

IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE, TIS

HAZARI COURTS, DELHI.

CC NO: ~~1234~~ 2003  
15/12/03

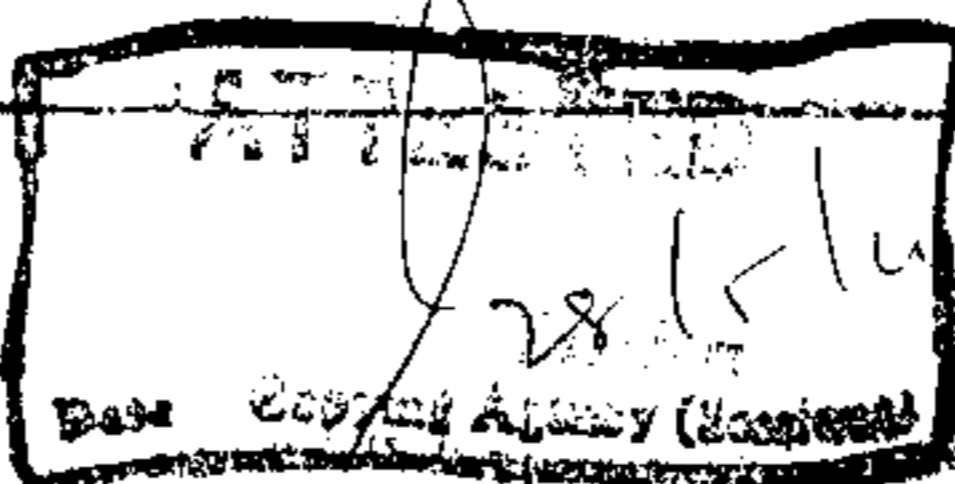
**SECURITIES AND EXCHANGE BOARD  
OF INDIA,** ( a statutory body established  
under the provisions of Securities and  
Exchange Board of India Act, 1992),

Having its Regional Office at Rajendra  
Place, New Delhi represented by its Asst.  
General Manager, Mr. JYOTI JINDGAR.

...COMPLAINANT

**VERSUS**

1. M/s Fairdeal Thrust Eco Ltd.  
Having its Registered Office at  
2943/3, Shyam Chambers,  
Chuna Mandi, Pahar Ganj, New Delhi-  
110055.
2. Sh. Binod Kumar (Director/Promoter)  
S/o Late Shri Gajanan Mishra,  
At & P.O. Sapaul, Ward No. 2,  
Distt. Supaul (Bihar)
3. Mr. Shri Manoj Kumar Jha  
(Director/Promoter)  
S/o Sh. Hemkant Jha,  
At & P.O. Supaul Chakla,  
Nirmali, Ward No. 12,  
Distt. Supaul (Bihar)
4. Sh. Buchhi Khan (Director/Promoter)  
S/o Sh. Phool Bhadra Khan  
At & P.O. Batraha, Ward No. 2,  
Saharsa (Bihar)
5. Sh. Surendra Pd. Shrivastava  
(Director/Promoter)  
S/o Late Sh. Vidhyanath Prasad  
At & P.O. Imlechatti,  
Distt. Muzaffarpur, Bihar
6. Mr. Sajan Kumar Agarwal  
(Director/Promoter)  
S/o Brij Mohan Agarwal,  
At & P.O. Bihariganj,  
Distt. Madhipura, (Bihar)
7. Shri Sobha Kant (Director/Promoter)



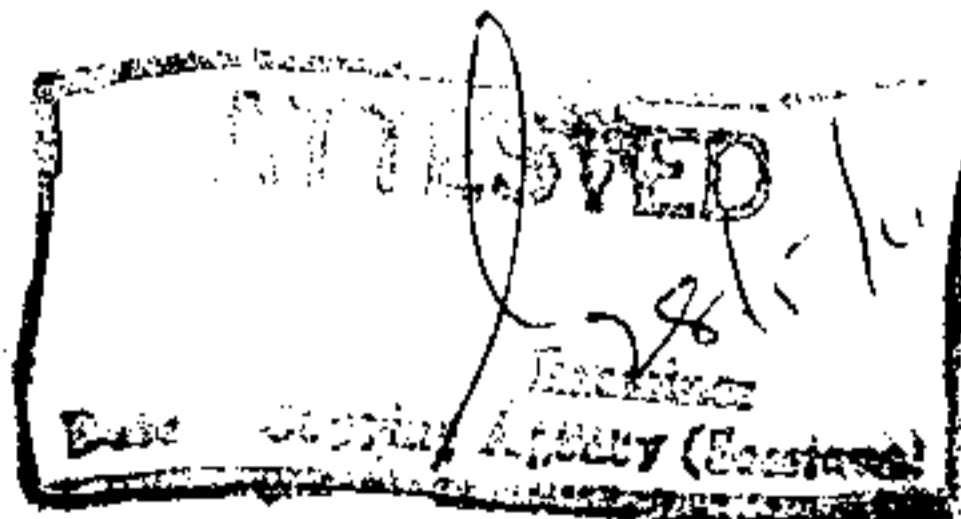


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- S/o Sh. Shambhunath Jha,  
At & P.O. Belagoth, Supaula, Bihar
8. Smt. Anita Mishra (Director/Promoter)  
D/o Sh. Radhashyam Sharma,  
Distt. Supaul (Bihar)
9. Smt. Minu Jha (Director/Promoter)  
D/o Sh. Lal Jha  
At & PO Kampura  
Distt. Supaul, Bihar
10. Smt. Roopam Shrivastava  
(Director/Promoter)  
D/o Sh. Surendra Pd. Srivastava  
At & P.O. Imlichatli  
Muzaffarpur, Bihar
11. Shri Binod Kumar Srivastava  
(Director/Promoter)  
S/o Late Sh. Surendra Pd. Srivastava  
Ward No. 12, Araria,  
Distt. Araria, Bihar.

.....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**



CC No. 71/10

Item no.16

20.05.2011

**Present: Present: Sh. Sanjay Mann, Advocate, Counsel for complainant SEBI**

**Accused no.11 is Proclaim offender vide order dated 19.3.09**

**Accused no. 1 is company and represented by all accused persons.**

**Accused no.2 to 10 are in person with their respective Counsels Sh. Rakesh Kaushal & Sh. Firoz Khan, Advocates.**

Vide separate judgment, A1 company accused and A2 to A10 are held guilty for the offence punishable under Section 24 (1) of the SEBI Act.

Arguments heard on the point of Sentence.

Vide separate order on the point of sentence, all convicts including convict no.1 (company accused) are burdened with a fine of Rs. 20,000/- each in default of 3 months simple imprisonment for the offence punishable under Section 24 (1) of the SEBI Act.

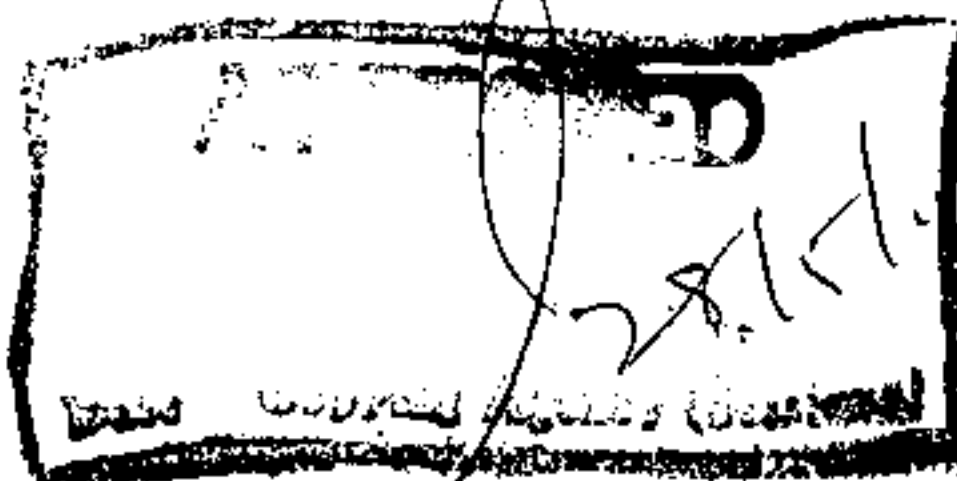
Bail Bond and Surety bond of convicts stand cancelled. Sureties stand discharged. Original documents, if any be returned to the surety after canceling the endorsement on the documents.

Copy of judgment alongwith order on the point of Sentence be given to the convicts free of cost.

Since A11 is PO, file be consigned to record room with direction that the same will be revive as and when A11 is arrested.

(Pawan Kumar Jain)  
Additional Sessions Judge-01  
Central/THC/Delhi  
20.05.2011

(67)



original FOR  
20/5/11  
Original I.T.R  
Received

श्री अशोक कुमार शर्मा क.व.प  
कंचन झा  
अवध मिश्र क.व.प  
Shreshth Jha  
20/05/11

**SEBI Vs. Fairdeal Thrust Eco Ltd.**

**IN THE COURT OF SH. PAWAN KUMAR JAIN,  
ADDL. SESSIONS JUDGE-01(CENTRAL):DELHI**

**Complaint Case No. 71/10  
ID No: 02401R0304572003**

**SECURITIES AND EXCHANGE BOARD OF INDIA**, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Regional Office at Rajendra Place, New Delhi, represented by its Asst. General Manager Ms. Versha Aggarwal.

**Versus**

**1. M/S FAIRDEAL THRUST ECO LTD.**

Having its Registered office at  
2943/3, Shyam Chambers,  
Chuna Mandi, Pahar Ganj,  
New Delhi-110055.

**.....Accused no.1**

**2. Sh. Binod Kumar**

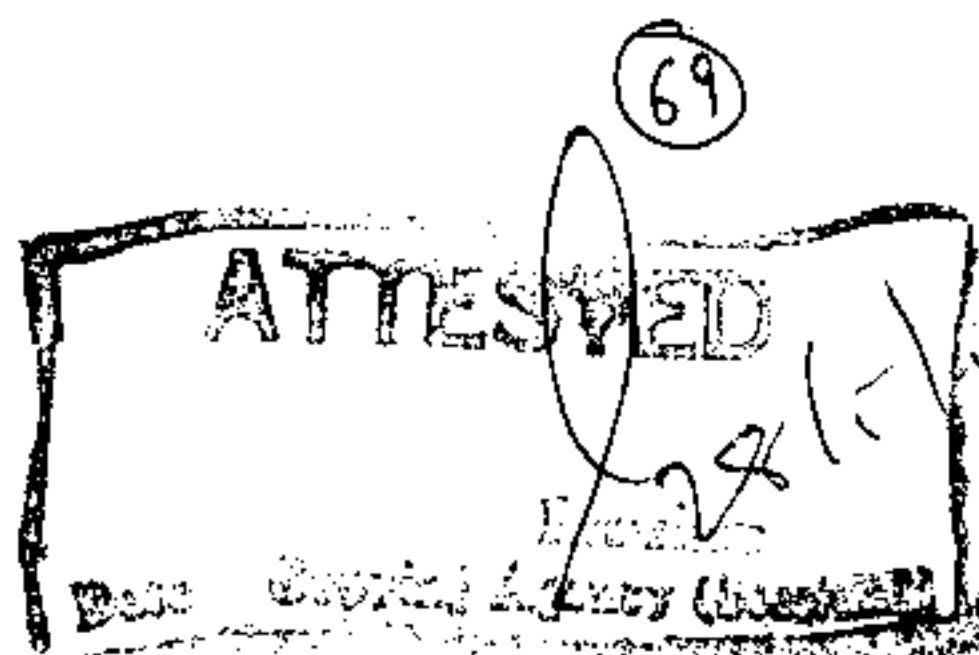
(Director/Promoter)  
s/o Late Sh. Gajanan Mishra,  
At & P.O. Sapaul, Ward No. 2,  
Distt. Supaul (Bihar).

**.....Accused no.2**

*20/5/11*

**CC No. 71/10**

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**SEBI Vs. Fairdeal Thrust Eco Ltd.**

3. **Mr. Manoj Kumar Jha**  
(Director/Promoter)  
s/o Sh. Hemkant Jha,  
At & P.O. Supaul Chakla,  
Nirmali, Ward No. 12,  
Distt. Supaul (Bihar).

.....Accused no.3

4. **Sh. Buchhi Khan,**  
(Director/Promoter)  
S/o Sh. Phool Bhadra Khan  
At & P.O. Sapaul, Ward No. 2,  
Distt. Saharsa (Bihar).

.....Accused no.4

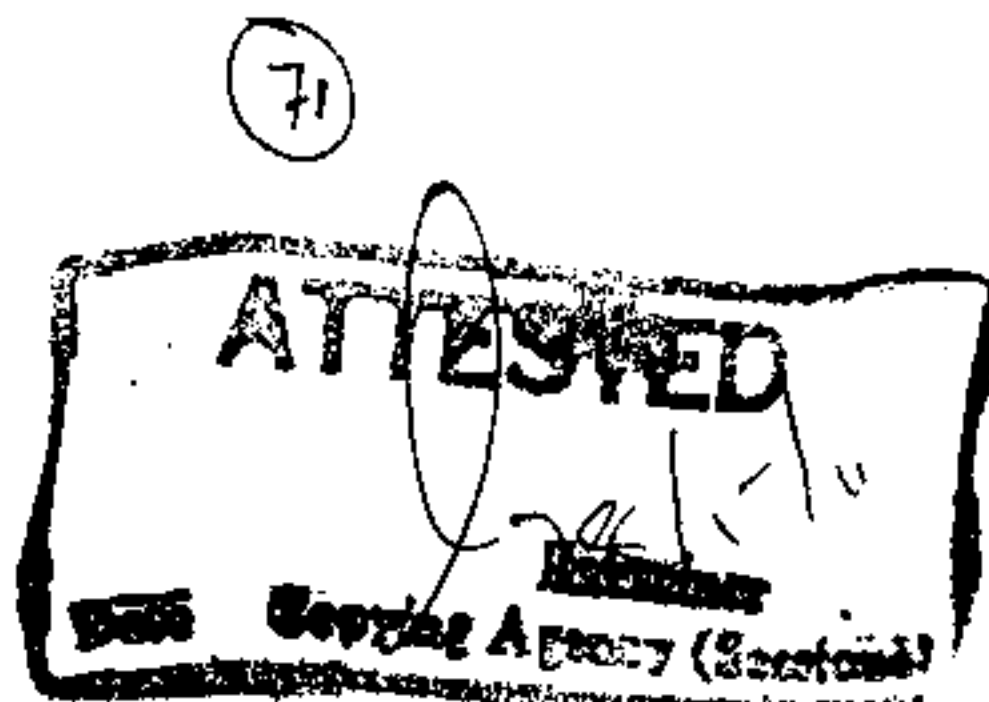
5. **Sh. Surendra Pd. Shrivastava,**  
(Director/Promoter)  
S/o Late Sh. Vidhyanath Prasad  
At & P.O. Imlechatti,  
Distt. Muzaffarpur, (Bihar).

.....Accused no.5

6. **Sh. Sajan Kumar Agarwal,**  
(Director/Promoter)  
S/o Sh. Brij Mohan Aggarwal,  
At & P.O. Bihariganj,  
Distt. Madhipura, (Bihar)

.....Accused no.6

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20/5/10



**SEBI Vs. Fairdeal Thrust Eco Ltd.**



7. **Sh. Sobha Kant,**  
(Director/Promoter)  
S/o Sh. Shambhunath Jha,  
At & P.O. Belagoth, Supaula, (Bihar)

.....Accused no.7

8. **Ms. Anita Mishra**  
(Director/Promoter)  
D/o Sh. Radhashyam Sharma,  
Distt. Supaul, (Bihar)

.....Accused no.8

9. **Ms. Minu Jha,**  
(Director/Promoter)  
d/o Sh. Lal Jha  
At & P.O. Karanpura,  
Distt. Supaul, (Bihar)

.....Accused no.9

10. **Smt. Roopam Shrivastava,**  
(Director/Promoter)  
D/o Sh. Surendra Pd. Shrivastava,  
At & P.O. Imlichatli,  
Muzaffarpur, Bihar.

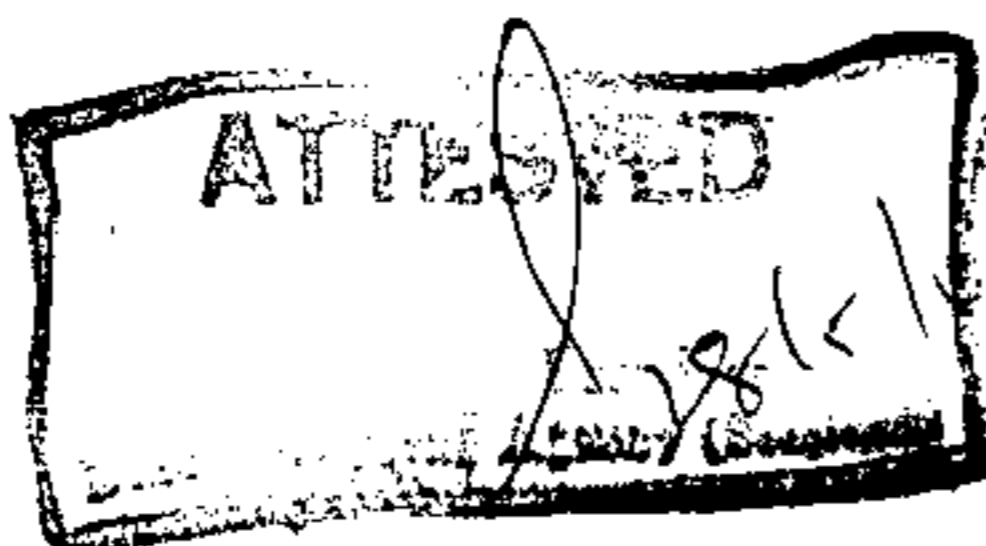
.....Accused no.10

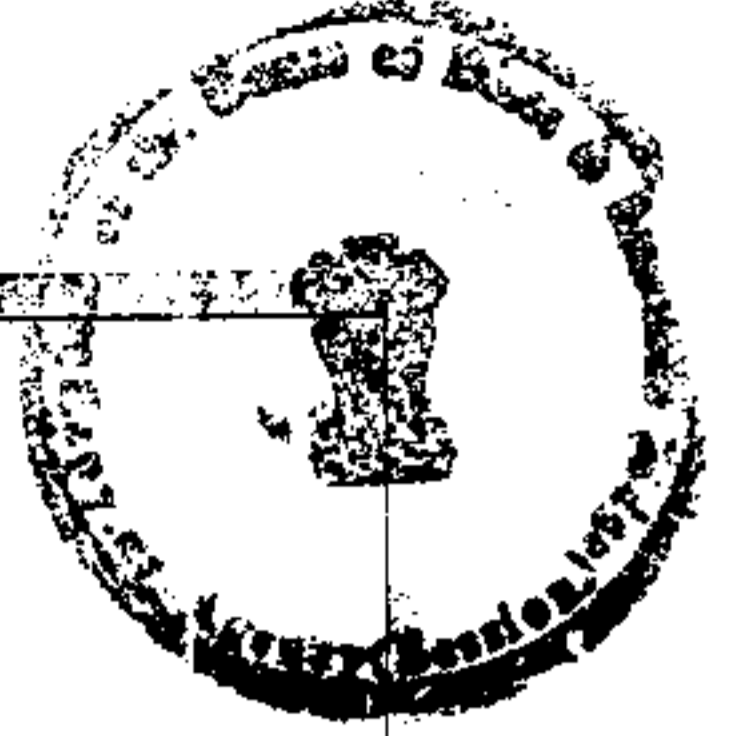
11. **Sh. Binod Kumar Srivastava,**  
(Director/Promoter)  
D/o Late Sh. Surendra Pd. Shrivastava,  
Ward No. 12, Araria,  
Distt. Araria, Bihar

.....Accused no.11

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**SEBI Vs. Fairdeal Thrust Eco Ltd.**

**Date of Institution : 15.12.2003**  
**Date of Judgment reserved on : 05.05.2011**  
**Date of pronouncing of judgment : 20.05.2011**

**Present: Sh. Sanjay Mann, Advocate, Counsel for complainant SEBI.**  
**Sh. Firoz Khan, Advocate, Counsel for accused No. 1,2,4, 5, 6, 8 & 10.**  
**Sh. Rakesh Kaushal, Advocate, Counsel for accused no. 3, 7 & 9.**  
**Accused no. 11 is declared PO vide order dated 19.03.2009.**

**JUDGMENT :**

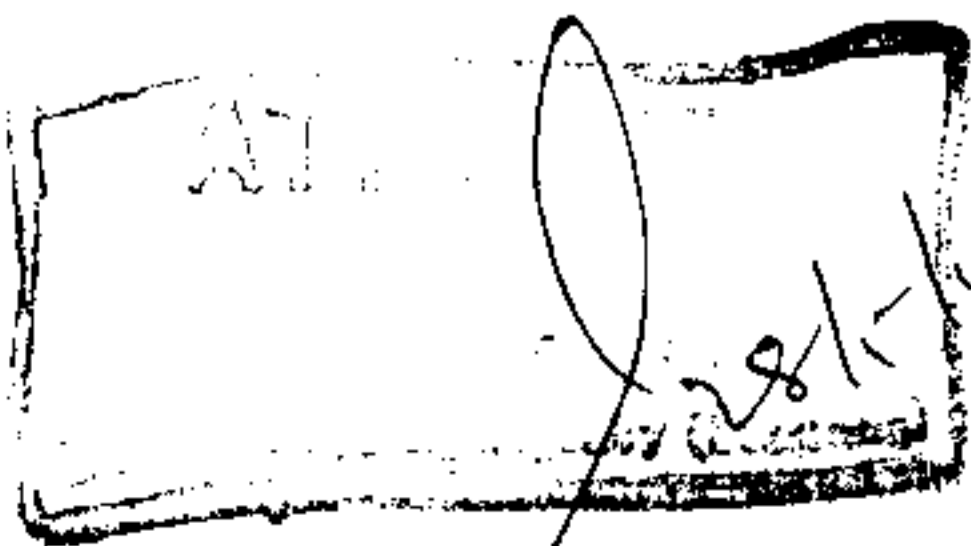
1. This criminal complaint was preferred by the Securities & Exchange Board of India (hereinafter referred to as "SEBI" or "the complainant"), on 15.12.2003 in the Court of Additional Chief Metropolitan Magistrate (ACMM), alleging violation of the provisions of Section 12 (1B) of Securities & Exchange Board of India Act, 1992 (hereinafter, "the SEBI Act") and Regulation Nos. 5(1) read with 68(1), 68(2), 73 and 74 of the Securities &

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CC No. 71/10

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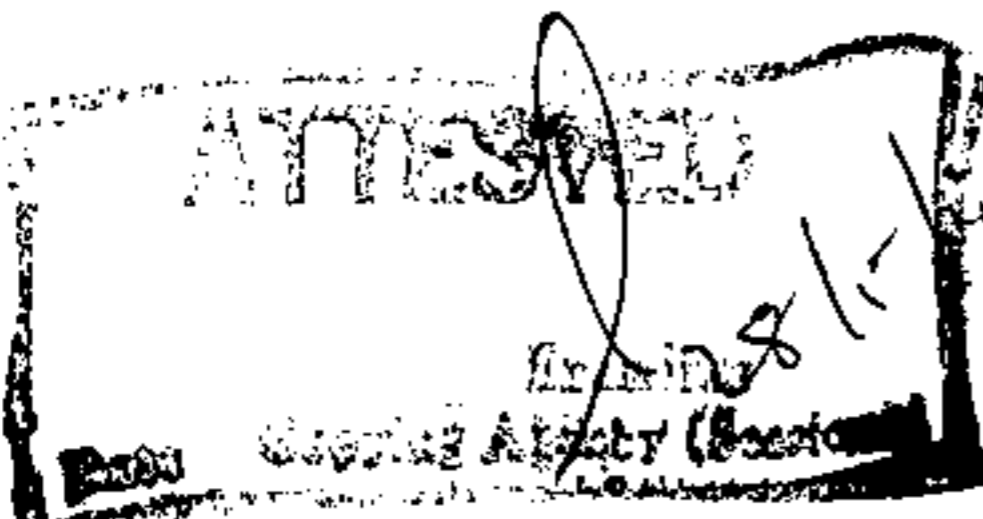
**SEBI Vs. Fairdeal Thrust Eco Ltd.**

Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "the CIS Regulations" or "the said Regulations"), constituting offence punishable under Section 24(1) read with Section 27 of the SEBI Act.

2. Eleven persons were arrayed as accused in the criminal complaint preferred under Section 200 Cr.P.C., they being M/S Fairdeal Thrust Eco Ltd. (hereinafter, "A1" or "the Company Accused"), accused No. 2 Sh. Binod Kumar ("A2"), accused No. 3 Mr. Manoj Kumar Jha ("A3"), accused No. 4 Sh. Buchhi Khan ("A4"), accused No. 5. Surendra Pd. Shrivastava ("A5"), accused No. 6 Sh. Sajan Kumar Agarwal ("A6") accused No. 7 Sh. Sobha Kant ("A7"), accused No. 8 Ms. Anita Mishra ("A8"), accused No. 9 Ms. Minu Jha ("A9"), accused No. 10 Smt. Rupam Srivastava ("A10"), accused no. 11 Sh. Binod Kumar Srivastava ("A11). It is alleged that A2 to A11 were Directors of the Company Accused and as such persons were in charge of, and responsible to, A1 for the conduct of its business within the meaning of the provision contained in Section 27 of the SEBI Act.

3. It is alleged in the complaint that A1 had launched various



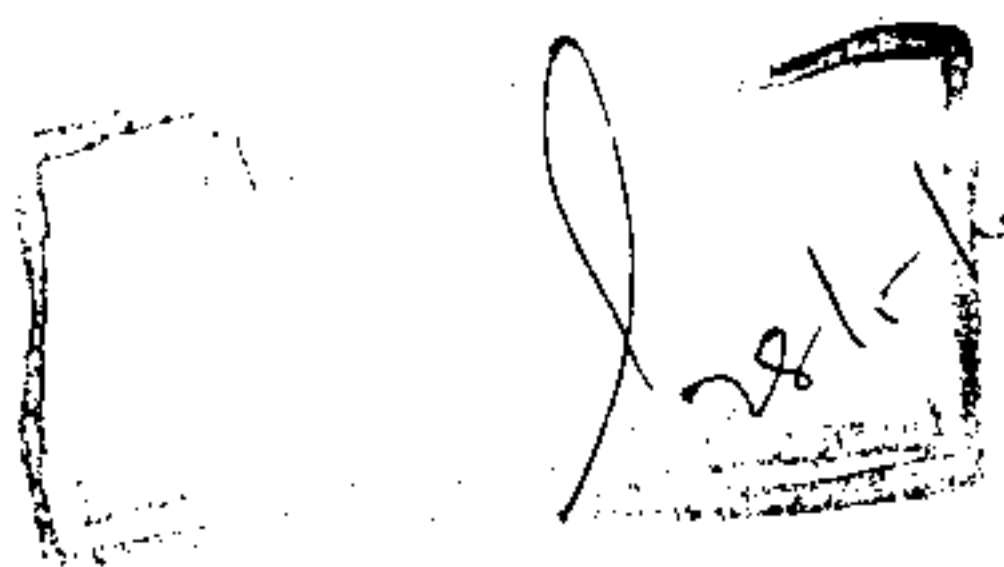




**SEBI Vs. Fairdeal Thrust Eco Ltd.**

CIS and mobilized approximately amount of Rs.1.42 lac from general public, in violation of the provisions contained in Section 12 (1B) of the SEBI Act. It is also alleged that after coming into force of the CIS Regulations and in spite of public notice dated 18.12.1997, the accused persons had failed to get the Collective Investment Scheme registered with SEBI or to wind up the said scheme or repay the amount collected from the investors in terms of the CIS Regulations, thus constituting violation of the law and regulations framed thereunder and thereby committing the offence alleged as above.

4. The cognizance on the complaint was taken by the learned ACMM vide order dated 15.12.2003 whereby process was issued under Section 204 Cr.P.C. against all the accused persons.
5. On account of the amendment, particularly in Sections 24 and 26 of the SEBI Act, through Amendment Act which came into force w.e.f. 24.11.02, pursuant to Administrative Directions of Hon'ble High Court, under orders of the Ld. Distt. & Sessions Judge, this case was transferred on 16.05.2005 from the Court of Ld. ACMM to the Court of Sessions, then presided over by Ms. Asha Menon, the then Addl. Sessions Judge, Delhi.



**SEBI Vs. Fairdeal Thrust Eco Ltd.**

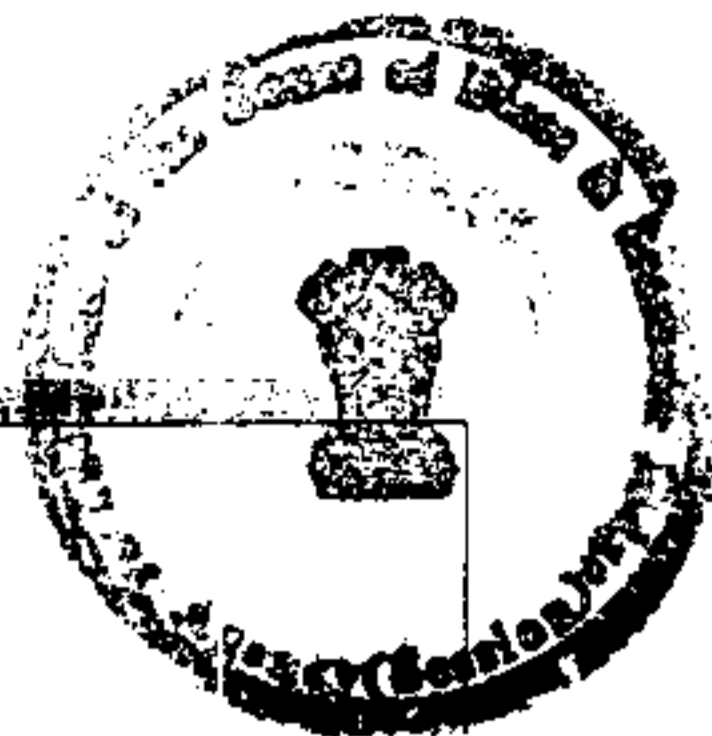


6. Vide order dated 19.03.2009, A11 Sh. Binod Kumar Srivastava was declared Proclaimed Offender. A1 company accused was represented by A2. Vide order dated 17.12.2006, a notice for the offence punishable under Section 24 read with section 27 of the SEBI Act was served upon the accused persons to which all the accused persons pleaded not guilty and claimed trial. Since A2 represented A1 company accused, he responded to the notice on behalf of company.

7. To prove its case, complainant examined only one witness namely Ms. Versha Aggarwal, Asstt. General Manager of SEBI. Thereafter, the statement of accused persons were recorded under section 313 Cr.P.C in which all accused persons took the plea that company accused had sent a letter dated 26.02.1998, which is Ex. CW1/1 to the SEBI. Though accused persons took the plea that they had refunded the amount to the investors yet they failed to lead any evidence in their defence. However, accused persons preferred not to lead any evidence in their defence.

8. I have heard Sh. Sanjay Mann, Counsel for the complainant SEBI and Sh. Firoz Khan & Sh. Rakesh Kaushal, Advocates,

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**SEBI Vs. Fairdeal Thrust Eco Ltd.**

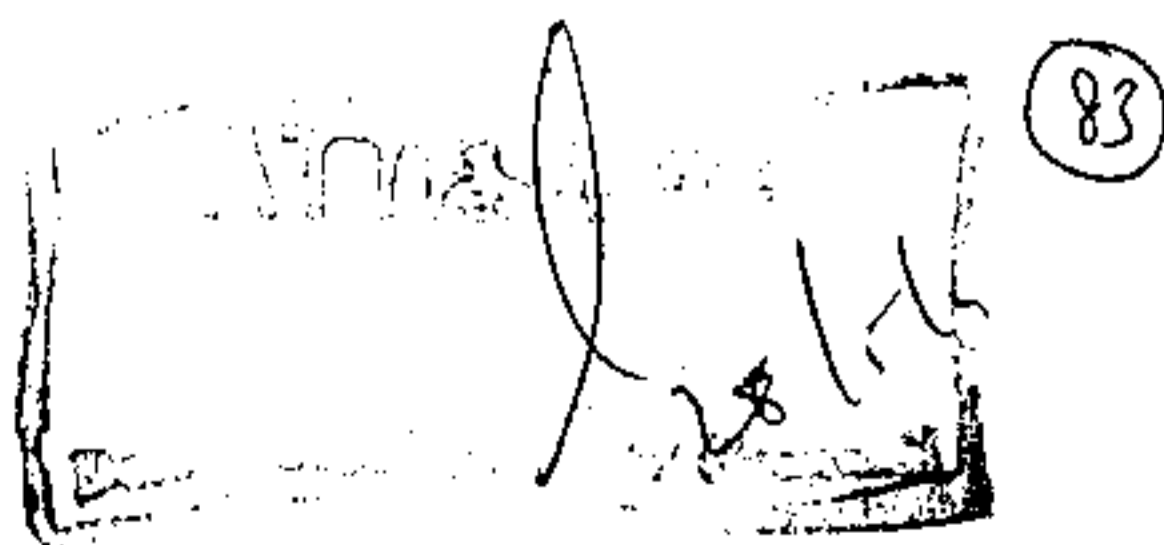
respective Counsel for the accused persons, perused the record carefully and gave my thoughtful consideration to their contentions.

9. During the course of arguments, Learned Defence Counsels submit that they are not pressing the case on merit and state that they would make a prayer for a lenient view keeping in view the conduct of accused persons at the time of arguments on the point of sentence. On the other hand, counsel for complainant argued that accused had violated the provisions of Section 12(1B) as well as various CIS Regulations, thus company accused and other accused are liable to be held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

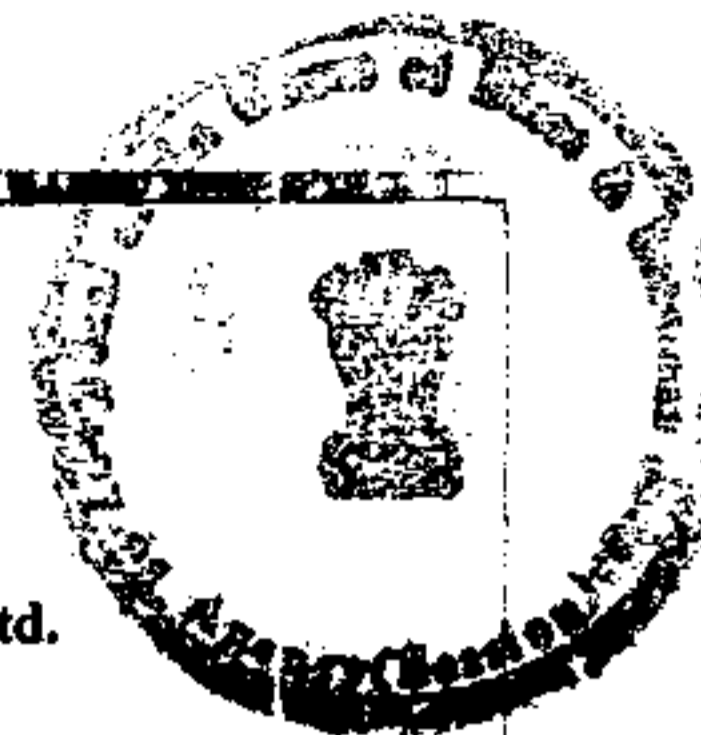
10. Though, learned counsels for accused persons have preferred not to argue the matter on merit, yet I deem it appropriate to discuss the case on the basis of evidence and documents available on the court record.

11. Admittedly, company accused had sent a letter Ex. CW1/1 to the SEBI. Perusal of the said letter reveals that company accused had launched CIS and mobilized funds to the tune of

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SEBI Vs. Fairdeal Thrust Eco Ltd.



Rs.1.42 Lac from general public . It also reveals that the A2 to A11 were the promoters/directors of company accused and even this fact is not disputed by the counsels for the accused persons. To prove its case, complainant examined CW1 Ms. Versha Aggarwal and on perusal of her testimony, it becomes clear that the same remained unrebutted on the material points. From the testimony of CW1 and documents submitted by the company accused, it becomes crystal clear that company accused had launched CIS and mobilized fund to the tune of Rs. 1.42 lac from general public. It also becomes clear that A2 to A11 were directors/promoters of the company accused. Thus, being the directors of the company accused, they were in charge of, and responsible to, the conduct of the company accused. It is also undisputed fact that company accused had launched CIS in the year 1997. As per the provision of Section 12 (1) B of the Act, no person shall sponsor or cause to be sponsored or carry on or caused to be carried on any collective investment schemes unless he obtains a certificate of registration from the SEBI. Since company had launched the CIS without obtaining the registration certificate from the SEBI, company accused had violated the provision of Section 12 (1B) of the SEBI Act.

*[Signature]*  
20/5/2

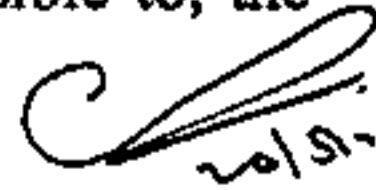
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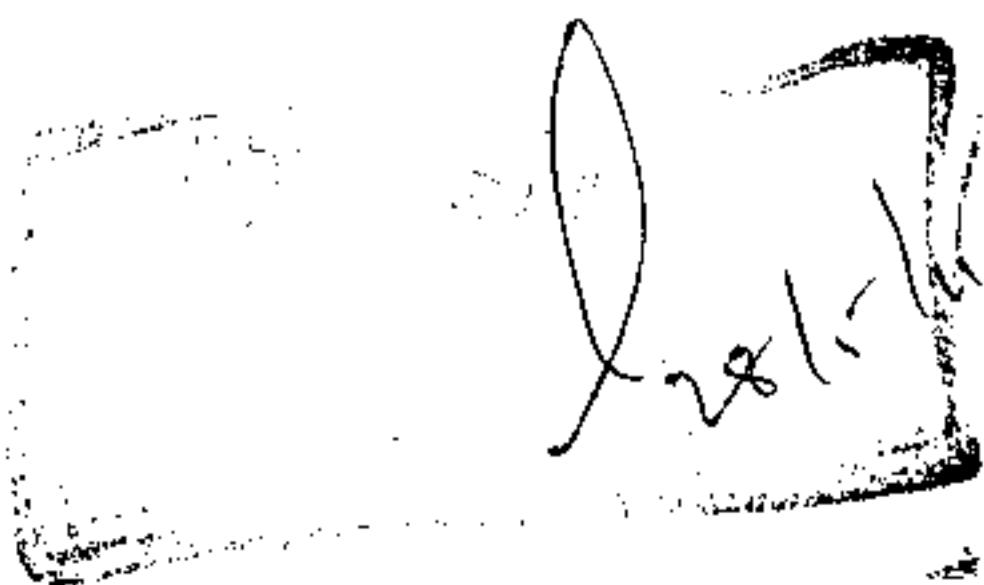
**SEBI Vs. Fairdeal Thrust Eco Ltd.**



12. Similarly, it is undisputed fact that CIS regulations were notified on 15.10.99. By notifying the CIS regulations, SEBI had given another chance to the companies who were operating the collective investment schemes to seek certificate of registration. As per regulation 5, such companies were supposed to move an application within a period of two months for obtaining the certificate from SEBI. Admittedly, the company accused had not applied for seeking registration of the certificate in terms of regulation 5. As per CIS regulations, if company failed to apply to seek registration for grant of certificate or if company applied for but rejected by the SEBI, such companies were liable to refund the amount to the investors and to submit the winding up and repayment report with the SEBI in terms of regulations 73 of CIS regulations. Admittedly, company accused failed to submit the winding up and repayment report, thus, to my mind, company accused had violated Regulation 5(1) & 73 of CIS Regulations.

13. Pondering the on going discussion, I am of the considered opinion that complainant succeeds to prove beyond reasonable doubt that company accused had violated the provision of Section 12(1B) of the SEBI Act as well as Regulations 5 (1) & 73 of the CIS regulations. Being the in charge of, and responsible to, the

  
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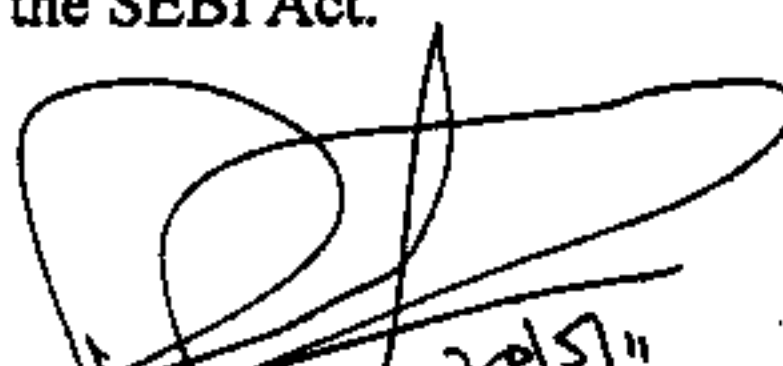
  
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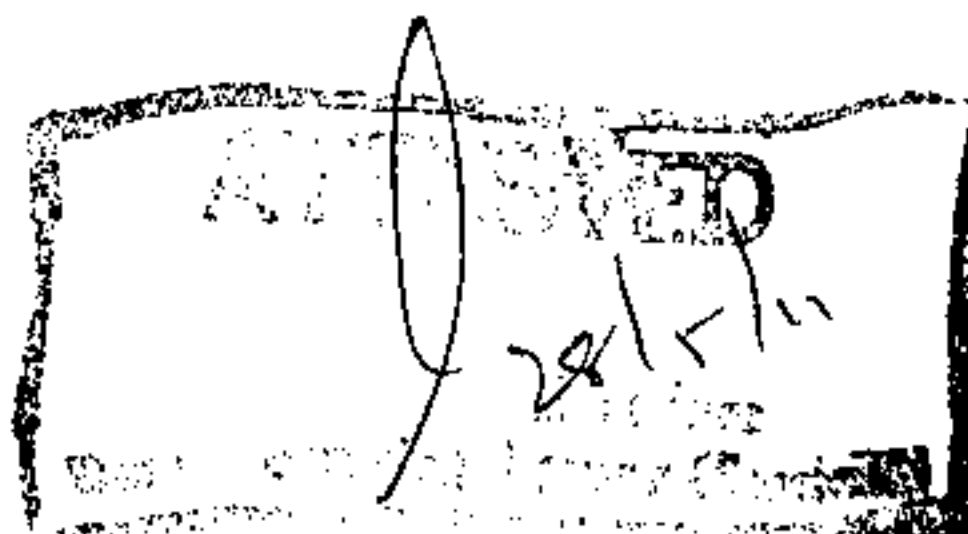
**SEBI Vs. Fairdeal Thrust Eco Ltd.**



conduct of company accused, A2 to A10 are also liable for the said violation in term of Section 27 of the SEBI Act. Accordingly, I hold them (A1 to A10) guilty for the offence punishable under Section 24 (1) read with section 27 of the SEBI Act.

**Announced in the open Court  
on this 20<sup>th</sup> day of May, 2011**

  
(Pawan Kumar Jain)  
Additional Sessions Judge-01  
Central/THC, Delhi



SEBI Vs. M/s Fairdeal Thrust Eco Ltd.



**IN THE COURT OF SH. PAWAN KUMAR JAIN  
ADDITIONAL SESSIONS JUDGE-01 (CENTRAL):DELHI**

**Complaint Case No. 71/10  
ID No: 02401R0304572003**

**SECURITIES AND EXCHANGE BOARD OF INDIA**, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Regional Office at Rajendra Place, New Delhi, represented by its Asst. General Manager Ms. Versha Aggarwal.

**Versus**

**1. M/S FAIRDEAL THRUST ECO LTD.**

Having its Registered office at  
2943/3, Shyam Chambers,  
Chuna Mandi, Pahar Ganj,  
New Delhi-110055.

.....Convict no.1

**2. Sh. Binod Kumar**

(Director/Promoter)  
s/o Late Sh. Gajanan Mishra,  
At & P.O. Sapaul, Ward No. 2,  
Distt. Supaul (Bihar).

.....Convict no.2

CC No. 71/10

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3. **Mr. Manoj Kumar Jha**  
(Director/Promoter)  
s/o Sh. Hemkant Jha,  
At & P.O. Supaul Chakla,  
Nirmali, Ward No. 12,  
Distt. Supaul (Bihar).

.....Convict no.3

4. **Sh. Buchhi Khan,**  
(Director/Promoter)  
S/o Sh. Phool Bhadra Khan  
At & P.O. Sapaul, Ward No. 2,  
Distt. Saharsa (Bihar).

.....Convict no.4

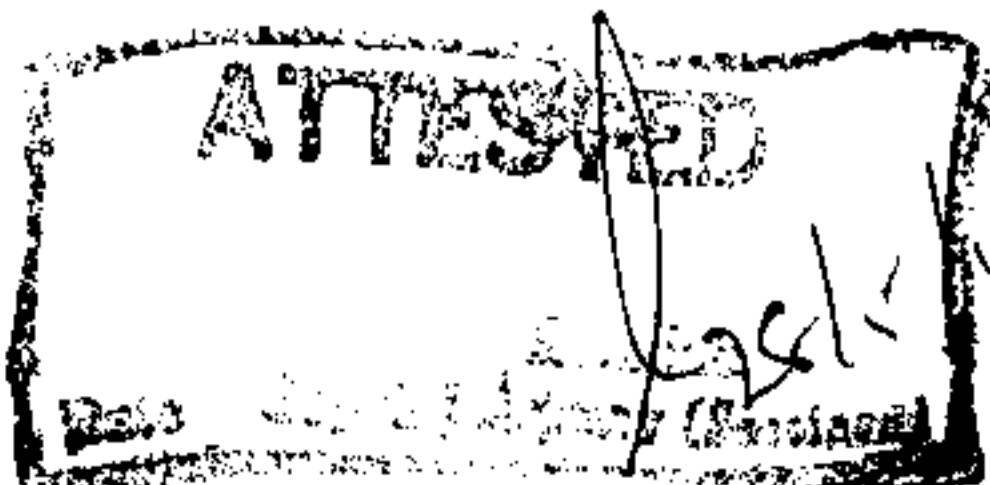
5. **Sh. Surendra Pd. Shrivastava,**  
(Director/Promoter)  
S/o Late Sh. Vidhyanath Prasad  
At & P.O. Imlechatti,  
Distt. Muzaffarpur, (Bihar).

.....Convict no.5

6. **Sh. Sajan Kumar Agarwal,**  
(Director/Promoter)  
S/o Sh. Brij Mohan Aggarwal,  
At & P.O. Bihariganj,  
Distt. Madhipura, (Bihar)

.....Convict no.6

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SEBI Vs. M/s Fairdeal Thrust Eco Ltd.



7. **Sh. Sobha Kant,**  
(Director/Promoter)  
S/o Sh. Shambhunath Jha,  
At & P.O. Belagoth, Supaula, (Bihar)

.....Convict no.7

8. **Ms. Anita Mishra**  
(Director/Promoter)  
D/o Sh. Radhashyam Sharma,  
Distt. Supaul, (Bihar)

.....Convict no.8

9. **Ms. Minu Jha,**  
(Director/Promoter)  
d/o Sh. Lal Jha  
At & P.O. Karanpura,  
Distt. Supaul, (Bihar)

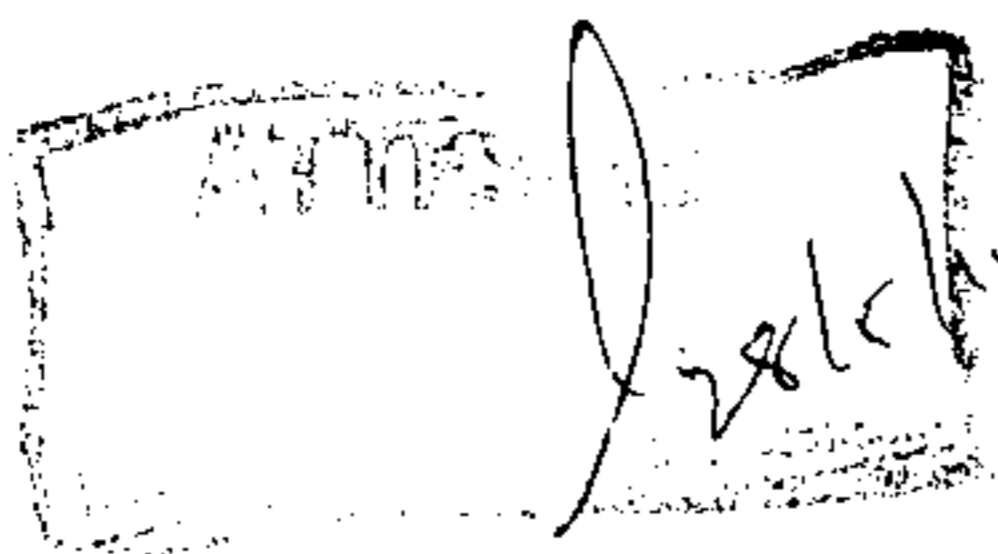
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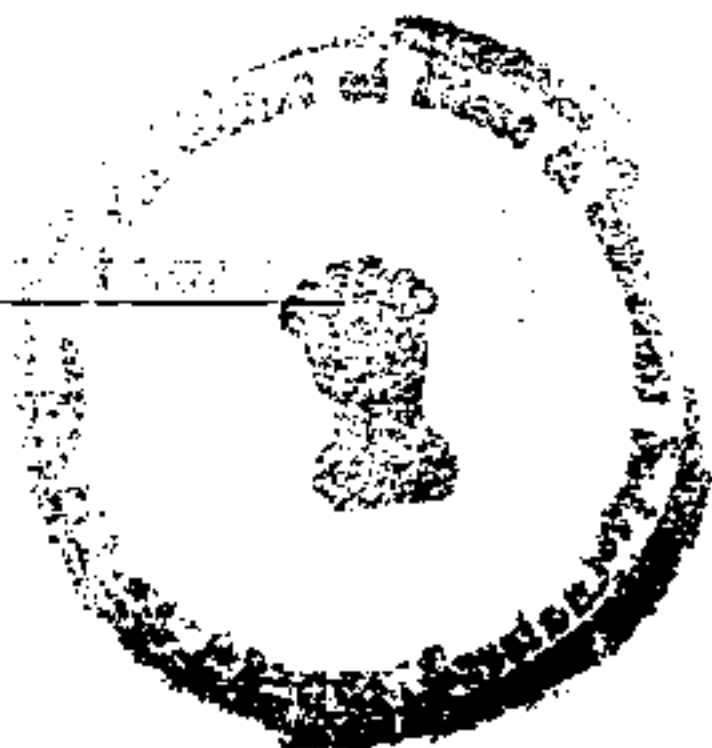
10. **Smt. Roopam Shrivastava,**  
(Director/Promoter)  
D/o Sh. Surendra Pd. Srivastava,  
At & P.O. Imlichatli,  
Muzaffarpur, Bihar.

.....Convict no.10

**Present:** Sh. Sanjay Mann, Advocate, Counsel for  
complainant SEBI.  
Sh. Firoz Khan, Advocate, Counsel for convicts  
No. 1,2,4,5,6,8 & 10  
Sh. Rakesh Kaushal, Advocate, Counsel for convicts  
No. 3,7 & 9.

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20/9/17



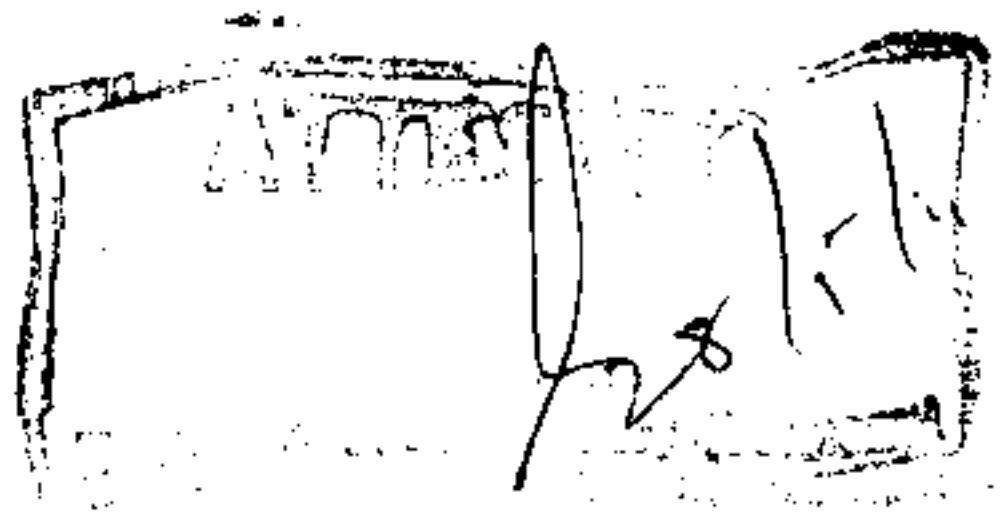


**ORDER ON THE POINT OF SENTENCE:**

1. Vide judgment dated 20.05.2011, A1 i.e. Company accused, A2 to A10 have been held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.
2. Counsels for the convicts requests for a lenient view on the ground that company accused had already refunded the amount to the investors and there is no criminal antecedents against any of the convicts. It is further argued that they are the sole bread earner of their respective family. On the other hand, Counsel for the complainant requests for substantial punishment on the ground that the company had not filed the winding up and repayment report and even company accused failed to produce any cogent evidence on the record to establish that they had refunded the amount to the investors.
3. I have heard counsel for complainant and defence counsels on the question of sentence, perused the record carefully and gave my thoughtful consideration to their contentions.
4. Keeping in view the quantum of the amount generated under CIS by the convicts, I am of the opinion that ends of justice will be



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SEBI Vs. M/s Fairdeal Thrust Eco Ltd.

met if convicts are burdened with the substantial fine. Accordingly, I hereby impose a fine of Rs. 20,000/- each on convicts No. 1 to 10 in default 3 months Simple Imprisonment for the offence punishable under Section 24 (1) of the SEBI Act.

5. Fine paid.

6. Bail Bond and Surety bond of convicts stand cancelled. Their surities stand discharged. Original documents, if any be returned to the sureties. Endorsement, if any stands cancelled.

7. Copy of judgment alongwith order on the point of sentence be given to the convicts free of cost.

8. File be consigned to record room with direction to revive it as and when All is arrested.

Announced in the open Court  
on this 20<sup>th</sup> day of May, 2011

  
(PAWAN KUMAR JAIN)  
Additional Sessions Judge-01  
Central/THC, Delhi

CC No. 71/10

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