

BEFORE THE RECOVERY OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

Certificate No. 0436 of 2014

Defaulter: M/s Four Season Farms Limited

Ms. Siprapadma Mohopatra.....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, 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 had 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-off 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, Gokuldham, 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 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 said 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. 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. Subsequently, 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 Intervenor in Writ Petition No. 1951 of 2019 wherein a list of flats to be auctioned was provided. Vide the said letter, the Petitioners and Intervenor in the aforesaid Writ Petition were given 14 days' time to assert any challenge to the proposed auction and the attachment of properties.

WRITTEN SUBMISSIONS AND PERSONAL HEARING:

13. Pursuant to the above notice, the Applicant, vide letter dated May 20, 2025, submitted the following in respect of Flat No. 403, Vasundhara Co-Op. Housing Society Limited, Goregaon (East), Mumbai –400063 (hereinafter referred to as **"Flat No. 403"**).
14. Vide the said letter dated May 20, 2025, the applicant has submitted the following:
- a. The applicant is the *bona fide* owner of the Flat No. 403 and has been in peaceful and uninterrupted possession of the same for the past 18 years.

- b. The applicant purchased the Flat No. 403 from PNB Housing Finance Limited through public auction under the The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as “**SARFAESI Act, 2002**”). In this regard, Sale Certificate dated August 14, 2007 was issued in the name of the applicant.
- c. The applicant has been in continuous position of Flat No. 403 since August 14, 2007. A share certificate in this regard has been issued by the society in the name of the applicant. Vide the said letter the applicant enclosed the following documents:
 - i. Sale Certificate dated August 14, 2007 issued by PNB Housing Finance Limited.
 - ii. Share Certificate issued by Vasundhara Co-operative Housing Society Limited dated May 14, 2023.
 - iii. Property Tax receipts and Utility Bills for the aforesaid property in the name of the applicant.
 - iv. Original registered agreement for sale dated December 11, 2001 between M/s Harishree Enterprises and Mr. Amiya Kumar Jha.
- d. Vide the said letter, the applicant has prayed for deletion of Flat No. 403 from the list of flats to be auctioned.

15. Considering the above written submissions of the Applicant, an opportunity of Personal Hearing on June 11, 2025 before the Recovery Officer, SEBI, was granted to the Applicant vide letter dated June 03, 2025. In response to the above letter, the applicant requested for postponement of hearing, vide e-mail dated June 09, 2025, to any date after June 27, 2025. Accordingly, the hearing was rescheduled to June 30, 2025. The applicant along with Mr. B Chintu Mohopatra (Husband of the applicant) and Mr. Aditya Prasad Babu (brother of the applicant) appeared for hearing before the Recovery Officer on June 30, 2025.

16. In the said hearing, the applicant has made the following submissions:

- a. Flat No. 403 was initially purchased by Mr. Amiya Kumar Jha from M/s Harishree Enterprises vide Agreement for Sale dated December 11, 2001. Thereafter, due to the default of Mr. Amiya Kumar Jha, PNB Housing Finance Limited auctioned off Flat No. 403 under the provisions of SARFAESI Act, 2002;
- b. The applicant purchased Flat No. 403 in the said public auction conducted by PNB Housing Finance Limited. In this regard, Sale Certificate dated August 14, 2007 was issued by PNB Housing Finance

Limited whereupon vacant and peaceful possession of Flat No. 403 was handed over to the applicant;

- c. The applicant submitted that they have taken a loan from Bank of Maharashtra for the purchase of Flat No. 403. In this regard, the applicant has submitted Loan Account details from Bank of Maharashtra and a copy of no dues certificate issued by Bank of Maharashtra wherein it is certified that the Loan Account of the applicant has been closed and they have returned all the documents pertaining to the same which are as under:
 - i. *“Original Agreement of sale dated 11.12.2001 between 1) M/s Harishree Enterprises and 2) Amiya Kumar Jha regarding Flat No. 403, Building No. 1, Vasundhara Enclave, Film City Rd, Goregaon East, Mumbai – 400063*
 - ii. *Registration receipt dated 11.12.2001 no. BBJ/11348/2001*
 - iii. *Stamp duty receipt 11.12.2001 no. 9488172*
 - iv. *NOC from PNB Housing Finance.”*
- d. The applicant further submitted that they have never dealt with the defaulter, M/s Harishree Enterprise or Mr. Amiya Kumar Jha. The Applicant submitted that they have been paying the utility charges, property tax to BMC and charges to society in respect of Flat No. 403.
- e. Vide notarized affidavit dated July 02, 2025, submitted on July 02, 2025, the applicant has submitted as follows:
 - i. The applicant has reiterated their submissions made vide letter dated May 20, 2025 and stated that the sale certificate dated August 14, 2007 legally vests title of Flat No. 403 in the name of the applicant as per established jurisprudence.
 - ii. In this regard, the applicant has relied on the judgement of the Hon'ble Supreme Court in ***B. Arvind Kumar v. Government of India (2007) 5 SCC 745*** and stated that as per the said judgement, title to the auctioned property vests with the purchaser upon confirmation of sale, and no further deed or registration is required.
 - iii. The applicant has further submitted that as per **Order XXI, Rule 92 of the Code of Civil Procedure (CPC) and Section 17(2)(xii) of the Registration Act, 1908**, such sale certificates are exempted from mandatory registration.
 - iv. Relying on the above provisions of law, the applicant has submitted that though the sale certificate issued by PNB Housing Finance Limited is not registered at the Sub-Registrar Office, it is still valid, enforceable, and absolute in law.

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 sale certificate issued by the Authorized Officer, PNB Housing Finance Limited and the oral and written submissions and the documents submitted therein by the Applicant. 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 disputed property i.e. Flat No. 403?
 - 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 Flat No. 403 is to be released or not?
18. Upon an examination of the submissions of the applicant, I note that Flat No. 403 was initially purchased by one Mr. Amiya Kumar Jha on December 11, 2001. Since Mr. Amiya Kumar Jha was a defaulter of PNB Housing Finance Limited, the said flat was auctioned by PNB Housing Finance Limited under the provisions of SARFAESI Act, 2002 through public auction. It may be pertinent to note that Mr. Amiya Kumar Jha is not a defaulter in this instant proceedings.
19. I also note that the original Agreement for sale dated December 11, 2001, in respect of Flat No. 403, between M/s Harishree Enterprises and Mr. Amiya Kumar Jha was done before the date of SEBI's order dated February 13, 2002. Further, both, M/s Harishree Enterprises and Mr. Amiya Kumar Jha are not the defaulters of SEBI in the current proceedings.
20. I further note that Flat No. 403 was purchased by the applicant in the public auction conducted by PNB Housing Finance Limited. Accordingly, sale certificate was issued by Authorized Officer, PNB Housing Finance Limited in the name of the applicant. As per the Bank of Maharashtra statement submitted by the applicant, it is noted that the applicant purchased Flat No. 403 by taking a loan from Bank of Maharashtra which was closed on October 17, 2017. Further, as per the sale certificate dated August 14, 2007 issued by PNB Housing Finance Limited, the applicant has paid the entire sale price of Rs. 20,60,000/- for the handover of the delivery and possession of Flat No. 403.
21. I also note that the Sale Certificate issued by the Authorized Officer, PNB Housing Finance Limited has not been registered by the applicant. In this regard, the applicant has relied on the judgement of the Hon'ble Supreme Court in the matter of **B. Arvind Kumar v. Government of India (2007) 5 SCC 745**, wherein the Hon'ble Supreme Court held as follows:

“10. ... It is well settled that when an auction purchaser derives title on confirmation of sale in his favour, and a sale certificate is issued evidencing such sale and title, no further deed of transfer from the court is contemplated or required. In this case, the sale certificate itself was registered, though such a sale certificate issued by a court or an officer authorized by the court, does not require registration. Section 17(2)(xii) of the Registration Act, 1908 specifically provides that a certificate of sale granted to any purchaser of any property sold by a public auction by a civil or revenue officer does not fall under the category of non-testamentary documents which require registration under sub-section (b) and (c) of section 17(1) of the said Act.”

22. It is noted from the above referred judgement of the Hon'ble Supreme Court that an auction purchaser derives title on confirmation of sale in his favour and a sale certificate is evidence of such title. Further, as per Section 17(2)(xii) of the Registration Act, 1908, a certificate of sale granted to any purchaser of any property sold by a public auction by a civil or revenue officer does not require registration. I further note that the applicant in their submissions has also relied on the said provision of law. The relevant text of the aforesaid provision is as under:

“17. Documents of which registration is compulsory

...

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to -

...

(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue-Officer.”

23. In the present case, the sale certificate in respect of Flat No. 403 was issued by Authorised Officer, PNB Housing Finance Limited. Such Authorised Officers, acting under the provisions of the SARFAESI Act, 2002, are subsumed within the expression “Revenue Officer”, as mentioned under section 17(2)(xii) of Registration Act, 1908. In this regard we may refer to the judgement of the Hon'ble Madras High Court in ***M/s. Sri Balaji Fibre v. The Inspector General of Registration*** wherein the Hon'ble Court held as follows:

“40. In view of the above position, now, after the advent of the SARFAESI Act, this Court is of the view that the term 'Revenue Officer' has to be liberally construed to include the authorized officer under SARFAESI Act effecting compulsory sale for recovery of a demand.”

24. Further, with reference to such sale certificate issued by an Authorized Officer under SARFAESI Act, 2002, it may be pertinent to refer to the judgement of the Hon'ble Supreme Court in ***M/s Esjaypee Impex Pvt. Ltd. v. The Asst. General***

Manager and Authorized Officer Canara Bank (2021) 11 SCC 537 wherein the Hon'ble Court held as follows:

“16. We are of the view that the mandate of law in terms of Section 17(2)(xii) read with Section 89(4) of the Registration Act only required the authorized officer of the Bank under the SARFAESI Act to hand over the duly validated sale certificate to the auction-purchaser with a copy forwarded to the registering authorities to be filed in Book 1 as per section 89 of the Registration Act.”

25. It is noted from the above that mandate of law under Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908 only requires the authorized officer of the Bank under the SARFAESI Act, 2002 to hand over the duly validated sale certificate to the auction-purchaser with a copy forwarded to the registering authorities to be filed in Book 1 as per Section 89 of the Registration Act, 1908 which obviates any further registration requirements.

26. From the above, I note that the sale certificate issued by the authorized officer, PNB Housing Finance Limited legally vests the right and title to Flat No. 403 with the applicant. Accordingly, I find merit in the submissions of the applicant that they are the valid owners of Flat No. 403 and not the Defaulter. Additionally, it is also noted that the applicant has been in continuous possession of Flat No. 403 pursuant to issuance of sale certificate dated August 14, 2007 and has been paying the property tax and utility bills in respect of the same.

27. In view of the aforesaid, I find that the Applicant is the *bona fide* owner of the Flat No. 403 and therefore, I hold the issue (a) under consideration in the affirmative.

28. 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].”

29. From the consideration of issue (a) in preceding paragraphs, it has been established that the applicant is in possession of Flat No. 403 in their 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 Flat No. 403, which stands in the name of the Applicant is liable to be released.

ORDER:

30. In view of the above, for the reasons as stated in the preceding paragraphs, I hereby order release of the Flat No. 403, Vasundhara Co-Op Housing Society, Goregaon (East), Mumbai – 400063, from attachment made vide prohibitory order dated November 21, 2014 issued by the Recovery Officer, SEBI. The letter dated May 20, 2025 submitted by the applicant is accordingly disposed of.

31. A copy of this Order is to be served on the applicant.

Date: November 07, 2025
Place: Mumbai

-sd-
Deepu Anandan
Deputy General Manager & Recovery
Officer