'ble High Court of Bombay granted an interim order and directed that, the auction scheduled to be held on the said date be proceeded with however, SEBI shall not take any decision with regard to finalization of the auction. It may be noted that no bids were received

in the above mentioned e-auction and therefore, the auction could not be finalized. Subsequently, an Interim Application No. 40552 of 2022 was filed before the Hon'ble High Court of Bombay by Vasundhara Co-Op Housing Society Limited challenging the attachment of said flats by SEBI.

11. The Hon'ble High Court of Bombay vide order dated October 17, 2023 disposed of the said Interim Application along with the Writ Petition No, 1951 of 2019, and observed as under:

"2. We have heard learned counsel for the parties, as also having perused the record, we are of the opinion that of the petition in regard to the prayers as made, need not proceed for adjudication any further, suffice it to observe, that in the event, the SEBI has any future plans to auction the property, a 14 days' notice of such auction shall be issued to the petitioners, so as to enable the petitioners to assert any challenge to the same, if the petitioners so desire.

3. ...the interveners are free to assert their rights, if any, in regard to the said property in a manner known to law and / or in defending any action, if any resorted by the SEBI against the interveners."

12. In compliance of the above-said order, vide letter dated May 14, 2025, a 14 days' notice was given to the Petitioners as well as the Intervenors in Writ Petition No. 1951 of 2019 wherein a list of flats to be auctioned was provided. Vide the said letter, the Petitioners and Intervenors in the aforesaid Writ Petition were given 14 days' time to assert any challenge to the proposed auction and the attachment of properties. Further, vide e-mail dated December 18, 2025, the Petitioners i.e., Cello Infrastructure Limited was again advised to submit its claim with respect to the aforementioned 17 flats.

WRITTEN SUBMISSIONS AND PERSONAL HEARING:

13. Pursuant to the above e-mail, the Applicant, through their authorized representative, Mr. Shailendra Punamiya (hereinafter referred to as “AR”) vide letter dated January 08, 2026, made submissions in respect of Flat No(s). 102, 104, 105, 202, 302, 502, 602, 604 and 701, Vasundhara Co-Op. Housing Society Limited, Goregaon (East), Mumbai –400063 (hereinafter referred to as “**Impugned Flats**”).

14. The AR of the applicant, vide letter dated January 08, 2026, made the following submission:

- a. The Recovery Certificate for the amount of Rs. 15.20 Crores is against the Defaulter. However, Cello Infrastructure Limited (the Applicant) is a separate entity and thus, the Recovery Proceedings initiated against the defaulter ought not to be continued against the applicant;
- b. In the year 1992, Harishree Enterprises, a partnership firm acquired a plot of land admeasuring about 18,727.30 sq. mtrs bearing Survey No. 261 (pt), 263 (pt), CTS No. 620 (pt), 619 (pt) at Malad, Borivali, Bombay Suburban District. Subsequently, the Defaulter became a partner of Harishree Enterprises;
- c. Harishree Enterprises commenced construction and started selling the flats to the buyers, which were under construction in 1998 wherein the Impugned Flats are located;
- d. On April 13, 2000, based on the complaints received from the investors of Defaulter, Unit VII of CB, CID, Mumbai registered a case against the four directors of the Defaulter under section 120-B r/w 406 and 420 IPC and Sec. 3 and 4 of MPID Act which had come into force on April 29, 1999;
- e. Kunvar Vishwa Mohan and Rajagopal Vasudevan Nair, Directors of Defaulter, were arrested by the EOW, CB, CID, Mumbai and were produced before the Hon'ble Special Court (MPID), Mumbai in R.A. No.

21 / 2001 and 22 / 2001 wherein they assured that they would not deal with any of the immoveable properties;

- f. However, some of the investors complained to the Court that the Investigating Officer (hereinafter referred to as “IO”) had not taken action to attach the properties and the accused were still selling the flats on October 5, 2001. After hearing the grievances of the investors, the then Hon'ble Special Judge, MPID Court, Mumbai was pleased to pass the following order:

"(a) The IO shall forthwith give notice to the Tahsildar / Collector with regard to the agricultural land admeasuring 252.00 acres at Taluka Mahad and Mangaon, Dist. Raigad, as also the hatchery plant admeasuring 11,300 sq. Feet structure, 500 cashew trees and 14,000 teakwood trees.

(b) The IO shall identify the remaining flats for which no claim is made by the flat purchasers in the two buildings constructed by Harishree Enterprises (in which some of the accused in this case and their family members are partners). The IO shall keep such flats secured by sealing wherever necessary. Such flats also shall be utilized for payment to the investors in this case."

The said order did not identify/specify the flats to be secured by the IO of the case. Thereafter, the IO visited the Society Premises and sealed all the premises and thus, the 17 flats came to be sealed;

- g. In the meanwhile, the Applicant executed an Agreement to Sell dated December 20, 2011, a Conveyance Deed dated November 19, 2014 and a Deed of Rectification of Conveyance dated March 07, 2017 with M/s Harishree Enterprises for the purchase of, *inter alia*, the Impugned Flats. In this regard, the applicant has submitted a copy of the Agreement to

Sell dated December 20, 2011, the Conveyance Deed dated November 19, 2014 and the Deed of Rectification of Conveyance dated March 07, 2017;

- h. Under the above-mentioned documents, the applicant paid an amount of Rs. 14,00,00,000/- to Harishree Enterprises which was utilized and deposited by Four Season Farms Limited i.e., the Defaulter into the Designated Court under MPID Act (hereinafter referred to as “**MPID Court**”) (Special Case No. 01 of 2004) to settle the claims of its investors;
- i. In the proceedings under Special Case No. 01 of 2004, the Learned Judge acquitted the accused i.e., directors of Four Season Farms Limited and also directed that attached properties be released to the accused vide order dated July 24, 2013;
- j. The Applicant submitted that the Hon’ble MPID Court on June 21, 2014, allowed the Applicant to take possession of the Impugned Flats, and physical possession was subsequently handed over to the Applicant under a Panchnama drawn on July 24, 2014. In this regard, the Applicant submitted ‘*Roznama*’ of the MPID Court dated June 21, 2014 and Panchnama dated July 24, 2014 of Economic Offences Wing (EOW), Mumbai;
- k. Further, the Applicant submitted a copy of communication dated February 28, 2014, issued by Harishree Enterprises to the Senior Inspector of EOW calling upon him to release the Impugned Flats in favor of the Applicant. A copy of the said letter dated February 28, 2014 is also submitted by the applicant;
- l. The Applicant further submitted that an intervention application filed by SEBI (Miscellaneous Application No. 92 of 2015) was rejected by the MPID Court vide order dated April 28, 2015, ruling that the MPID Court has overriding effect over the SEBI Act. The Applicant has submitted a copy of the Hon’ble MPID Court order dated April 28, 2015;

- m. The Applicant contends that the Prohibitory Order dated November 21, 2014 is invalid against the Impugned Flats as the Defaulter was no longer the owner nor in possession of the Flat when the said Order was passed;
 - n. In light of these facts, the Applicant requests that the attachment issued in respect of the Impugned Flats vide Prohibitory Order dated November 21, 2014 be lifted and the records be rectified to reflect the true ownership of the Impugned Flats;
15. Considering the above written submissions of the Applicant, an opportunity of Personal Hearing on February 04, 2026, before the Recovery Officer, SEBI, was granted to the Applicants vide e-mail dated January 30, 2026. The said hearing was postponed to February 05, 2026 on the request of the AR. The AR along with Advocate Pradeep Havnur appeared for hearing before the Recovery Officer, SEBI on February 05, 2026.
16. In the said hearing, the AR along with Advocate Pradeep Havnur reiterated their submissions made vide their letter dated January 08, 2026 and made following additional submissions:
- a. The Applicant had purchased the entire plot of land where the Impugned Flats are situated and not just the enumerated flats;
 - b. The Vasundhara Society (society of the building in which Impugned Flats are situated) sends the Applicant regular maintenance charges which in effect acknowledges the Applicant as the owner of the said flats and also nullifies the submission of the society that they are unaware about the Applicant being the owner of the said flats;
 - c. The AR was advised to submit a translated copy of the Panchnama dated July 24, 2014 latest by March 05, 2026 which was submitted on March 11, 2026;
 - d. As per the panchnama dated July 24, 2014, the possession of the Impugned Flats, *inter alia*, was handed over to the AR i.e., Mr. Shailendra Poonamiya.

CONSIDERATION OF ISSUES:

17. I have carefully perused the documents available on record, the order dated October 17, 2023 passed by the Hon'ble High Court of Bombay, the Order dated July 24, 2013 passed by the Designated Court under MPID Act in MPID Special Case No. 01 of 2004 and the oral and written submissions and the documents submitted therein by the AR. After examining the above, the issues for consideration in the instant matter is:

- a. Whether the Applicant in the present matter is the owner of the Impugned Flats?
- b. If the answer to the above is in the affirmative, whether the attachment issued by the Recovery Officer, SEBI vide Prohibitory Order dated November 21, 2014 in respect of the Impugned Flats is to be released or not?

18. Upon a perusal of the documents submitted by the Applicant, it is noted that the Applicant purchased the plot of land bearing Survey No. 261 (pt), 263 (pt), CTS No. 620 (pt), 619 (pt) from Harishree Enterprises by effecting an Agreement to Sell dated December 20, 2011. It is noted from the said Agreement to Sell dated December 20, 2011 that the Applicant had undertaken to pay an amount of Rs. 14,00,00,000/- as consideration for the said purchase to Harishree Enterprises. It is further noted from the Agreement to Sell dated December 20, 2011 that the building in which the Impugned Flats are located is situated on the aforesaid plot of land and the Impugned Flats form part of the said Agreement to Sell.

17. I have perused the Order dated July 24, 2013 passed by the Ld. Special Judge, Designated Court under MPID Act in MPID Special Case No. 01 of 2004 and the '*Roznama*' of the MPID Court dated June 21, 2014. In the aforesaid order dated July 24, 2013, the Ld, Special Judge while acquitting the accused in the MPID Special Case No. 01 of 2004, has released the Impugned Flats in favour

of the accused. The relevant text from the aforesaid order is reproduced hereunder:

“....

5. The property under attachment be released to the accused after the appeal period is over.”

18. From the 'Roznama' dated June 21, 2014, I note that the MPID Court has directed that the possession of the Impugned Flats, *inter alia*, be handed over to the accused. I further note from the Panchnama of EOW, Mumbai dated July 24, 2014 that the possession of the Impugned Flats, *inter alia*, was handed over to the AR of the Applicant. As observed from the Conveyance Deed dated November 19, 2014 executed between the Applicant and Harishree Enterprises the right, title and ownership in the Impugned Flats has been transferred from Harishree Enterprises to the Applicant for a valid consideration of Rs. 14,00,00,000/-.

19. It is further noted from the Conveyance Deed dated November 19, 2014, that the Applicant has paid the full consideration value Rs. 14,00,00,000/- and the payment has been acknowledged by Harishree Enterprises. From the submissions made by the AR and the bank account statement of the Applicant annexed to the Conveyance Deed dated November 19, 2014, it is observed that the consideration amount paid by the Applicant has been utilized to settle the liabilities of the Defaulter in MPID Special Case No. 01 of 2004.

20. It is a settled legal principle that in case of transfer of property by way of 'Sale' under Section 54 of the Transfer of Property Act, 1882, a registered document of conveyance transfers absolute right, title and interest in the property to the purchaser upon payment of a valid consideration. Relevant text of the said provision is reproduced below for reference:

“54. ‘Sale’ defined. — ‘Sale’ is a transfer of ownership in exchange for a price paid or promised or part-paid and part promised.

Sale how made. —Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument. In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property. Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.”

Therefore, as per Section 54 of the Transfer of Property Act, 1882, the transfer of property from Harishree Enterprises to the Applicant is valid.

21. In order to determine the legality of the Agreement to Sell dated December 20, 2011 and subsequent conveyance of the Impugned Flats, it may be pertinent to refer to the judgement of the Hon'ble Supreme Court in **Vannarakkal Kallalathil Sreedharan v. Chandramaath Balakrishnan [(1990) 3 SCC 291]**, wherein it was established that a valid transfer or agreement to sell executed prior to an attachment prevails over such subsequent attachment. The relevant text of the judgement is reproduced below:

“The agreement for sale indeed creates an obligation attached to the ownership of property and since the attaching creditor is entitled to attach only the right, title and interest of the judgment-debtor, the attachment cannot be free from the obligations incurred under the contract for sale...

...if the subsequent conveyance is in pursuance of an agreement for sale which was before the attachment, the

contractual obligation arising therefrom must be allowed to prevail over the rights of the attaching creditor. The rights of the attaching creditor shall not be allowed to override the contractual obligation arising from an antecedent agreement for sale of the attached property. The attaching creditor cannot ignore that obligation and proceed to bring the property to sale as if it remained the absolute property of the judgment-debtor.”

22. As noted and detailed in the foregoing paragraphs, the Applicant acquired the Impugned Flats through a genuine transaction and by paying full consideration under a registered instrument prior to the date of SEBI's attachment made vide Prohibitory Order dated November 21, 2014. Juxtaposing the present factual matrix with the legal principles laid down by the Hon'ble Supreme Court in **Vannarakkal (supra)**, which protects even subsequent conveyance if rooted in prior agreement, the Applicant's conveyance effected prior to SEBI's attachment holds legal primacy.

23. Additionally, I note that as per the proviso (i) to Section 281 of the Income Tax Act, 1961, transfer of 'assets' during the pendency of Recovery Proceedings shall not be void if it is made for adequate consideration and without notice of the pendency of proceedings. The same is reproduced below for ready reference:

“Certain transfers to be void.

281. (1) *Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of, any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the*

assessee as a result of the completion of the said proceeding or otherwise:

Provided that such charge or transfer shall not be void if it is made—

- i. for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee; or*
- ii. with the previous permission of the Assessing Officer.*

(2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.

Explanation. —In this section, "assets" means land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee."

Consequently, I conclude that the conveyance is legally valid and accordingly, the Applicant is *bona fide* owner of the Impugned Flats. Therefore, I find the issue (a) under consideration in the affirmative.

24. Now, since the answer to the issue (a) is in the affirmative, it might be pertinent to refer to the judgement of the Hon'ble Supreme Court in the matter of ***Tax Recovery Officer II, Sadar v. Gangadhar Vishwanath Ranade [AIR 1999 SC 427]*** wherein the Hon'ble Court, while deciding on the issue of applications under Rule 11 of the Second Schedule to the Income Tax Act, 1961, held as follows:

“12. ...if we examine Rule 11(4) of the Second Schedule to the Income-tax Act, it is clear that the Tax Recovery Officer is required to examine whether the possession of the third party is of a claimant in his own right or in trust for the assessee or on account of the assessee. If he comes to a conclusion that the transferee is in possession in his or her own right, he will have to raise the attachment [emphasis added].”

25. From the consideration of issue (a) in preceding paragraphs, it has been established that the Applicant is in possession of Impugned Flats in its own right. Therefore, with regards to issue (b), I am of the view that the attachment dated November 21, 2014 issued by the Recovery Officer, SEBI on the Impugned Flats, is liable to be released.

ORDER:

26. In view of the above and for the reasons as stated in the preceding paragraphs, I hereby order release of the Impugned Flats i.e., Flat No(s). 102, 104, 105, 202, 302, 502, 602, 604 and 701, from attachment made vide prohibitory order dated November 21, 2014 issued by Recovery Officer, SEBI. The applicants letter dated January 08, 2026 is accordingly disposed of.

27. A copy of this Order is to be served on the Applicant.

Date: April 23, 2026

Place: Mumbai

-sd-

Jayeeta Ray

**Deputy General Manager & Recovery
Officer**