

IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 86 OF 2004

14/10/04

52401K5170912004

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. Coral Greenfields Ltd. a Company incorporated Under the Companies Act, 1956, having its Regd. Office at : 489/55/II, Malviya Nagar, opposite, S Block, Panchsheel Park, New Delhi-17, also at : M-65, Jalvayu Vihar, Sector 25, Noida 201301.
2. Shri Sheel Singh S/o Balveer Singh, ✓  
Director of Accused No.1, R/o: Besan.  
& Dal Milk Lakkh Ghat Road,  
Shyampur, Rishikesh, Uttranchal.
3. Dr. Ram Singh S/o Shri R.N. Singh, ✓  
Director of Accused No.1. R/o: A-19-S,  
Delhi Police Apartments, Mayur Vihar,  
Phase-1, Delhi.

ATTESTED



4. Shri. Rajinder Singh S/o Late Shri Aman Singh, Director of Accused No.1,  
R/o: Village and Post Office : Rajpur  
Distt. Ghaziabad, U.P.
5. Shri Manoj Kumar S/o Shri Kashi Ram,  
Director of Accused No.1, R/o:18/375,  
Lodhi Colony, New Delhi.
6. Mrs. Rekha Malik W/o Shri S.K. Malik,  
Director of Accused No.1, R/o: 606,  
Sec III, Pushp Vihar, New Delhi.
7. Shri Surender Singh S/o Khyal Singh,  
Director of Accused No.1, R/o: E-151,  
Sarojini Nagar, New Delhi.
8. Mrs. Sarita W/o Pramod Kumar,  
Director of Accused No.1, R/o:18/375,  
Lodhi Colony, New Delhi.

.....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 127/05



3.3.06. Pr. All accused on bail. Vide separate orders of even date. The accused Nos 1-8 are found guilty of the offences punishable u/s 24 (1) r/w 327 SEBI Act for violation of SIB r/w 512 (1B) r/w reg. 5 (1) r/w reg. 68 (1) & (2) & 73 & 74 SEBI (CIS) regulations 1999 and convicted accordingly. The accused are heard on point of sentence. They are sentenced vide separate orders to fine of Rs 5000 each. In default of fine they shall undergo SI for one month each. The p/bands and

15





surety bonds of the  
accused are cancelled &  
sureties are discharged.  
File be consigned to  
the records.

Announced in  
open court by  
31.3.06.

Asha Nene  
D.S.





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

CO NO.127/2005

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. Coral Greenfields Ltd a Company incorporated under the Companies Act, 1956, having its Regd Office at : 489/55/II, Malviya Nagar, opposite, S Block, Panchsheel Park, New Delhi-17. Also at : M65, Jalvayu Vihar, Sector 25, Noida 201301.
2. Sh. Sheel Singh S/o Sh. Balveer Singh Director of accused no.1, R/o Besan, & Dai Mill, Lakkar Ghat Road, Shyampur, Rishikesh, Utranchal.
3. Dr. Ram Singh S/o Sh.R.N. Singh, Director of accused no.1, R/o A-19S, Delhi Police Apartments, Mayur Vihar, Phase-I, Delhi.
4. Sh. Rajinder Singh S/o late Sh.Aman Singh, Director of accused no.1, R/o Village, and PO: Rajpur, Distt. Ghaziabad, UP.
5. Sh. Manoj Kumar S/o sh. Kashi Ram, Director of accused no.1. R/o 18/375, Lodhi Colony, New Delhi.
6. Mrs. Rekha Malik W/o Sh.S.K. Malik, Director of accused no.1. R/o 606, Sec III, Pushp Vihar, New Delhi.
7. Sh. Surender Singh S/o Sh. Khyal Singh, Director of accused no.1, R/o E-151, Sarojini Ngr, New Delhi.
8. Mrs. Saprita W/o Pramod Kumar, Director of accused no.1. R/o 18/375, Lodhi Colony, New Delhi.

.... Accused

**JUDGMENT:**

**BACKGROUND FACTS:**

1. The complaint has been filed by the Securities and





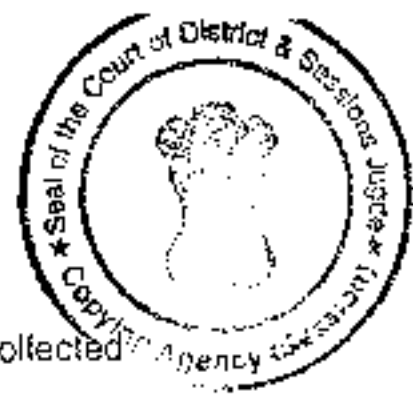
Exchange Board of India (hereinafter referred to as the SEBI) through its Legal Officer Sh. Sharad Bhansode against Coral Green Field Limited and against its Directors Sh. Sheel Singh, Dr. Ram Singh, Sh. Rajinder Singh, Sh. Manoj Kumar, Mrs. Rekha Malik, Sh. Surender Singh and Mrs. Sarita.

2. The complaint has been preferred under the Securities and Exchange Board of India Act, 1992 and the rules made thereunder. The case as set out in the complaint is that the Government of India after detailed consultations with the regulatory bodies decided that an appropriate regulatory frame work for regulating entities which issued instruments such as Agro Bonds and Plantation Bonds etc., was requires to be created. Thereafter, the Government notified on November 1997, through a press release, that such schemes relating to issue of Agro Bonds etc., would be treated as Collective Investment Scheme governed by the SEBI Act 1992.

3. The aim of these regulations were to ensure investor protection and to promote legitimate investment activities. The regulations were notified in 1999 as the SEBI (Collective Investment Scheme) Regulation 1999.

4. The entities involving any Collective Investment Scheme were required, vide the press release dated 26.11.97, 18.12.97 to file information with the SEBI giving the detail of the Company, its Scheme and nature of Investment. In response the accused in this





case i.e. Coral Green Field Limited informed that they had collected more than Rs.1.56<sup>lacs</sup> from the general public. It also informed who the Directors were.

5. It has been stated in the complaint that after the regulations came into force, the SEBI issued letters dated 15.12.99 and 29.12.99 and also issued public notices dated 10.2.99 informing the accused company of the notification and the regulations and directing it to send information, memorandum to all investors detailing the state of affairs of the Schemes, the amount repayable to each investors and the manner in which such amount was determined. This information was to be sent by 28.2.2000. Subsequently, the last date for furnishing details was extended upto 31<sup>st</sup> March, 2000.

#### ALLEGATIONS IN THE COMPLAINT

6. According to the complainant, the accused No. 1 failed to apply for registration and also failed to submit the repayment report nor did it furnish details for winding up the schemes. Therefore, on December 7<sup>th</sup>, 2000, orders were issued by SEBI u/s 11 B of the SEBI Act 1992, to the accused company to refund the money collected to the investors within one month and submit the report of repayment and winding up to the SEBI. According to the complainant since there was no compliance of this order, the accused company and its Directors had violated the Regulations

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No. 68(1) and (2) 73 and 74 R/W Regulation 5 (1) of the SEBI (Collective Investment Scheme) Regulation 1999 and had also violated Section 11 B and 12 (1) B of the SEBI 1992 which were all violation punishable U/s 24 (1) of the SEBI 1992 R/W Section 27 of the said Act.

7. Vide orders dated 14.1.2004 the accused were summoned for trial. The notice of allegations under Section 251 Cr.P.C served on accused on 6<sup>th</sup> May, 2005 and they pleaded not guilty. The complainant examined Ms Ruchi Agashe as CW-1 and Ms. Jyoti Jindgar as CW-2. The statements of the accused were recorded u/s 313 Cr.P.C. The accused relied on documents on documents for their defence.

#### EVIDENCE

8. CW-1 Ms Ruchi Agashe deposed to the press release of SEBI dated 16.11.97 alongwith public notice dated 18.12.97 intimating entities operating Collective Investment Scheme to file certain information with the SEBI. She deposed that the Company filed information with the SEBI vide letter dated 10.1.98 Ext.CW1/1 and brochure Ext.CW1/2. She also brought on record the letter sent by the accused on 20<sup>th</sup> July, 1998 regarding the deployment of funds mobilized in various Scheme, total amount mobilized under Collective Investment Scheme of the Company alongwith details of the Directors. This letter is Ext.CW1/3. She further deposed that the







Company subsequently sent two letters dated 16.9.98 received by the SEBI Ext.CW1/4 and 5 regarding its scheme and amount due for redemption.

9. CW1 Ms. Ruchi Agashe also deposed that the SEBI (CIS) Regulations, 1999 were notified on 15.10.99. An intimation of these regulations was sent to the Company vide letter dated 21.10.99 by registered post. Public notice dated 20.10.99 was also issued. The regulatory obligation of regulation of information, Memorandum of Investors and the requirements of winding up of the Scheme and repayment and the further requirement of the submission of winding up and repayment report with the SEBI within five and half months were also communicated to the Company vide letters dated 10.12.99 and 29.12.99. A public notice was also issued in respect of the contents of the letter dated 10.12.99. CW1 further deposed that the Company neither applied for registration nor intimated regarding winding up of the Scheme and therefore, show cause notice dated 12.5.2000 was issued. Thereafter on 31.7.2000 SEBI forwarded the format of the winding up and repayment report to the Company. CW1 deposed that the envelope returned with the remarks "addressee left without address". She further deposed that since the Company failed to comply with the regulatory provision, the Chairman, SEBI vide his order dated 7.12.2000 directed the repayment to the Investors in terms of the original offer within one month. This letter dated

ATTESTED



18.12.2000 was duly served on the accused. The CW1 further deposed that the contents of this order were also published in leading <sup>national</sup> ~~national~~ newspapers and vernacular newspapers on 14.1.2001 wherein the name of the accused was mentioned at serial no.104.

10. In cross-examination the witness deposed that she had been authorized to appear as witness vide authority Ext.CW1/10. She denied that Sh. Sharad Bhansode <sup>by</sup> had no authority to file the complaint. She stated that she would have to check up separate records to confirm whether or not any complaint had been received from any of the accused from any investor. She deposed that no criminal proceedings had been initiated for fraud and unfair trade practice in the securities market. She denied that the accused had not violated any provision of the SEBI Act or Regulations. She clarified that the accused had themselves informed that they had collected about Rs.1.56 lacks approximately and the figure of Rs.10.7 lacs was only a clerical mistake.

11. In further cross-examination she denied the suggestion that the accused had sent the letters to the SEBI in pursuant of the letters dated 15.12.99, 29.12.99 and public notice dated 10.12.99. She admitted as correct that the letters dated 10.12.98 and 20.7.98 <sup>AM</sup> had been sent by the accused to the SEBI pursuant to public notice of November and December, 1997 <sup>and</sup> ~~was~~ <sup>and</sup> explained that the <sup>P1</sup> discrepancies in the complaint with regard to the figure of the





amount collected by the accused was only on account of the differences in the figures mentioned in these letters. She further confirmed that <sup>till that time</sup> till date the SEBI has <sup>not</sup> received any winding up or repayment report and she further stated that therefore, she could not state whether the accused had made full payment between 22.6.2001 to 21.12.2002 to their full satisfaction. She denied that on the basis of the certificate annexed Exl.CW1/4, the accused company had <sup>not</sup> violated any provision of the SEBI Act. It was further stated that in the absence of information furnished by the accused the SEBI could never <sup>have any</sup> concluded of its own that the payments have been made by the accused to the investors.

12. CW2 is Jyoti Jindgar. She deposed that the contents of the order <sup>of</sup> of the Chairman, SEBI dated 7.12.2000 had been sent to the accused company under her signature vide letter dated 18.12.2000. She stated that till the filing of the complaint, as she was dealing with <sup>the</sup> her case, she had not received any repayment report from the accused. In cross-examination she admitted that letters dated 10.1.98 and 20.7.98 had been received from the accused but no letter dated 1.8.98 had been received from them. She too stated <sup>Am</sup> that she could not state whether the accused had made full payment between 22.6.2001 and 21.12.2002 to the full satisfaction <sup>P2</sup> of the investors. She stated that as per the auditor's report dated 21.5.98 submitted by the company vide letter dated 20.7.98, the





funds collected was Rs.1,86,650/-. She stated that she was not aware of any complaint.

### CONTENTIONS

13. The accused in their written arguments have submitted that the accused company floated two schemes and had mobilized Rs.1,07,500/- in Scheme no.1 and Rs.49,000/- in Scheme no.2, thus totalling Rs.1,56,500/- from a total of 32 Investors who were not from the general public and were family members of the Directors or other near and dear ones. They have submitted that the company had repaid the Investors totaling Rs.2,75,760/- in full and final discharge of the liabilities of the Company. They have submitted that the accused company had acted in a most bonafide manner with good intention and had duly intimated the SEBI admitting the amount mobilized and repayment made to the Investors. It is submitted that the only mistake or error that could be attributed to the accused could be of not filing the winding up report with the SEBI earlier. Hence they have prayed for an acquittal.

14. On the other hand, it has been submitted on behalf of SEBI that the offence stood committed when the accused company failed to obtain registration with the SEBI and failed to comply with the directions of the SEBI to wind up their operation, repay the Investors and submit the winding up and repayment report in format with the SEBI. Hence the SEBI has prayed for their conviction.





FINDINGS.

15. I have carefully considered the evidence brought on record on behalf of both sides. I have carefully considered the written arguments submitted by both sides.

16. From the evidence certain facts seem admitted. The Government had notified in 1997 that companies which were running Collective Investment Schemes were required to file information with SEBI regarding their schemes along with details of amounts mobilized, the names of Directors/Promoters etc., in case they were desirous of obtaining benefit of Section 12 (1) B of the SEBI Act 1992. Section 12 of the SEBI 1992 requires the registration of Stock Broker, Sub Broker, Share Transfer Agents etc., and Section 12 (1) B relates to the requirements of registration certificate from the board by any person who was sponsoring or carrying on venture, capital funds or Collective Investment Scheme including mutual funds. Section 12 (1) B of the SEBI 1992 reads as under:

"No person shall sponsor or cause to be sponsored or carry on or cause to be carried on any venture capital funds or collective investment scheme including mutual funds, unless he obtain a certificate of registration from the Board in accordance with the regulations :

Provided that any person sponsoring or causing to be





sponsored, carrying or causing to be carried on any venture capital funds or collective investment scheme operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act 1995, for which no certificate or registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30"

17. Even as per regulation 3 of the SEBI (Collective Investment Scheme) Regulations, there is complete bar on any person other than a Collective Investment Management Company which has obtained a certificate carrying on or sponsoring or launching a CIS.

18. It is thus, amply clear that under the SEBI Act 1992 no person could carry on a Collective Investment Scheme without the certificate of registration granted by the Board. The proviso permitted such person who was already carrying on Collective Investment Scheme before the commencing of the Securities Law (Amendment) Act 1995 to do so till such time regulations were made u/s 30 (d)(2) if the Act. Thus the proviso entitled a person to continue the collective investment scheme without registration only till the promulgation of the regulations in this case that date is 15.10.99.

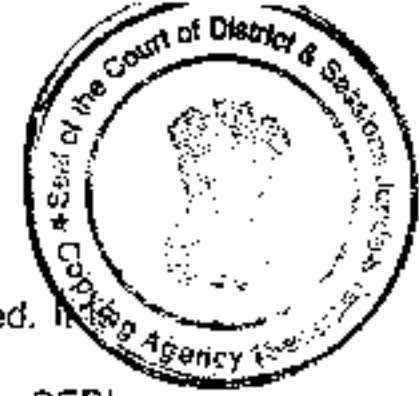




19. There is no doubt that the accused were running a Collective Investment Scheme. Ext.CW1/1 refers to the submission of application in respect of the Collective Investment Scheme. This has been signed by accused no.3 Dr. Ram Singh. They have furnished details of their scheme vide Ext.CW1/2. They have furnished the details of the names of Directors vide Ext.CW1/2. Thereafter they sent another communication to the SEBI dated 20<sup>th</sup> July, 1998 Ext.CW1/3 in respect of submission of documents in respect of Collective Investment Scheme. This included the details of the Scheme, the total amount collected being Rs.1,56,500/-, the details of deployment of funds, latest auditor's balance sheet, certified copy of Memorandum and Articles of Association, names and details of the Directors/Promoters and their background. Thus it is amply established on the record by the SEBI from the documents of accused themselves that they were conducting a Collective Investment Scheme and through two Schemes they had collected Rs.1,56,500/-.

20. These communications also fully establish that the accused were in the know of the requirements of seeking registration with the SEBI and of submitting details in respect of the Schemes to the SEBI. It is surprising that after having given these details to the SEBI, the subsequent communications sent by SEBI on the same address from which the accused had sent





communications to the SEBI, returned to the SEBI unserved. It is not the case of the accused that the address at which the SEBI had sent communications to the Company was an incorrect address. The suggestion made to CW1 by the learned counsel for the accused that the accused had sent letters subsequent to the SEBI's letters dated 15.12.99 and 29.12.99 and public notice dated 10.12.99 in compliance of such notices and letters would also show that the accused were aware of these subsequent communications and public notices requiring the accused to wind up their operation and repay the Investors and submit the winding up and repayment report to the SEBI. Admittedly, the winding up report has been sent to the SEBI as per the postal receipt placed on the record by the accused on 16.2.2006 only on 14.2.2006. Thus, at the time of filing of the complaint the accused had not complied with the requirements of the SEBI Regulations.

21. It is the contention of the accused that since they had intimated to the SEBI that they would not be mobilizing any further funds w.e.f. 12.2.98 under their existing Schemes and would do so only after obtaining a rating of the existing Schemes and since they had repaid the Investors vide receipts placed on record by the accused on 2.2.06, the non filing of the repayment and winding up report with the SEBI could not be considered to be a violation at all. Such a contention cannot be accepted. The certificate of

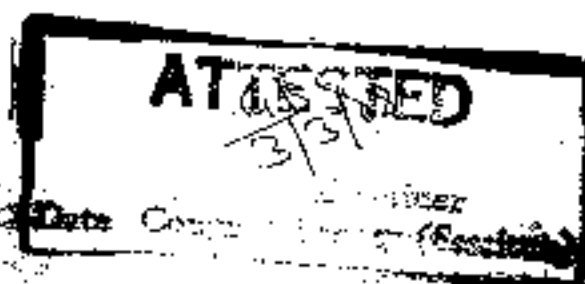






compliance on which the accused are relying only states that they would not collect funds under their Schemes till the Schemes were rated. There is no communication thereafter to the SEBI from the side of the accused informing the SEBI either of their failure to obtain a rating or the rating of their Schemes. On this single document no presumption could have been raised by the SEBI that no fund had been mobilized after February, 1998. As regards the repayment even going by the receipts placed on the record, it is clear that the repayments have been made from 1999 onwards. Nothing prevented the accused from informing the SEBI about their repayment schedule and submission of the winding up report in format. Ignorance of the requirement can constitute no defence especially in view of the fact that public notices had been issued and specific communication sent to the accused company at the address they themselves had furnished.

22. Thus, merely because repayments have been made would not be reason enough to conclude that no violation of the regulation was caused. The repayment report and winding up report submitted in format to the SEBI would have enabled them to carry out a statutory audit and would have concluded the matter. The failure may have been technical but nevertheless it remains a failure. The delayed submission of the formatted report can not also extricate accused from the present prosecution.





23. None of the accused present have claimed that they were , not Promoters/Directors of the Company, nor has any evidence in this regard been led.

24. In the circumstances , there can be no doubt left in the mind that the accused No. 1 was carrying on the business of Collective Investment Scheme and the other accused being its Directors failed in their obligations to comply with the SEBI Regulations in respect of Collective Investment Scheme.

### CONCLUSION

24. In the circumstances, it has to be concluded that the complainant has fully proved its case against the accused. They are, therefore, found guilty of violating Regulation 5 (1) r/w Regulation 68(1) 68(2) 73 and 74 of the SEBI ( Collective Investment Scheme) Regulation 1999 R/W Section 11B and 12 (1) B of the SEBI Act 1992 punishable u/s 24(1) R/W Section 27 of the SEBI Act 1992.

The accused are entitled to be heard on sentence.

Announced in the Open Court.  
Dated: 3.3.06

*Asha Menon*  
(ASHA MENON)  
Addl. Sessions Judge:  
Delhi.

*Copy given to the accused  
in open court at 10:30  
on 3/3/06*

**ATTESTED**

Date *3/3/06* *3/3/06* (Signature)



### ORDER ON SENTENCE

The accused have been heard on point of sentence. In view of the fact that only a technical violation has taken place and in view of the fact that the accused have placed on record the receipts of repayment, disclosing that their only failure was in not sending the winding up and repayment report in format to the SEBI, I am of the considered view that ends of justice would be met if the accused are sentenced to a fine of Rs.5,000/- each. In default of fine, they shall undergo SI for one month. Personal bonds and surety bonds are cancelled. File be consigned to record room.

Announced in the open Court  
on 3.3.2006

*Asha Menon*  
(ASHA MENON)  
ADDL. SESSIONS JUDGE:  
DELHI

*Copy given to the accused  
in open court at 4  
on 3/3/06.*

*3/3/06*

*Sarla*  
*Sarla*  
*Rakhee*  
*Shalini*  
SARITA (CORAL GREEN FIELDS LTD)  
8245907

