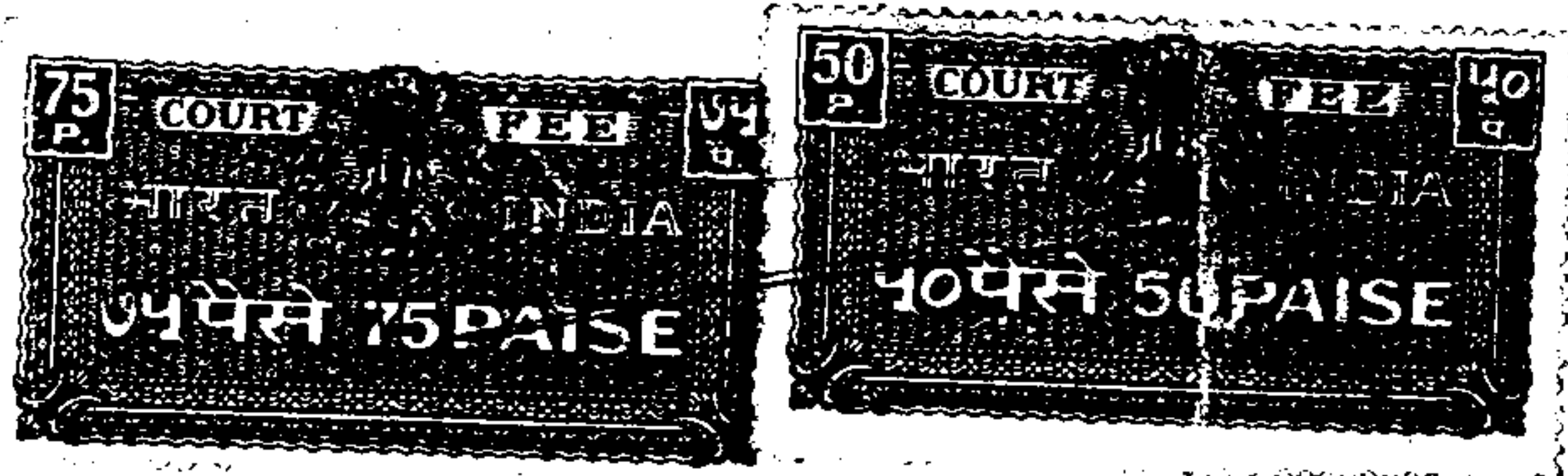


Court of Sh. P. K. Jain A.S.J. Delhi



IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE, TIS  
HAZARI COURTS, DELHI.

CC NO: ~~2803~~ 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 Gangotri Green Valley Ltd.  
Having its Regd Office at  
3426, 1<sup>st</sup> Floor,  
Mohindra Park,  
Main Road,  
Rani Bagh, Delhi-34

Also at

309, Gupta Arcade, 4, LSC Shreshtha  
Vihar,  
Delhi-92.

Also at

C-188, Surajmal Vihar, Delhi-92,

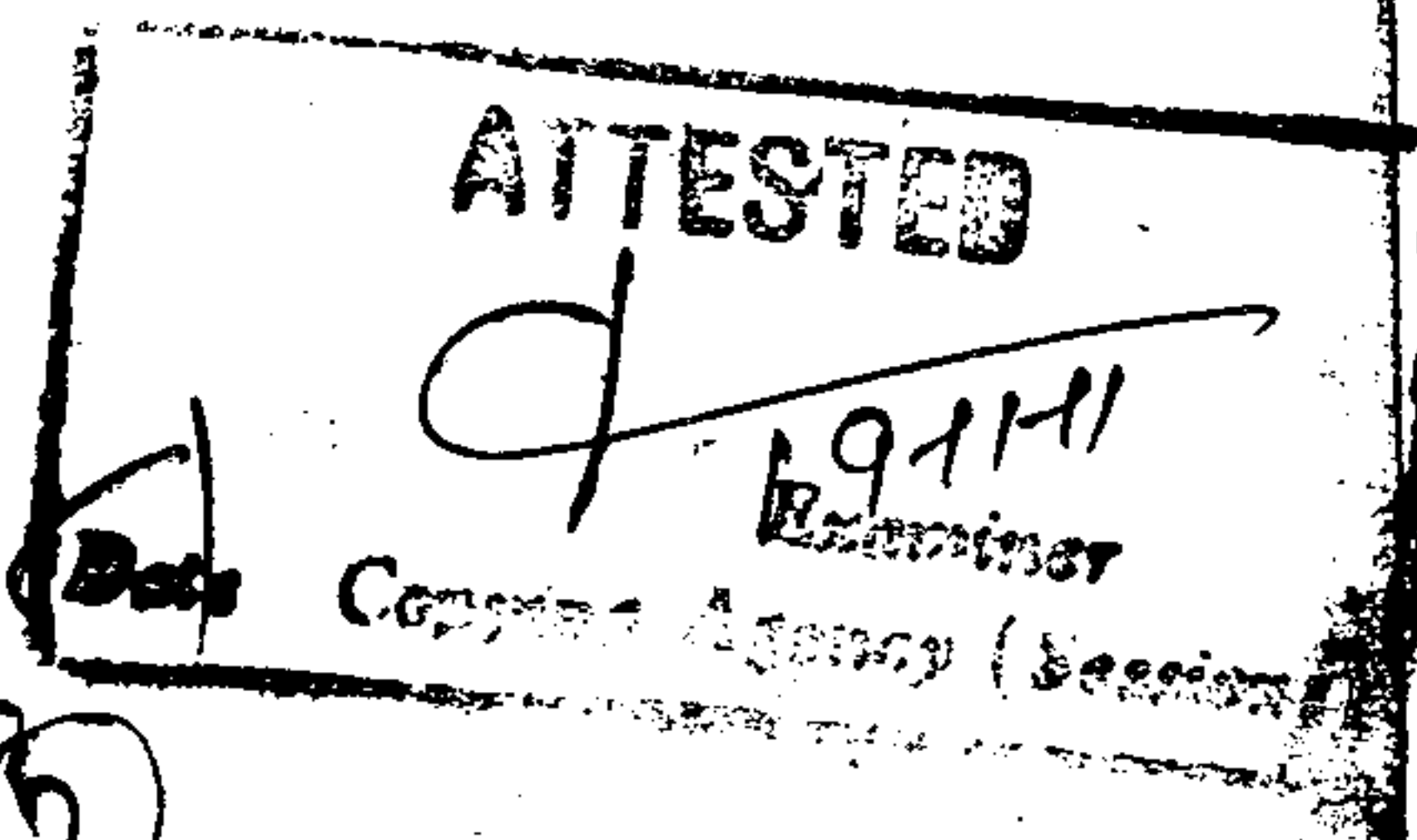
2. Sh. Sita Ram (Promoter/Director)  
C-188, Suraj Mal Vihar,  
Delhi-92.

3. Ms. Vinod Kumari Pandit  
(Promoter/Director)  
VPO Nur Mahal,  
Distt. Jullunder Jalandhar

4. Mr. Jitender (Promoter/Director)  
D-7, Old Campus, H.A.U. Hissar,  
Haryana.

5. Sh. Ram Pat Singh (Promoter/Director)  
Rohat Road, Opp. Petrol Pump,  
Jind-126102

6. Ms. Kamla Devi (Promoter/Director)



2

7. Sh. Suresh Kumar (Promoter/Director)

Vill. Dhrana,

PO Rajgarh, Dist. Bhivani,

8. Sh. Vivek Kumar (Promoter/Director)

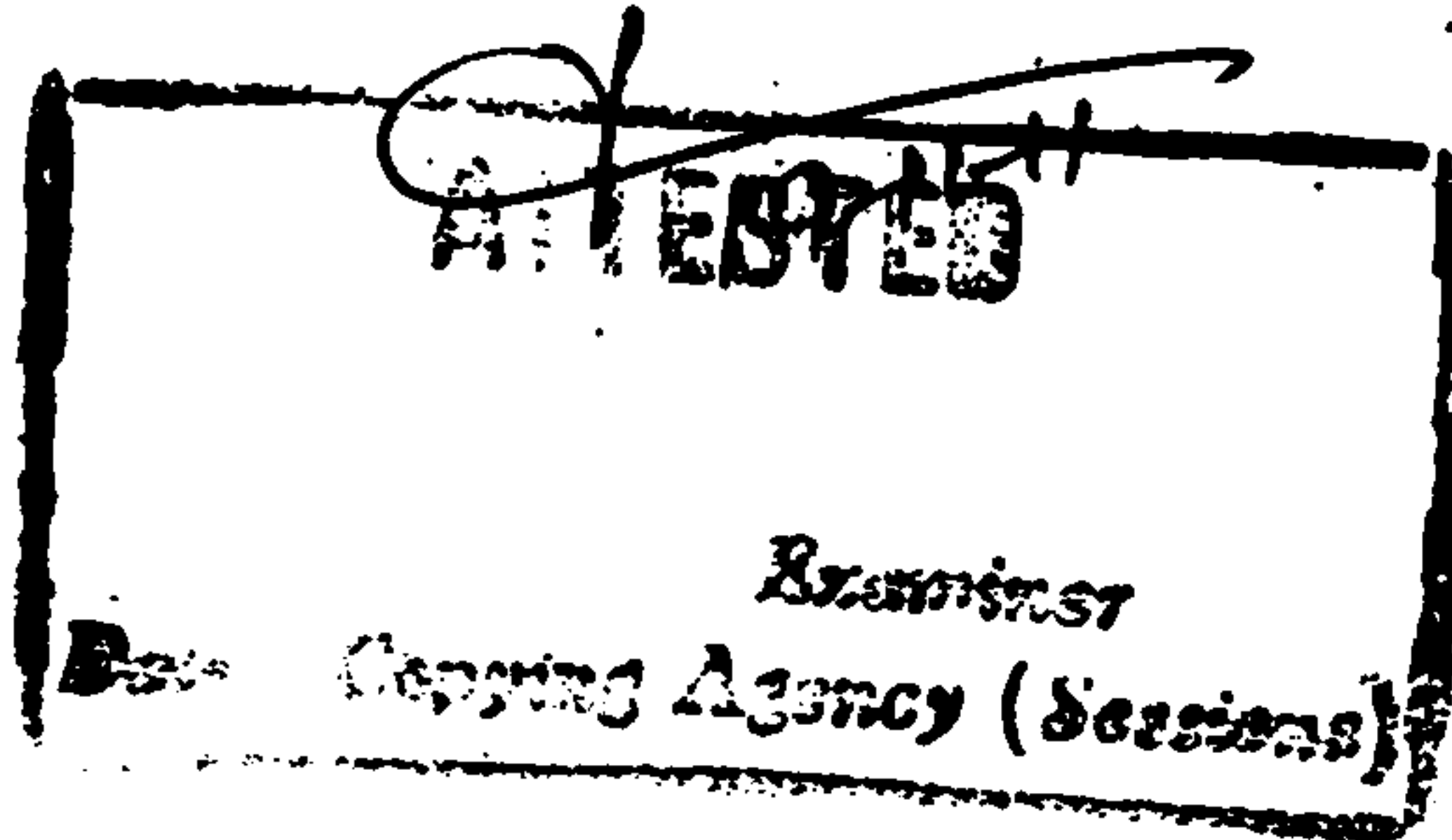
RZE I, Mahavir Enclave, Palam,

Dabri Road,

Near Sulabh Intl., New Delhi-45

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, 1982

MAY IT PLEASE YOUR HONOUR:





CC no. 4/10

11.11.2011

Item no. 9

Present: Sh. Sanjay Mann, Advocate, counsel for SEBI

Accused no. 3 is PO vide order dated 13.7.2006

Accused no. 5 & 6 are acquitted vide order dated  
dated 15.7.2009

Accused 7 and 8 are discharged vide order dated 1.4.2010

Accused no. 2, 3 & 4 are on bail with counsel Sh. Abonik  
Kumar and Sh. R. Menon, Advocate.

Arguments heard advance by counsel for both parties.

Vide separate judgment, A1 i.e company A1, A2 and A4 are held  
guilty for the offence punishable under Section 24 (1) of the SEBI Act.

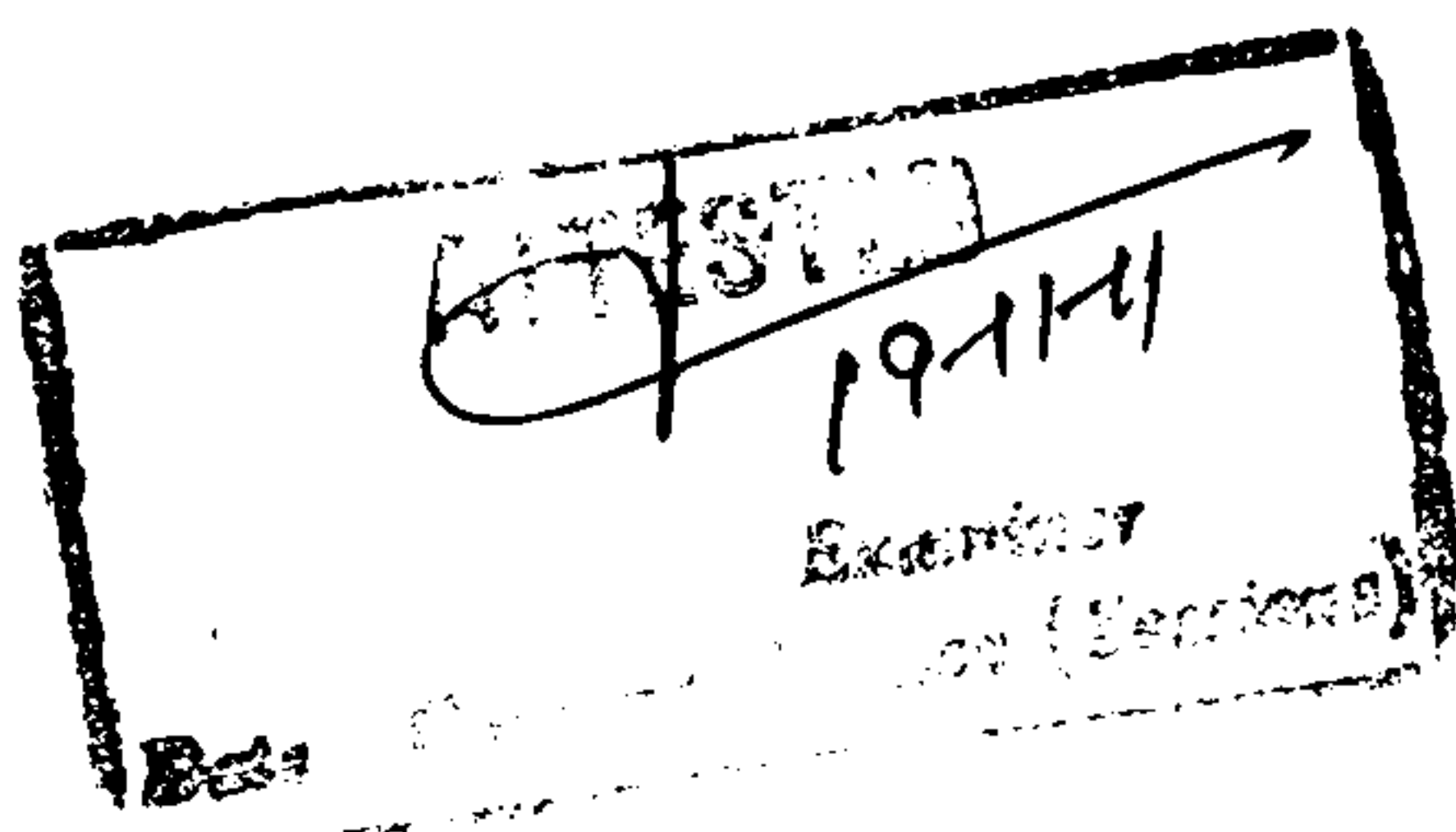
Arguments heard on the point of sentence.

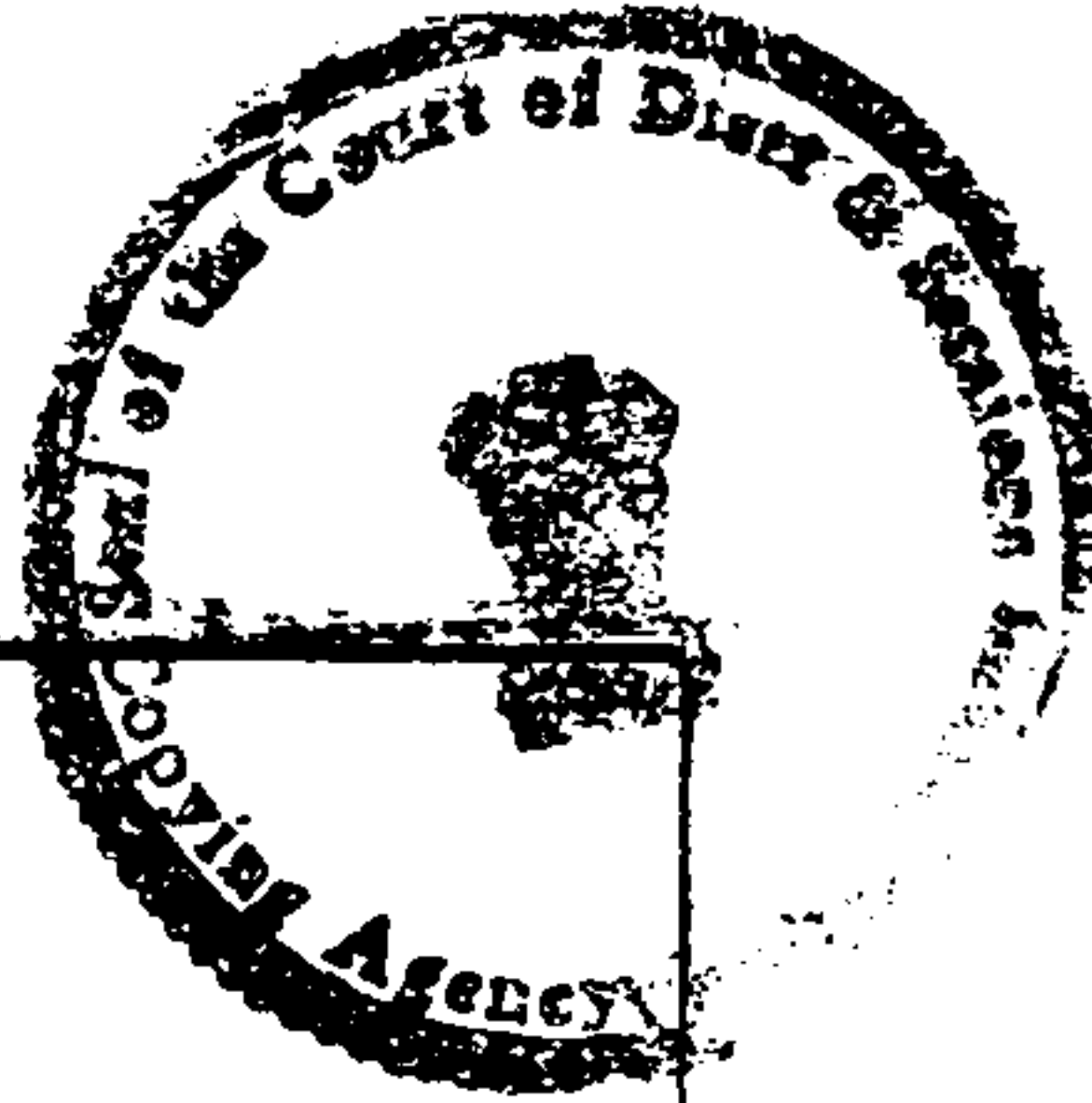
Vide separate order on the point of sentence, a fine of ` 40,000/-  
is imposed upon each of convicts i.e convict no.1 to convict no.3 in default  
convict no.2 and 3 shall undergo three months simple imprisonment for the  
offence punishable under Section 24(1) read with Section 27 of the SEBI Act.

Fine amount paid.

Since accused no.3 is proclaimed offenders, file be consigned to  
record room with direction that same be revived as and when he is  
apprehended.

(Pawan Kumar Jain) 11/11/11  
Addl. Sessions Judge-01/  
Central/THC/Delhi  
11.11.2011





SEKI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

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

**Complaint Case No. 04 of 2010  
ID No: 02401R0303722003**

**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. Varsha Aggarwal.

**Versus**

1. **M/S Gangotri Green Valley Ltd.**  
Having its Registered Office at  
3426, 1st Floor,  
Mohindra Park,  
Main Road, Rani Bagh, Delhi-110 034.

Also at  
309 Gupta Arcade, 4,  
LSC Shreshtha Vihar, Delhi-92.

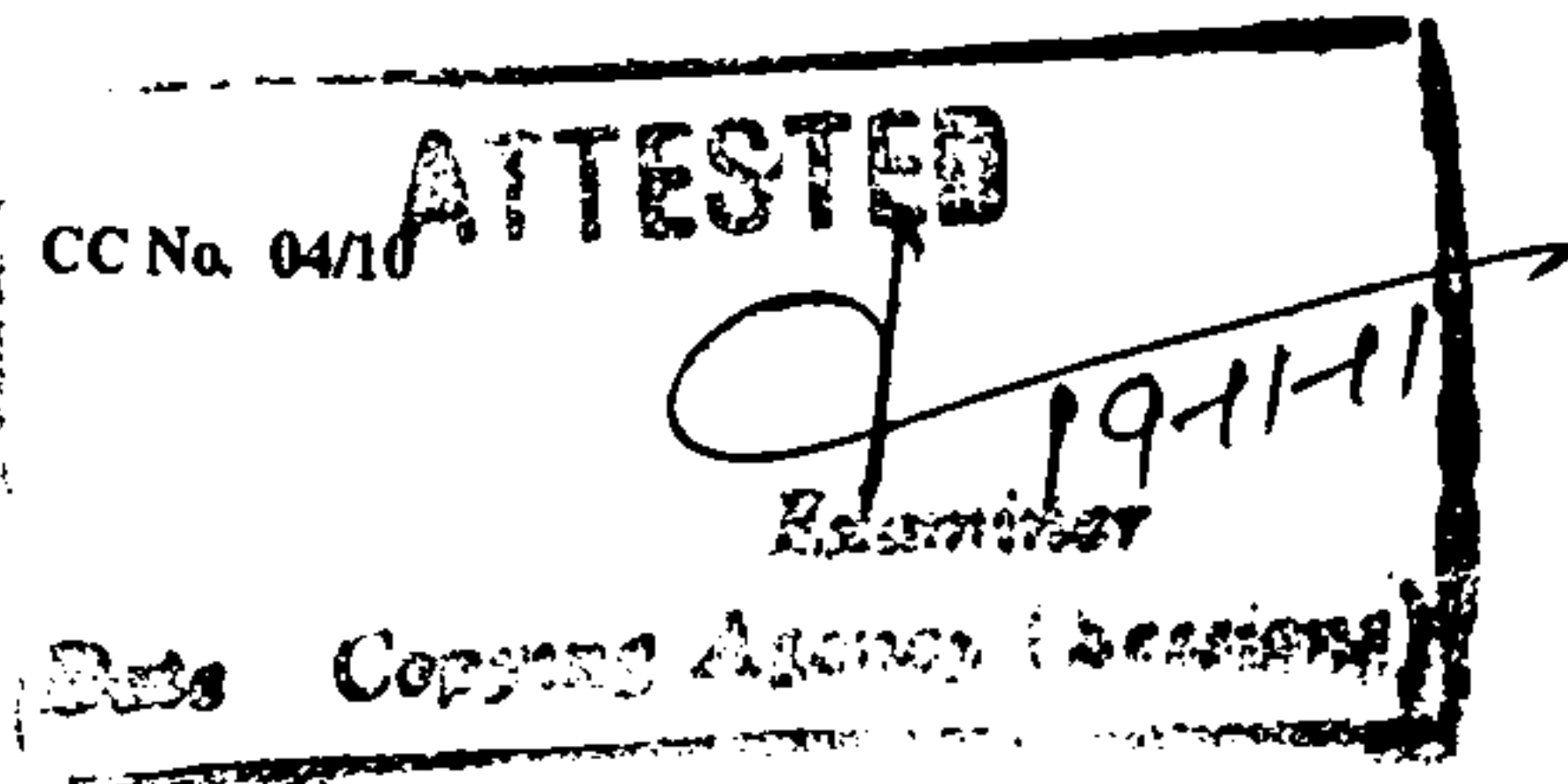
Also at  
C-188, Surajmal Vihar,  
Delhi-92.

.....Accused no.1

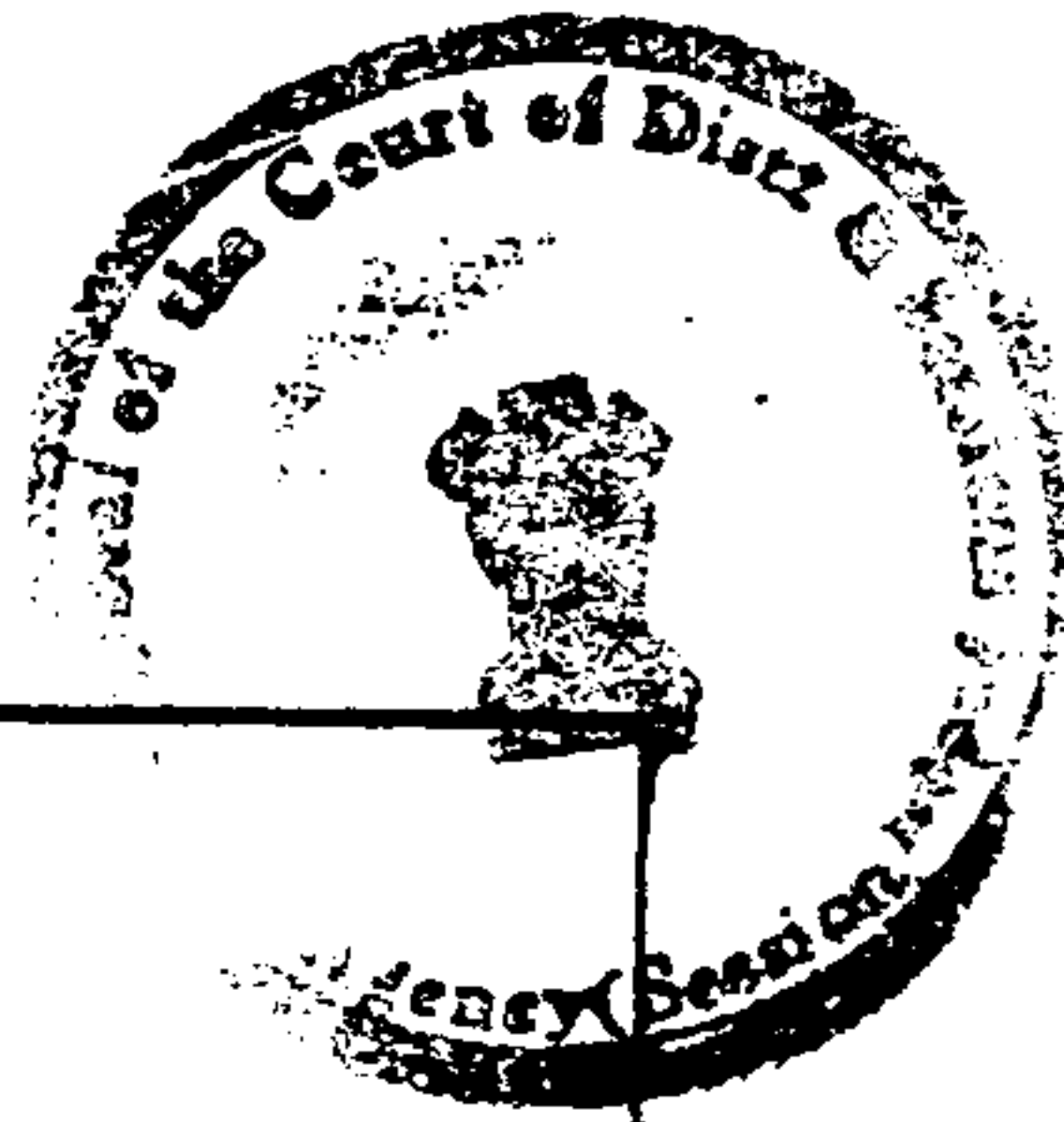
2. **Sh. Sita Ram (Promoter/Director)**  
C-188, Suraj Mal Vihar,  
Delhi-92.

.....Accused no.2

Page no. 1 of 12







SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

3. **Mr. Vinod Kumar Pandit**  
(Director/Promoter)  
VPO Nur Mahal,  
District Jallandhar.

.....Accused no.3

4. **Ms. Jitender,**  
(Director/Promoter)  
D-7, Old Campus, HAV Hissar,  
Haryana.

.....Accused no.4

5. **Sh. Ram Pat Singh,**  
(Director/Promoter)  
Rohat Road, Opposite Petrol Pump,  
Jind-126102

.....Accused no.5

6. **Ms. Kamla Devi**  
W/o Subhash Saini  
(Promoter/Director)  
village Satrotel Khasi (Near Cantt)  
District Hissar (Haryana)

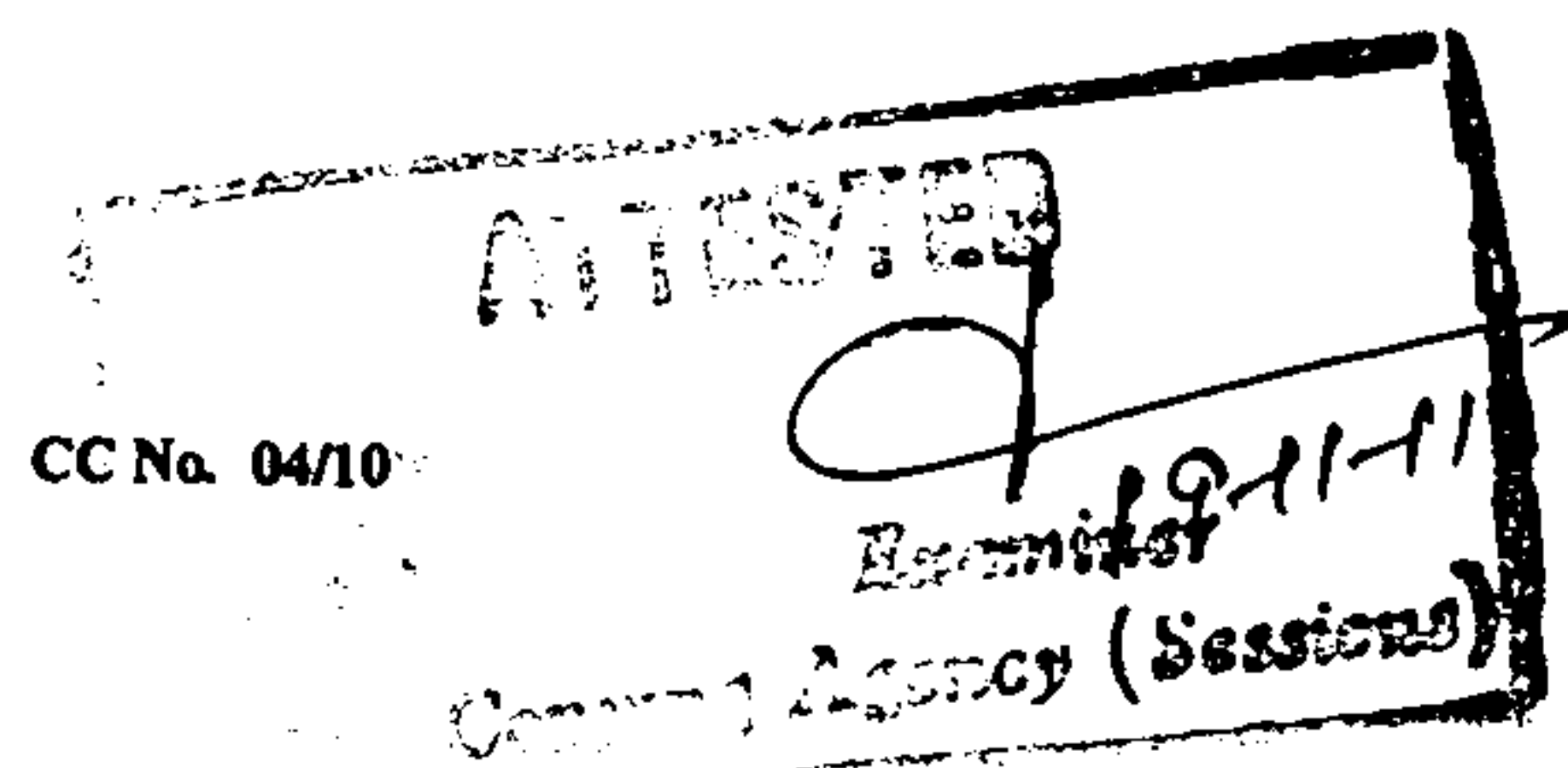
.....Accused no.6

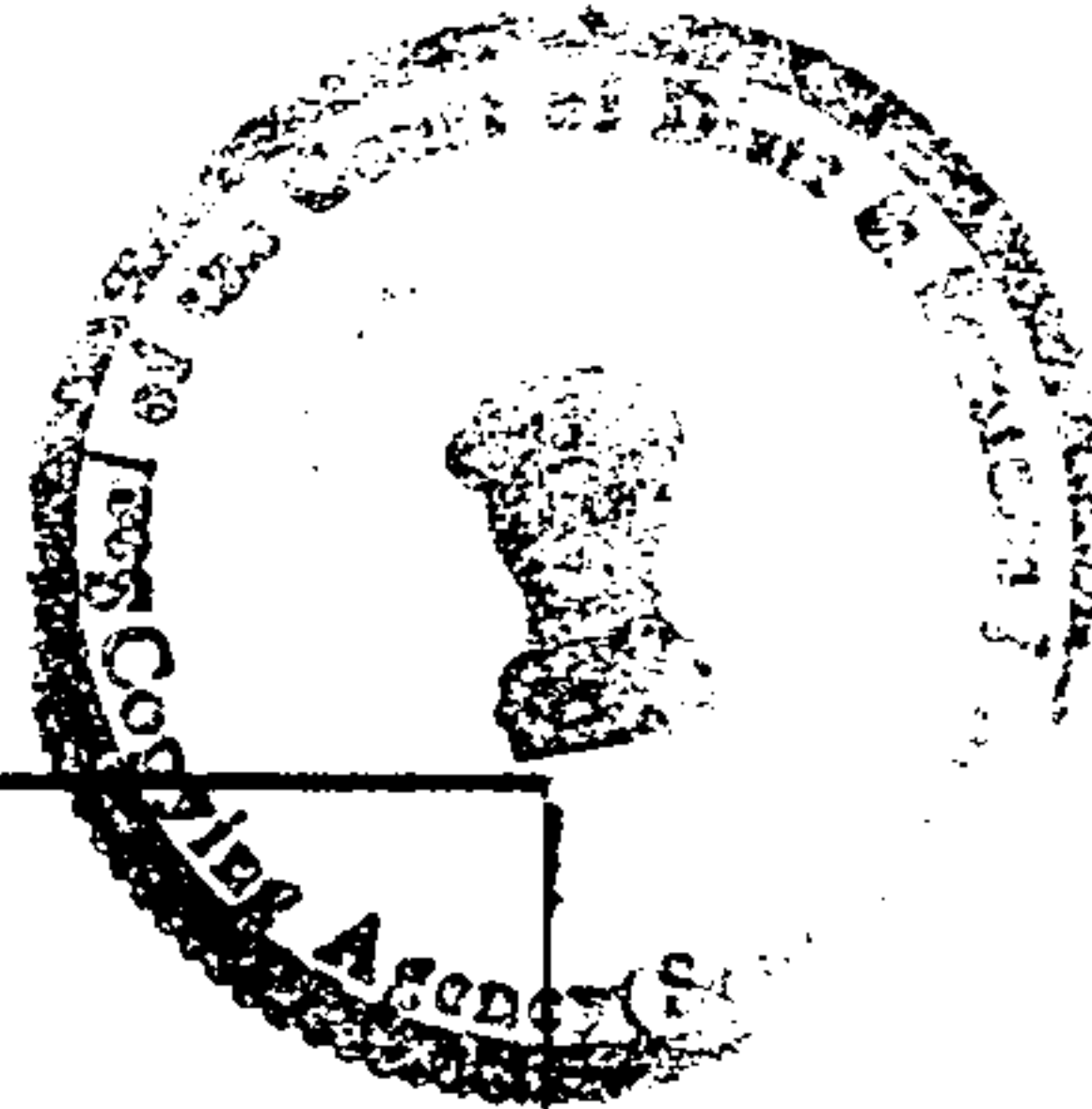
7. **Sh. Suresh Kumar,**  
(Director/Promoter)  
PO Rajgarh, Distt. Bhivani,

.....Accused no.7

8. **Sh. Vivek Kumar,**  
(Director/Promoter)  
RZE I, Mahavir Enclave, Palam,  
Dabri Road, Near Sulabh Intl. New Delhi-45.

.....Accused no.8





SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

Date of Institution : 15.12.2003  
Date of committal to Sessions Court : 16.05.2005  
Date of pronouncement of judgment : 11.11.2011

Present: Sh. Sanjay Man, Advocate, Counsel for SEBI  
Sh. R. Menon and Sh. Abonik Kumar, Advocates,  
Counsel for A1, 2 & 4

### J U D G M E N T (O R A L):

1. This criminal complaint was preferred by the Securities & Exchange Board of India (hereinafter referred to as "SEBI" or "the complainant"), on December 15, 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 & 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. Eight persons were arrayed as accused in the criminal complaint preferred under Section 200 Cr.P.C., they being M/s ("A1") M/s Gangotri Green Valley Ltd., accused No. 2 Sh. Sita Ram ("A2"), accused No. 3 Ms. Vinod Kumari Pandit ("A3"), accused No. 4

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CC No. 04/10

ATTESTED

Examiner

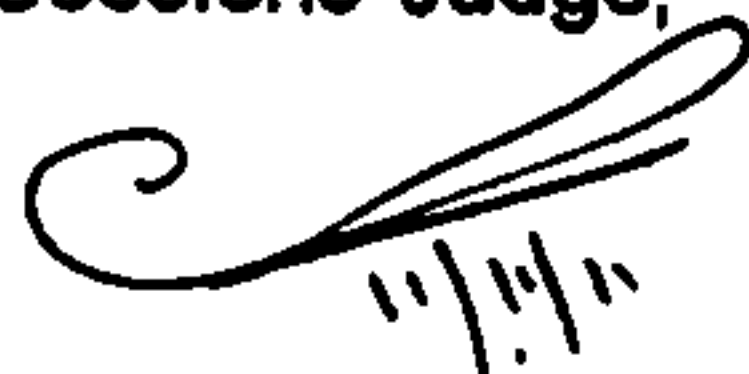
Copying Agency (Sessions)

Mr. Jitender ("A4"), accused No. 5 Sh. Ram Pat Singh ("A5"), accused No. 6 Ms. Kamla Devi ("A6"), accused No. 7 Sh. Suresh Kumar ("A7") & accused No. 8 Sh. Vivek Kumar ("A8"). It is alleged that A2 to A8 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 provisions contained in Section 27 of the SEBI Act.

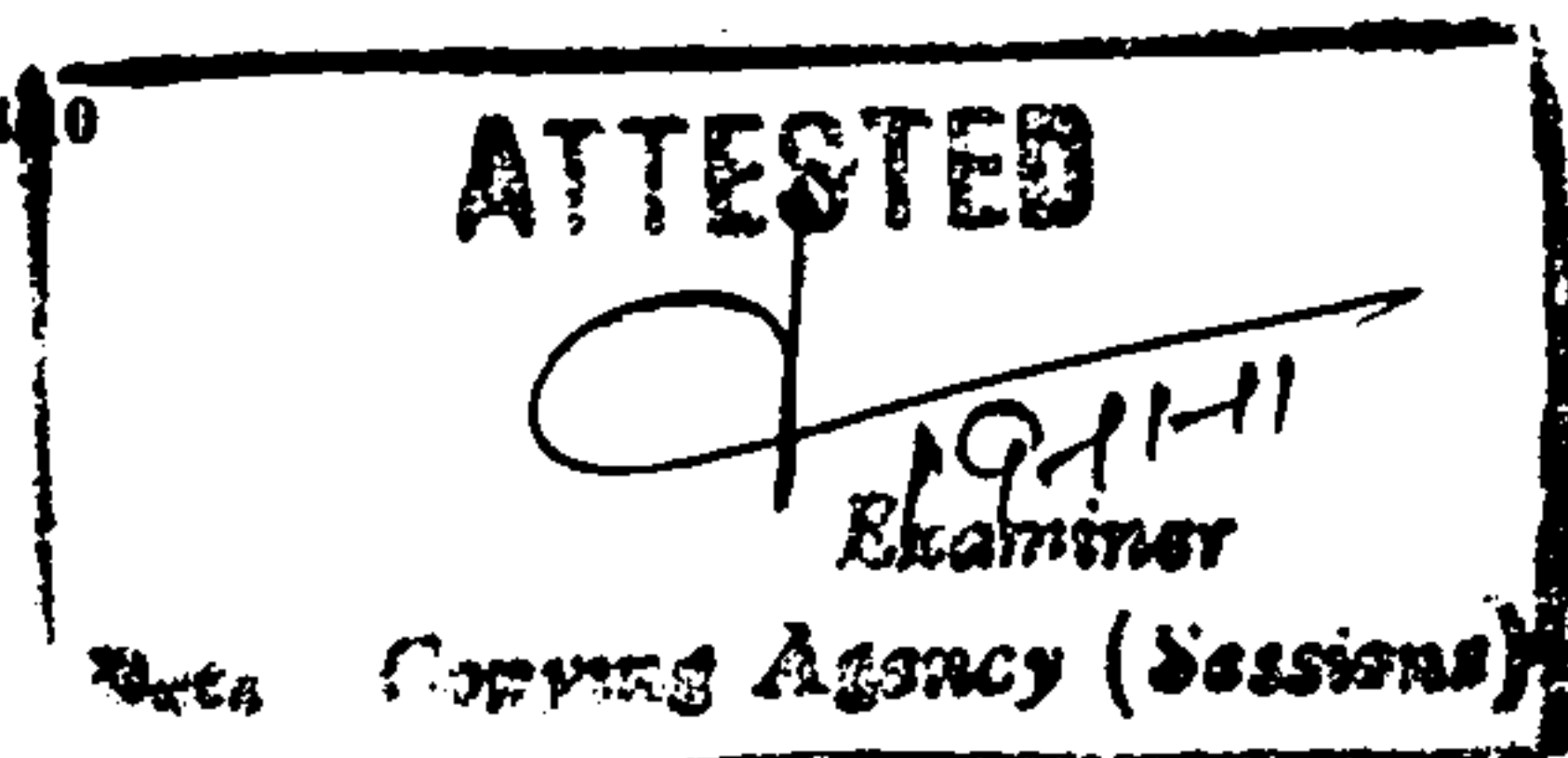
3. It is alleged in the complaint that A1 had floated various Collective Investment Schemes (CIS) and raised approximate ₹ 6,80,000/- from general public, in violation of the provisions contained in Section 12 (1B) of the SEBI Act. It is also alleged that after coming into force of CIS Regulations and in spite of public notice dated December 18, 1997, the accused persons had failed to get the Collective Investment Schemes registered with SEBI or to wind up the said schemes 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. Cognizance on the complaint was taken by the learned ACMM vide order dated December 15, 2003 whereby process were 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. November 24, 2002, pursuant to Administrative Directions of Hon'ble High Court, under orders of the Ld. Distt. & Sessions Judge,



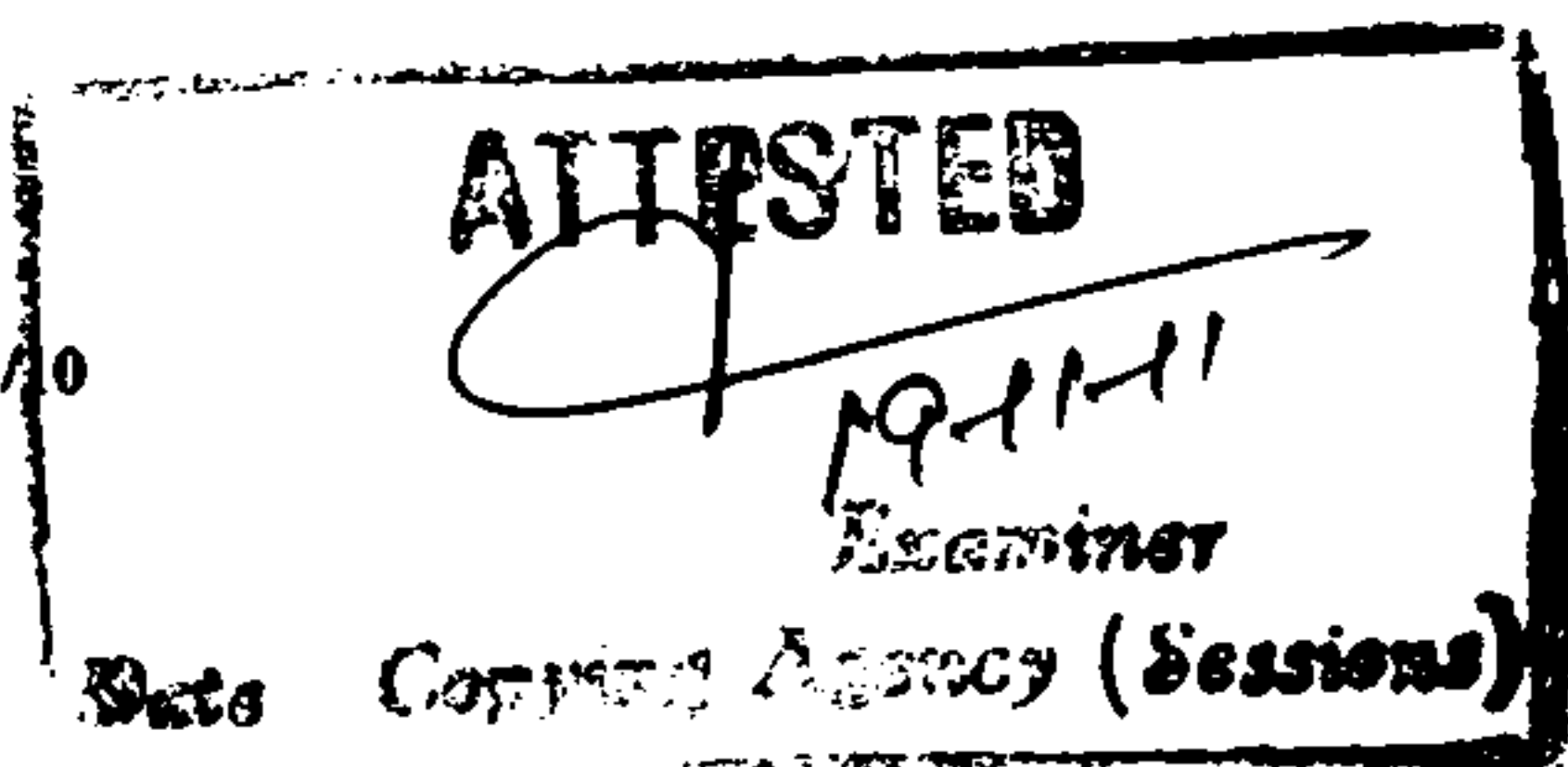
CC No. 04/0



this case was transferred on May 16, 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.

6. Vide order dated January 24, 2008, A3 was declared proclaimed offender on account of his non appearance. On July 13, 2006, a notice for the offence punishable under Section 24 read with section 27 of the SEBI Act was served upon the A1 to A8 except A3 wherein all accused pleaded not guilty and claimed trial.
7. During trial vide order dated July 15, 2009, A5 & A6 were acquitted from all the charges as both the accused had compounded the matter with the SEBI while A7 & A8 were discharged from all the charges vide order dated April 1, 2010 as the matter had also been compounded by SEBI with A7 & A8.
8. To prove its case, complainant has examined only one witness named Ms. Varsha Aggarwal, Asstt. General Manager, SEBI. Thereafter, A2 & A4 were examined under Section 313 Cr.P.C. wherein A2 & A4 did not deny their directorship in the company accused and took plea that they had already filed an application before SEBI for compounding the matter. They further submitted that company accused had already refunded the amount to the investors.
9. To prove their innocence, accused examined Sh. Sita Ram (A2) as DW1.

CC No. 04/0



[Signature]



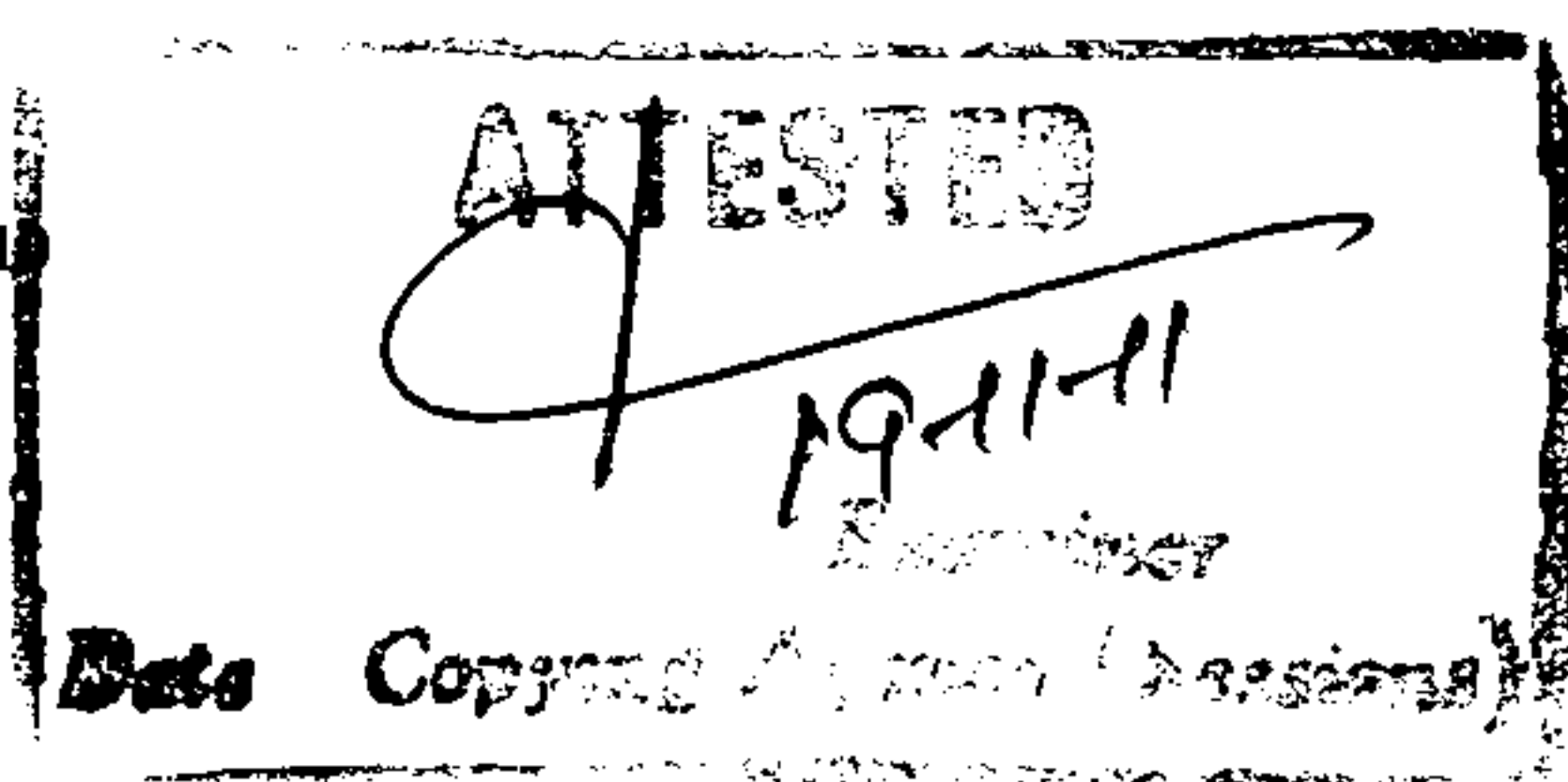
10. I have heard arguments advanced by Sh. Sanjay Mann, Advocate, Counsel for complainant and Sh. R. Menon, Advocate, Counsel for A1, A2 and A4 and perused the record carefully.

11. Learned defence counsel appearing for A1, A2 & A4 contended that no case is made out against the above accused persons as accused persons had refunded the amount to the tune of ₹19 lac to the investors, thus it was argued that company accused had not violated any provisions of the SEBI Act. On the other hand, learned counsel appearing for complainant sagaciously contended that since company accused had mobilized funds in violation of Section 12(1B) of the SEBI Act, company accused had committed the offence punishable under Section 24(1) of the SEBI Act. It is further contended that A2 and A4 being the directors of the company accused were in charge of, and responsible to, the company accused for the conduct of its business, thus they are also liable for the alleged violation committed by the company accused was the aid of Section 27 of the SEBI Act.

12. Admittedly, company accused was incorporated on May 13, 1997. Moreover, this fact is proved from the Memorandum and Articles of Association of company accused, which is exhibited as Ex. CW1/3.

13. Section 12(1B) was inserted in the Act in the year 1995. By virtue of Section 12(1B) of SEBI Act, no person could sponsor or

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SEBI Vs. GANOOTRI GREEN VALLEY LTD. & OTHERS

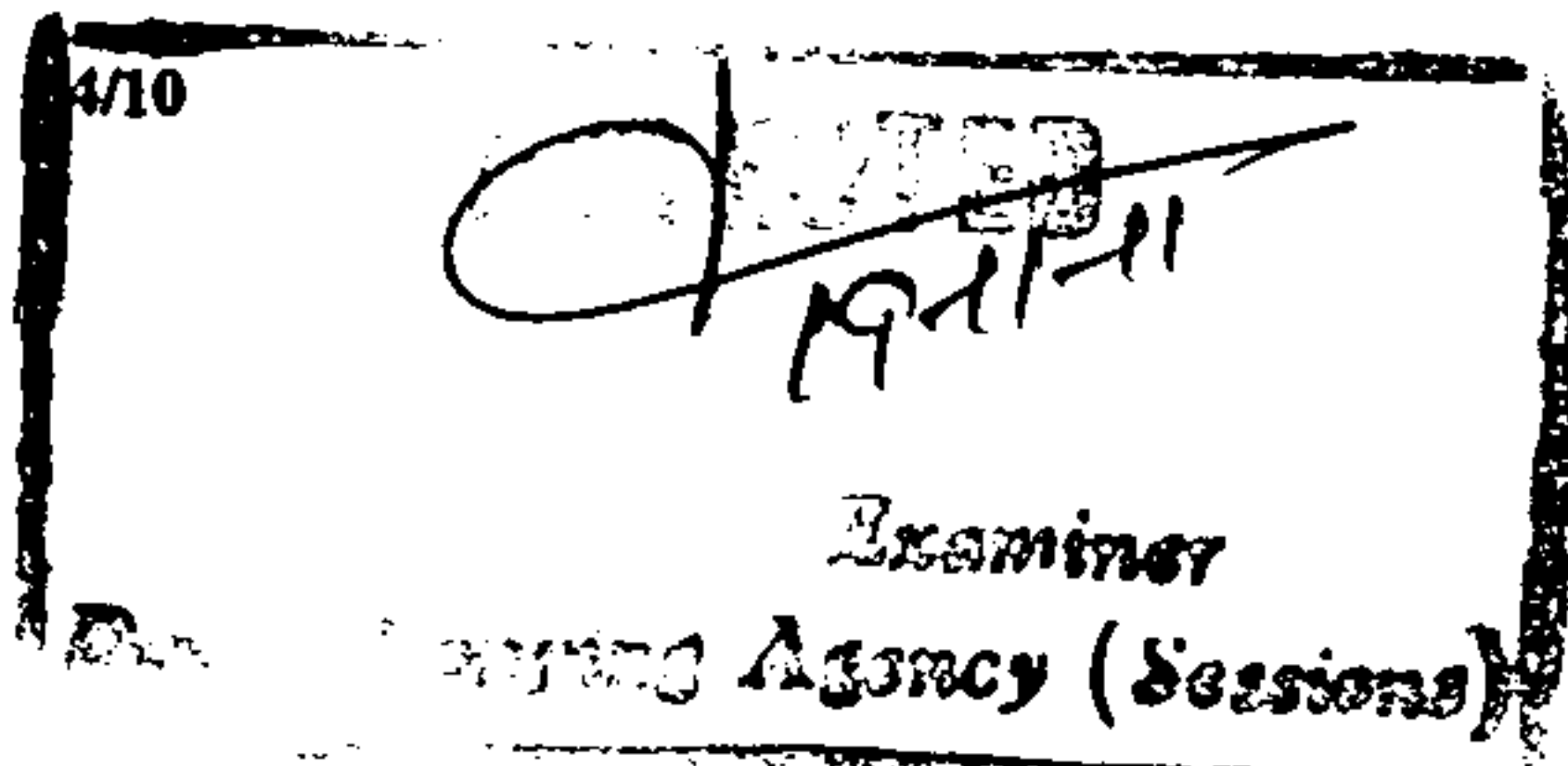
cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations. However, if the company was operated any scheme prior to the insertion of Section 12(1B) in the SEBI Act, no such certificate of registration was required till the regulations are notified. Since, the company accused was incorporated in the year 1997, company accused was not supposed to launch any collective investment scheme without obtaining the certificate of registration from the SEBI. The relaxation provided under proviso to 12(1B) of the SEBI Act is not applicable in the facts of present case because the company accused was incorporated in the year 1997 and company accused had mobilized funds after inserting Section 12(B) in the Act.

14. Now question may arise that the regulations were notified in October 1999 only and there was no regulation in the year 1997-1998 when company accused had mobilized funds through various CIS, thus it could be argued that company accused could not obtain any certificate of registration from SEBI in terms of Section 12(1B) of the Act. This question was dealt with by Allahabad High Court in case **Paramount Bio-Tech Industries Limited Vs. Union of India** reported in 2003 INDLAW All 168, wherein it was held in para 80:-

*"It is true that there were no Regulations upto 1999 and, hence, certificate could not be granted under Section 12(1B). However, the proviso to Section 12(1B)*

*11/11/14*

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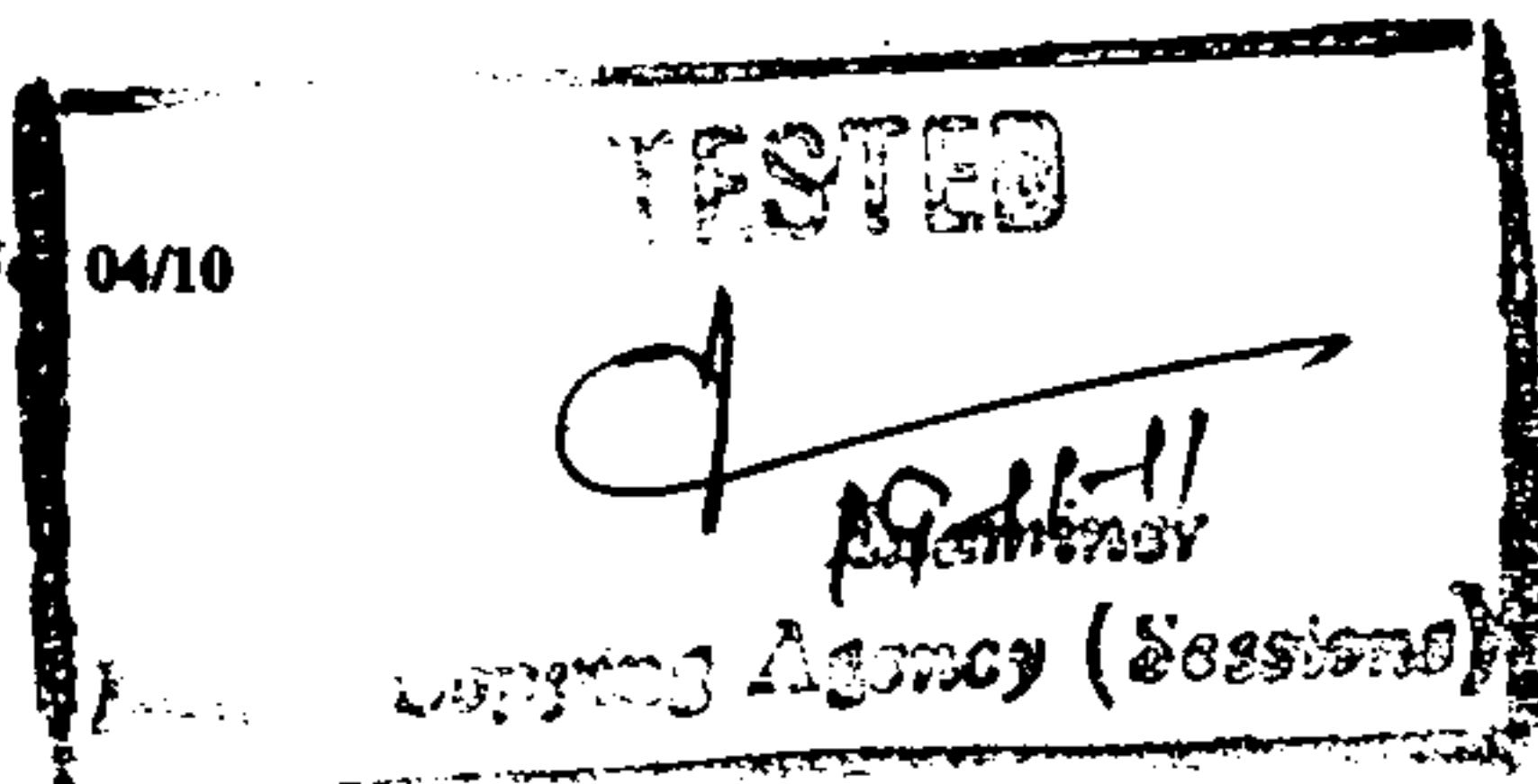


SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

*permitted only those persons who were carrying on the business of collective investment scheme prior to the 1995 amendment (which came into force with effect from 25 January, 1995) to continue to operate till Regulations were framed. Petitioner No.1 was incorporated in 1996 (vide paragraph 7 to the writ petition) and, hence, it was obviously not carrying on the said business before 25 January 1995. Hence, it could not get the benefit of the proviso to Section 12(1B). It follows that the business of collective investment scheme, which it was doing, was wholly illegal. The letter of the SEBI to the petitioner dated 27 February, 1998 (vide Annexure 4 to the writ petition) was thus indulgent to the petitioner. In fact, by that letter, the SEBI took a lenient view by permitting the petitioner to operate after getting rating from a credit agency. In fact, even this concession could not have been granted by the SEBI, as the proviso to section 12(1B) does not apply to the petitioner, for the reasons given above. The SEBI should in fact have totally prohibited the petitioner from doing the business of collective investment scheme and should have directed prosecution of the petitioner and its officials under Section 24 read with section 27 of the SEBI Act".*

15. From the above judgment, it becomes crystal clear that after insertion of Section 12(1B) in the Act, company accused was not entitled to mobilize funds without obtaining a certificate of registration from the board in accordance with regulations, but in the instant case,

CCN 04/10



19/11/14  
Page no. 8 of 12





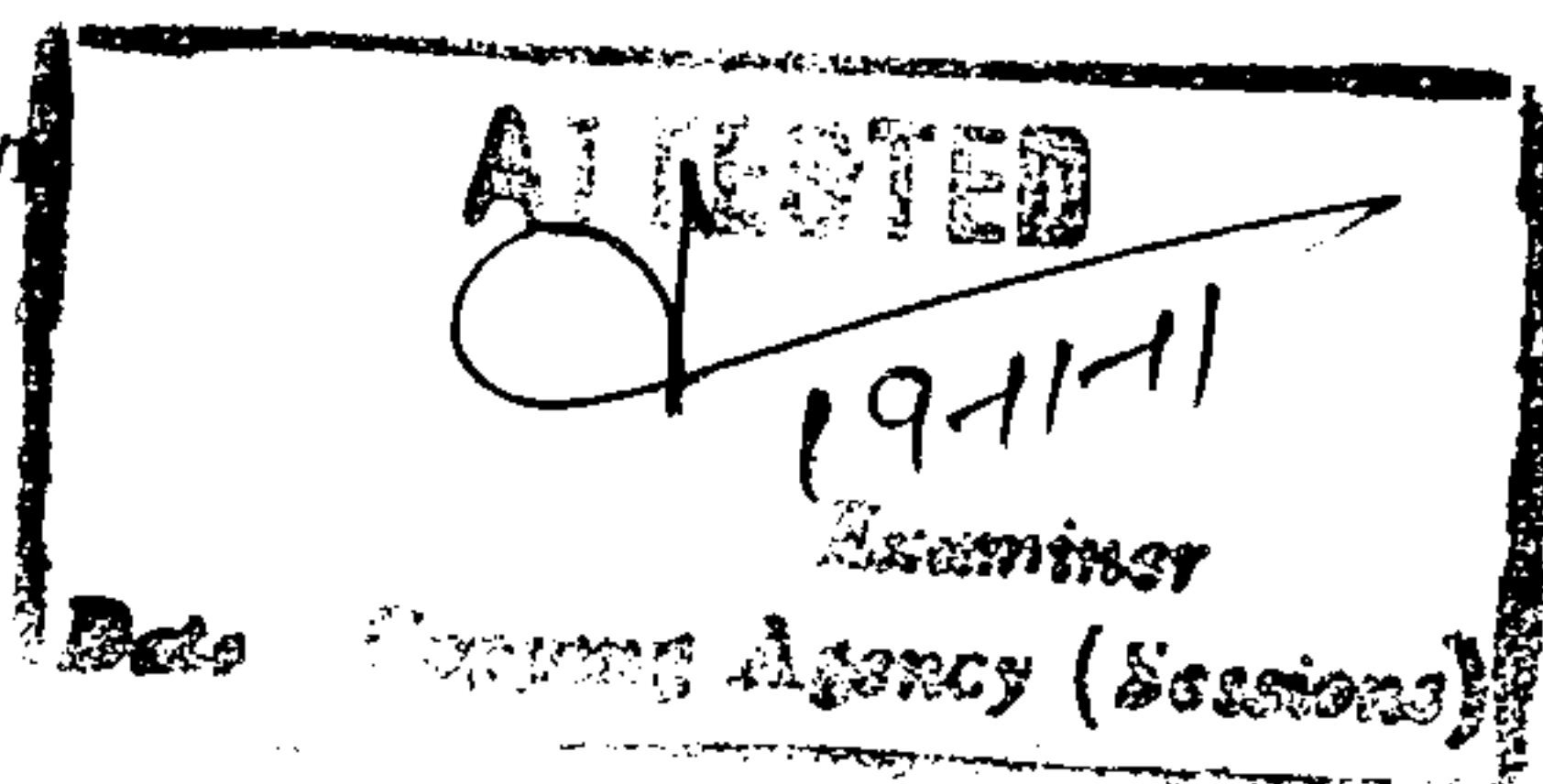
SEBI v. GANGOTRI GREEN VALLEY LTD. & OTHERS

company accused had mobilized funds in the year 1997-98 without obtaining the certificate of registration which is in violation of Section 12 (1B) of the Act. Since, funds were mobilized after 1995, company accused was not entitled for the relaxation as provided under the proviso to Section 12 (1B) of the Act.

16. It is also undisputed fact that CIS regulations were notified on October 15, 1999. As per Regulation 5(1), any person who was immediately prior to the commencement of these Regulations was operating any scheme, shall make an application to the Board for the grant of certificate within two months from the date of regulations. Admittedly, company accused had not made an application in accordance with regulation 5 of the CIS Regulation. According to Regulation 73, if the company failed to make any such application, company shall wind up the existing scheme and send the information to the SEBI relating to the scheme and the amount repayable to each investor and the manner in which amount is determined and was returned to the investor and shall also file winding up and repayment report with the SEBI on the prescribed format. Admittedly, the company accused had not complied with the provision of Regulation 73 of the CIS Regulations, thus company accused had not only violated Regulation 5 but also violated Regulation 73 of the CIS which amounts violation of Section 24(1) of the Act.

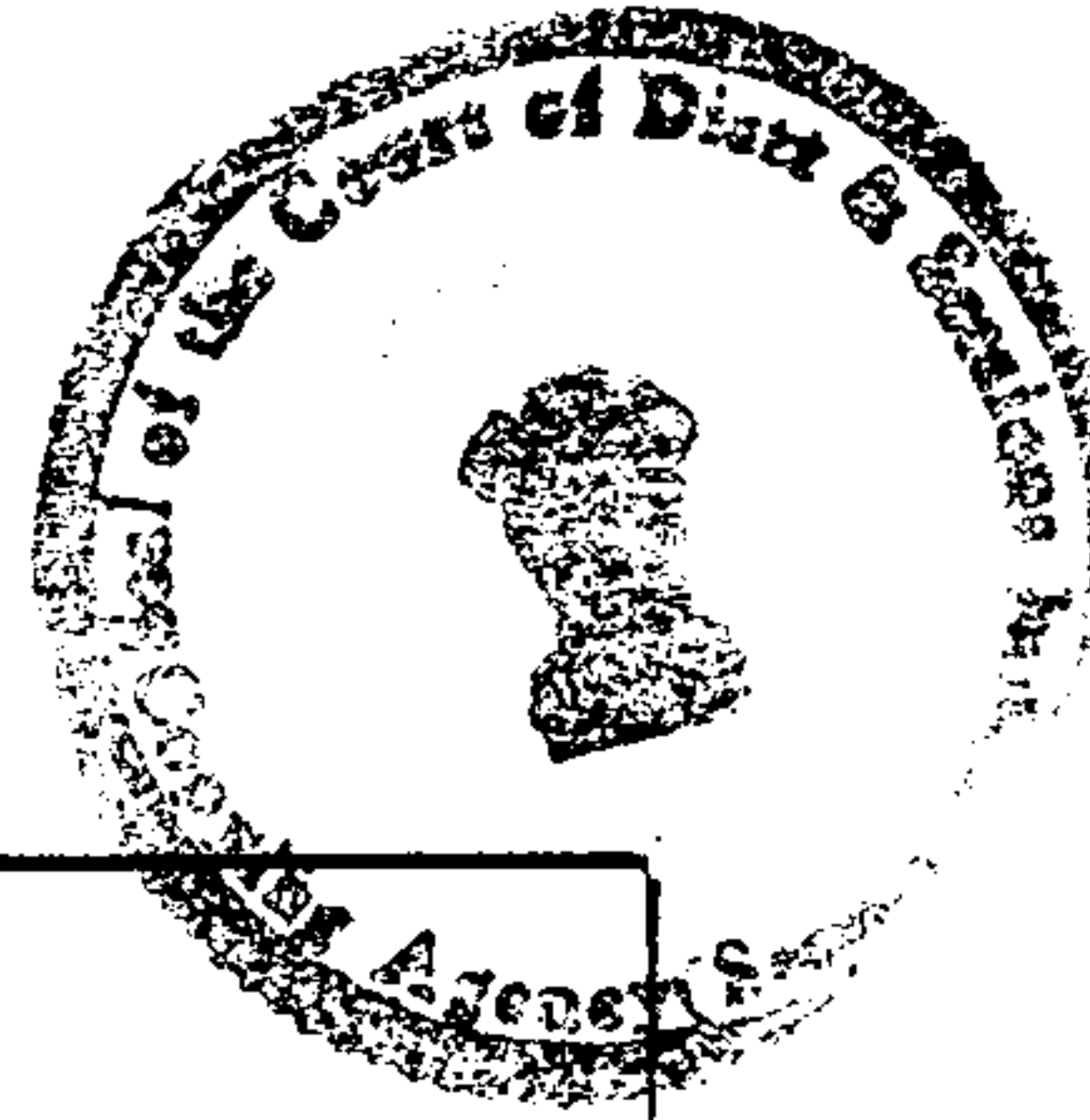
17. It is undisputed fact that company accused had sent a letter dated March 16, 1998 wherein company accused had furnished the detail of the amount mobilized by company accused under various CIS. According to the said letter, company accused had mobilized

CC No. 04/1



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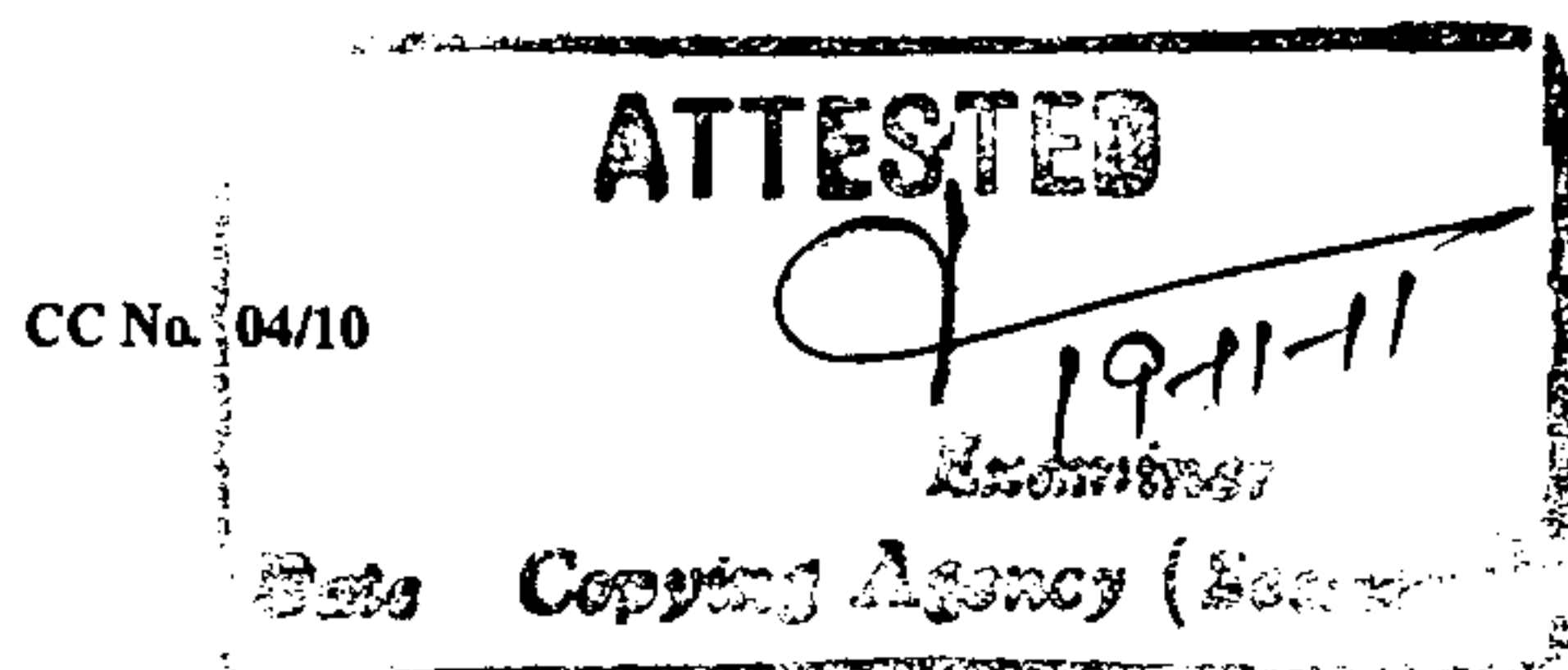
SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

funds to the tune of ₹ 6.80 lac from general public till December 31, 1997. During trial, A2 appeared in the witness box as DW1 and admitted in his cross examination that company accused had mobilized funds to the tune of ₹ 17,85,686/- during the period 1997-98. Since the fund was mobilized without obtaining mandatory certificate as provided under Section 12(1B) of the SEBI Act, thus company accused had violated Section 12 (1B) of the SEBI Act as well as regulation 5 & 73 of the CIS Regulation, which is punishable under Section 24 (1) of the SEBI Act.

18. Now coming to the contention as to whether A2 & A4 are liable for the violation committed by company accused or not.

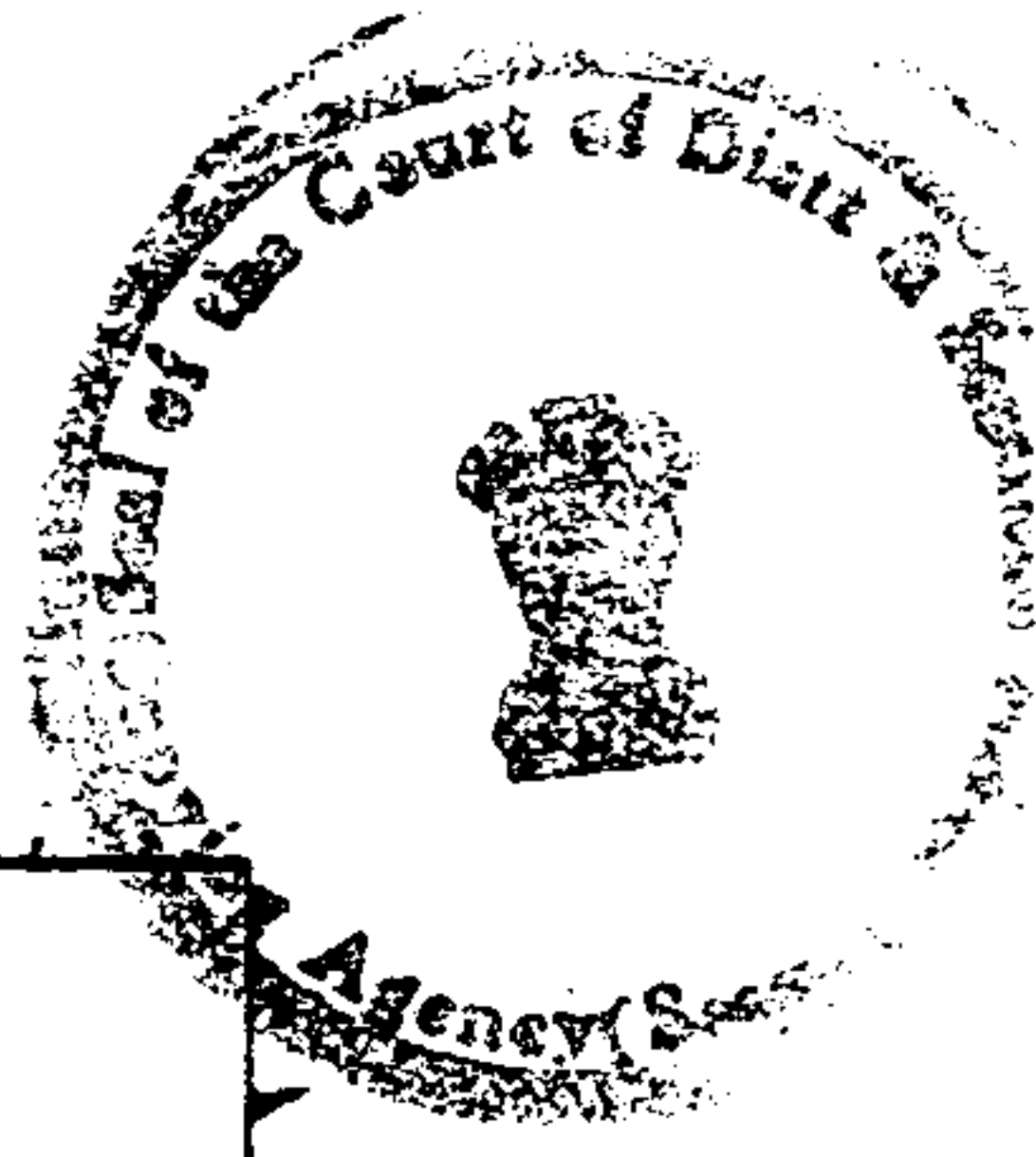
19. It is undisputed fact that A2 & A4 were directors of the company accused and this fact is also admitted by company accused in its letter Ex. CW1/2 and CW1/3. Even their name are also mentioned in Memorandum and Articles of Association of company accused. Moreover, during the course of arguments, this fact is also not disputed by the learned defence counsel. Even DW1 in his deposition admitted that he was one of the directors in the company accused. DW1 in his cross examination admitted that he was one of directors of the company accused. CW1 in his testimony categorically deposed that A2 & A4 were in charge of, and responsible to, the company accused for the conduct of its business.

20. In view of above discussion, I am of the view that being the directors, A2 & A4 were in charge of, and responsible to, the company



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SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

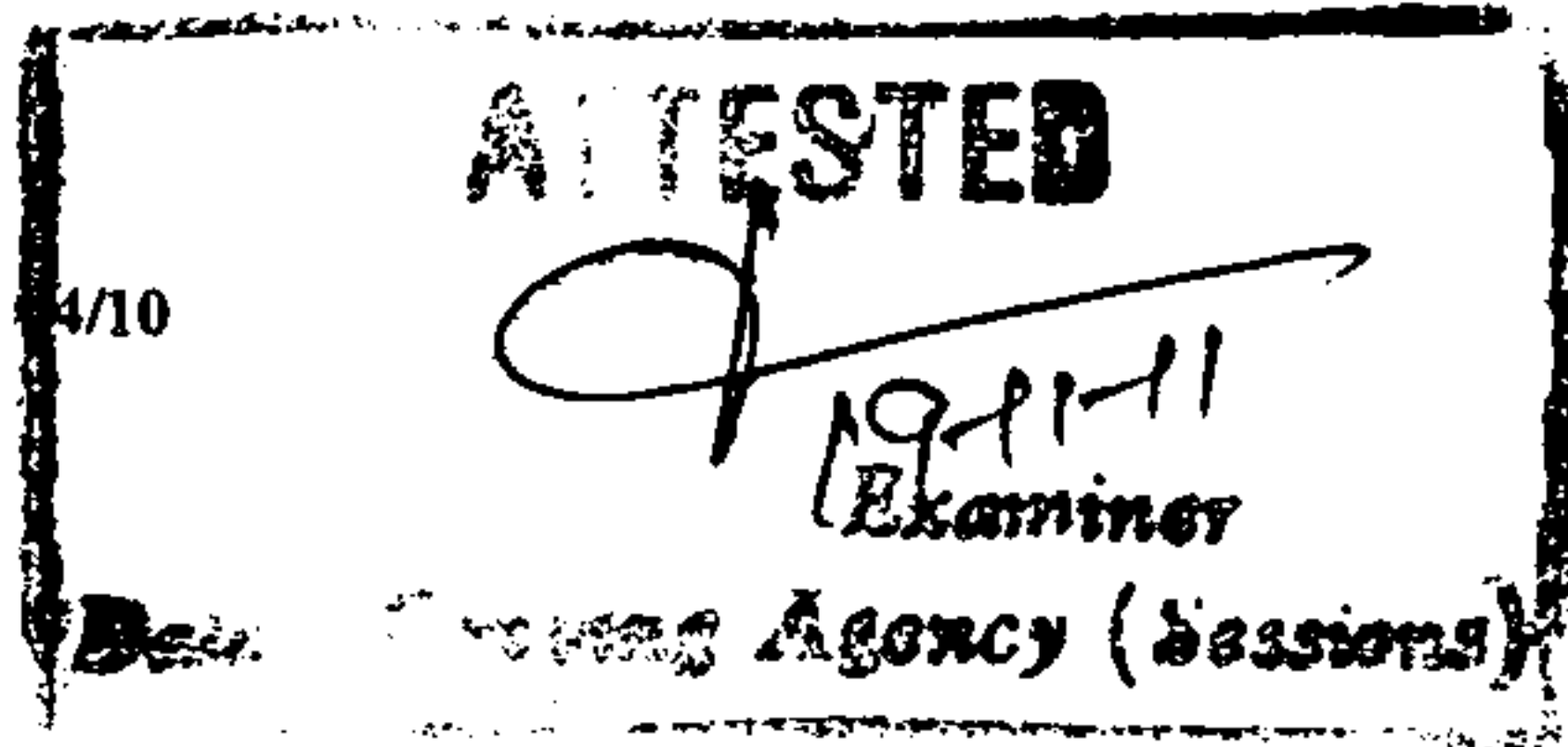
accused for the conduct of its business, thus they are also liable for the violation committed by company accused in terms of Section 27 of the SEBI Act.

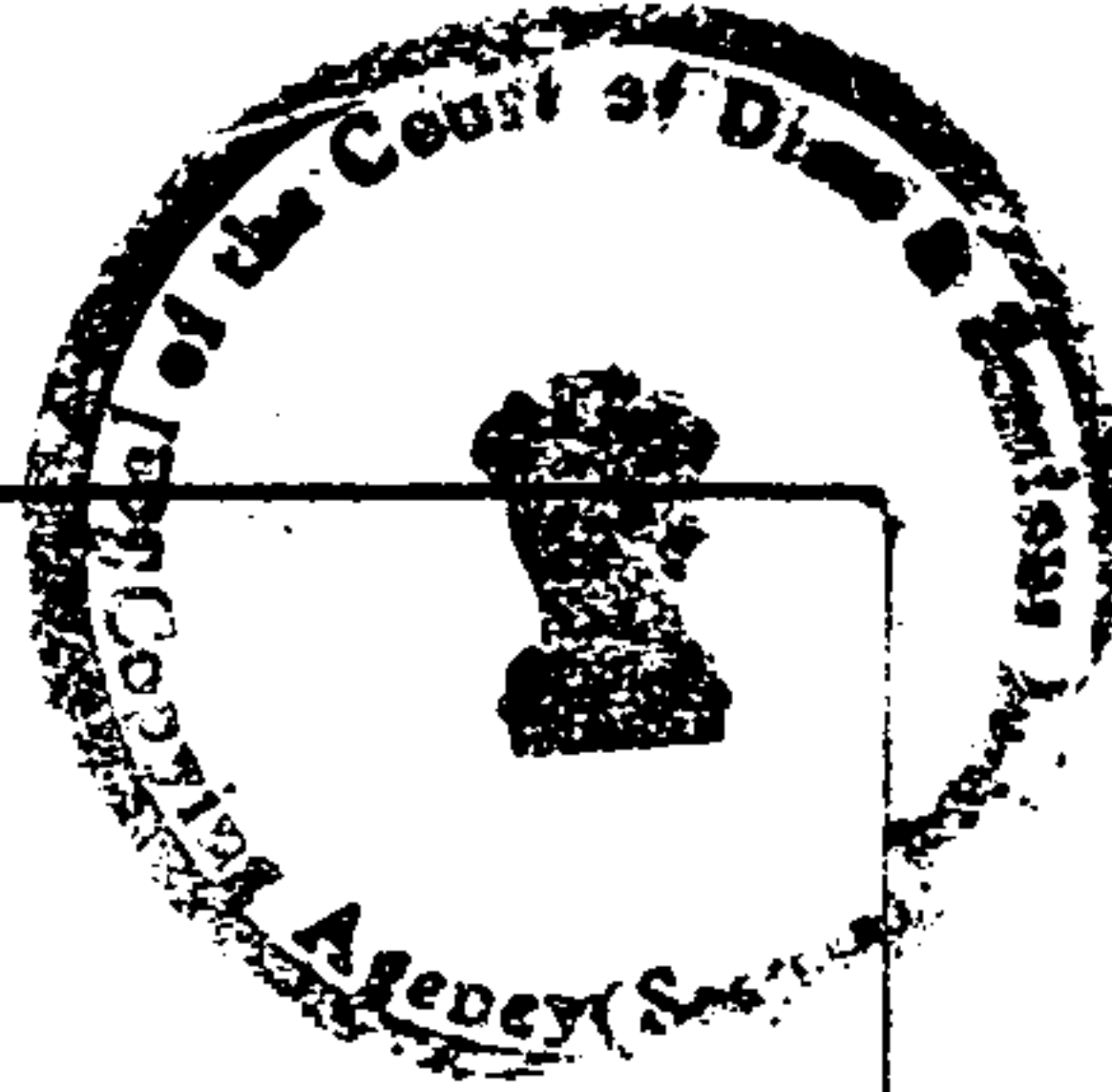
21. Learned counsel appearing for accused contended that since company accused had refunded the amount to the investors, company accused had not violated the provisions of the SEBI Act. No doubt, in his deposition, DW1 deposed that company accused had refunded the amount to the tune of ₹ 19,47,062/- to the investors in lieu of mobilized funds of ₹ 17,85,686/-. Mere fact that company accused had refunded the amount is not ipso-facto sufficient to hold that company accused had not violated any provisions of SEBI Act. Since, company accused had mobilized funds in violation of Section 12(1B) of SEBI Act, company accused had violated the provision of Section 12(1B) which is punishable under Section 24 (1) of SEBI Act. Similarly, company accused failed to file WRR in terms of regulation 73 of the CIS Regulations till the filing of criminal complaint. Even company accused had not moved any application for seeking registration of the existence CIS in terms of regulations 5 of CIS regulations. Thus, company accused had violated Section 12 (1B) of the SEBI Act as well as regulation 5 & 73 of the CIS Regulation, which is again punishable under Section 24 (1) of the SEBI Act.

22. Thus, even if company accused had refunded the amount to the investors subsequently and filed the WRR subsequently with the SEBI are not sufficient to hold that company accused had not violated the provisions of SEBI. However, subsequent conduct can be considered as a mitigating factor at the time of determining the

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CC No. 4/10





SEBI V. GANGOTRI GREEN VALLEY LTD. & OTHERS

sentence.

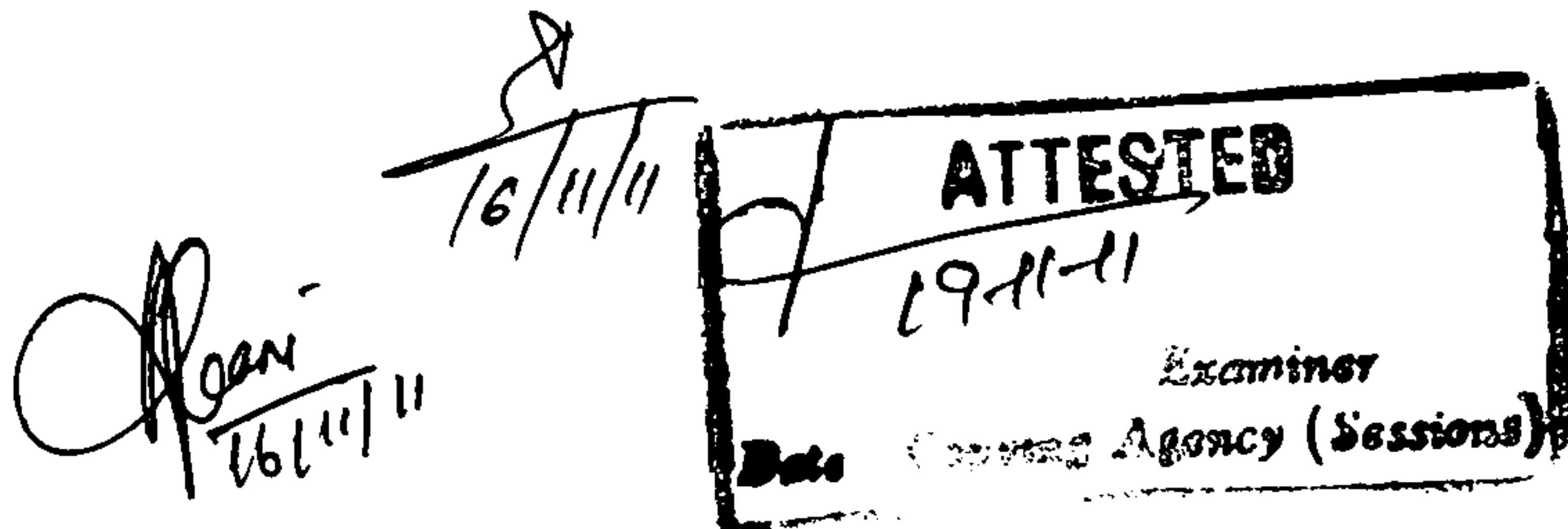
23. Pondering over the ongoing discussion, I am of the considered opinion that complainant has succeeded to establish beyond the shadow of all reasonable doubts that company accused had mobilized funds through various CIS in violation of Section 12(1B) of the SEBI Act and also violated regulation no. 5 & 73 of CIS Regulations. Complainant has also established that A2 & A4 being the directors of company accused were in charge of, and responsible to, the company accused for the conduct of its business at the time of mobilizing funds, thus they are also liable for the said violation in terms of Section 27 of the Act. Thus, I hereby hold A1 i.e M/S Gangotri Green Valley Ltd. , A2 Sh. Sita Ram and A4 Mr. Jitender guilty for the offence punishable under Section 24 (1) read with section 27 of the SEBI Act.

Announced in the open Court.

On this 11<sup>th</sup> day of November 2011

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

Copy given to the Convict  
in open Court at for.







SEBI V. GANGOTRI GREEN VALLEY LTD. & OTHERS

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

Complaint Case No. 04 of 2010  
ID No: 02401R0303722003

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. Varsha Aggarwal.

**Versus**

1. **M/S Gangotri Green Valley Ltd.**  
Having its Registered Office at  
3426, 1st Floor,  
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Also at  
309 Gupta Arcade, 4,  
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C-188, Surajmal Vihar,  
Delhi-92.

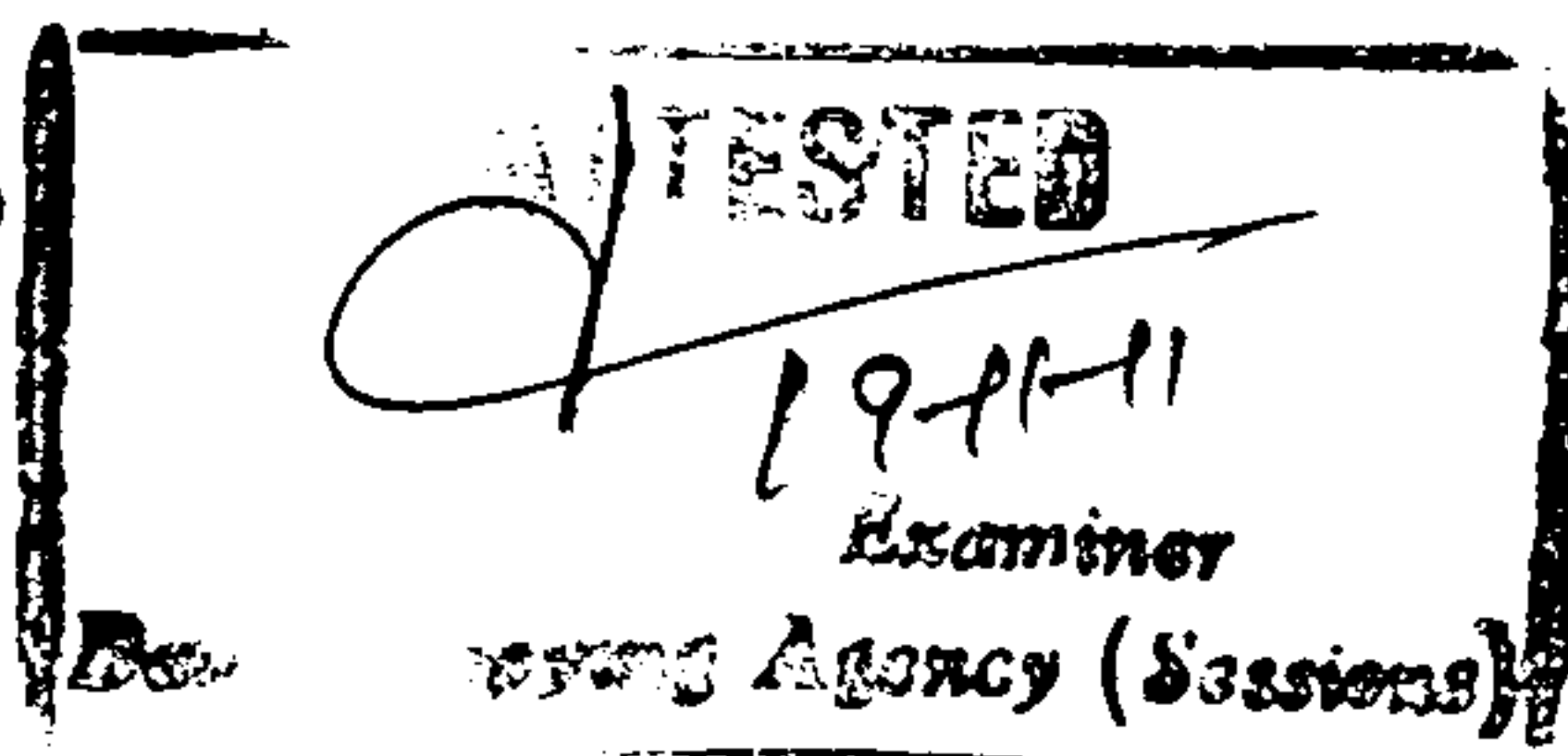
.....Convict no.1

2. **Sh. Sita Ram (Promoter/Director)**  
C-188, Suraj Mal Vihar,  
Delhi-92.

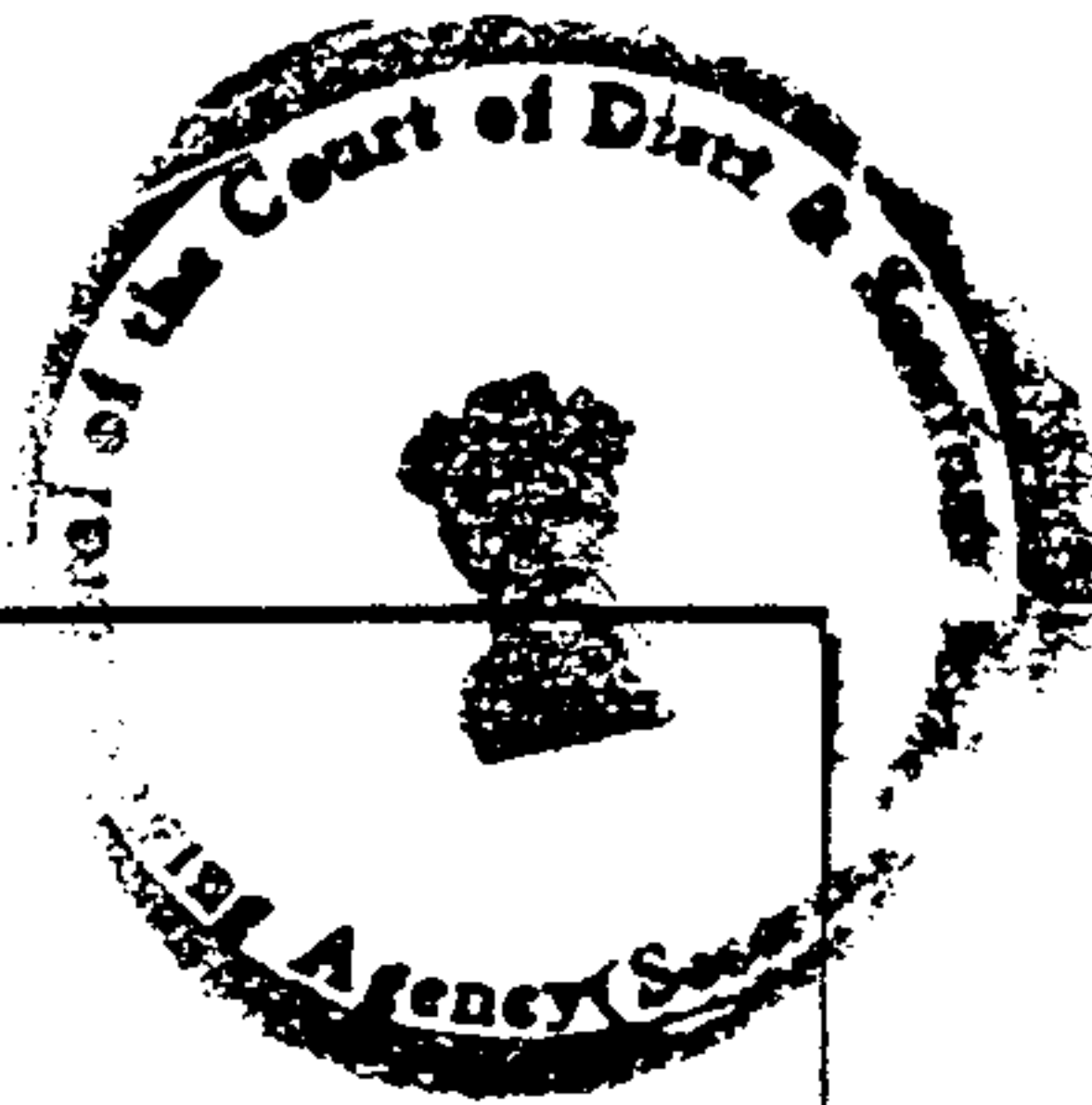
.....Convict no.2

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SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

3. **Ms. Jitender,**  
(Director/Promoter)  
D-7, Old Campus, HAV Hissar,  
Haryana.

.....Convict no.4

**Present: Sh. Sanjay Man, Advocate, Counsel for SEBI**  
**Sh. R. Menon and Sh. Abonik Kumar, Advocates,**  
**Counsel for A2, 3 & 4**

**ORDER ON THE POINT OF SENTENCE (ORAL):**

1. **Vide** separate judgment dated November 11, 2011, A1 i.e. Company accused M/S Gangotri Green Valley Ltd., A2 Sh. Sita Ram, A3 Ms. Jitender, have been held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.
2. **Learned counsel** appearing for convicts requests for a lenient view on the ground that convicts had refunded the amount to the tune of ₹ 19,47,062/- in lieu of ₹ 17,85,686/- to the investors. It was further stated that during the course of trial, the convicts have filed WRR with SEBI and the same was audited. **Learned counsel** appearing for complainant fairly conceded that company accused had filed WRR and refunded the amount to the tune of ₹ 19,47,062/- to the investors.
3. I have heard Counsel for both parties, perused the record

CC No. 04/10

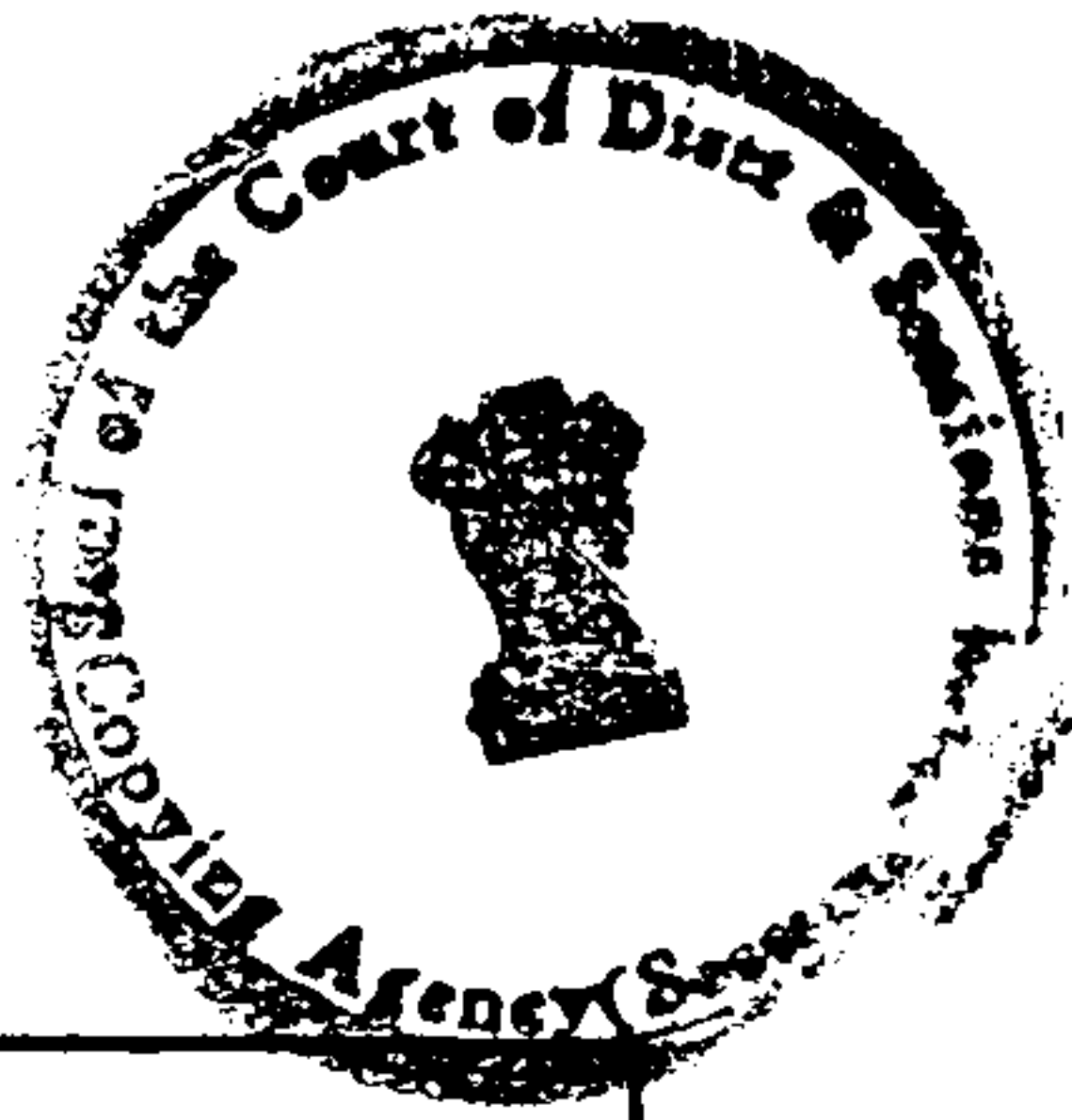
**ATTESTED**

19-11-11

Examiner

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Page no. 2 of 3



SEBI Vs. GANGOTRI GREEN VALLEY LTD. & OTHERS

carefully and gave my thoughtful consideration to their submissions.

4. Considering their submissions and fact that company accused had refunded the amount to the tune of ₹ 19,47,062/- in lieu of mobilized amount of ₹ 17,85,686/- to the investors I am of the opinion that ends of justice will be met if convicts are burdened with fine. Accordingly, I hereby impose a fine of ₹ 40,000/- upon each of convicts i.e convict No.1 to convict no.3 in default convict nos. 2 to 3 shall undergo three months simple imprisonment for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

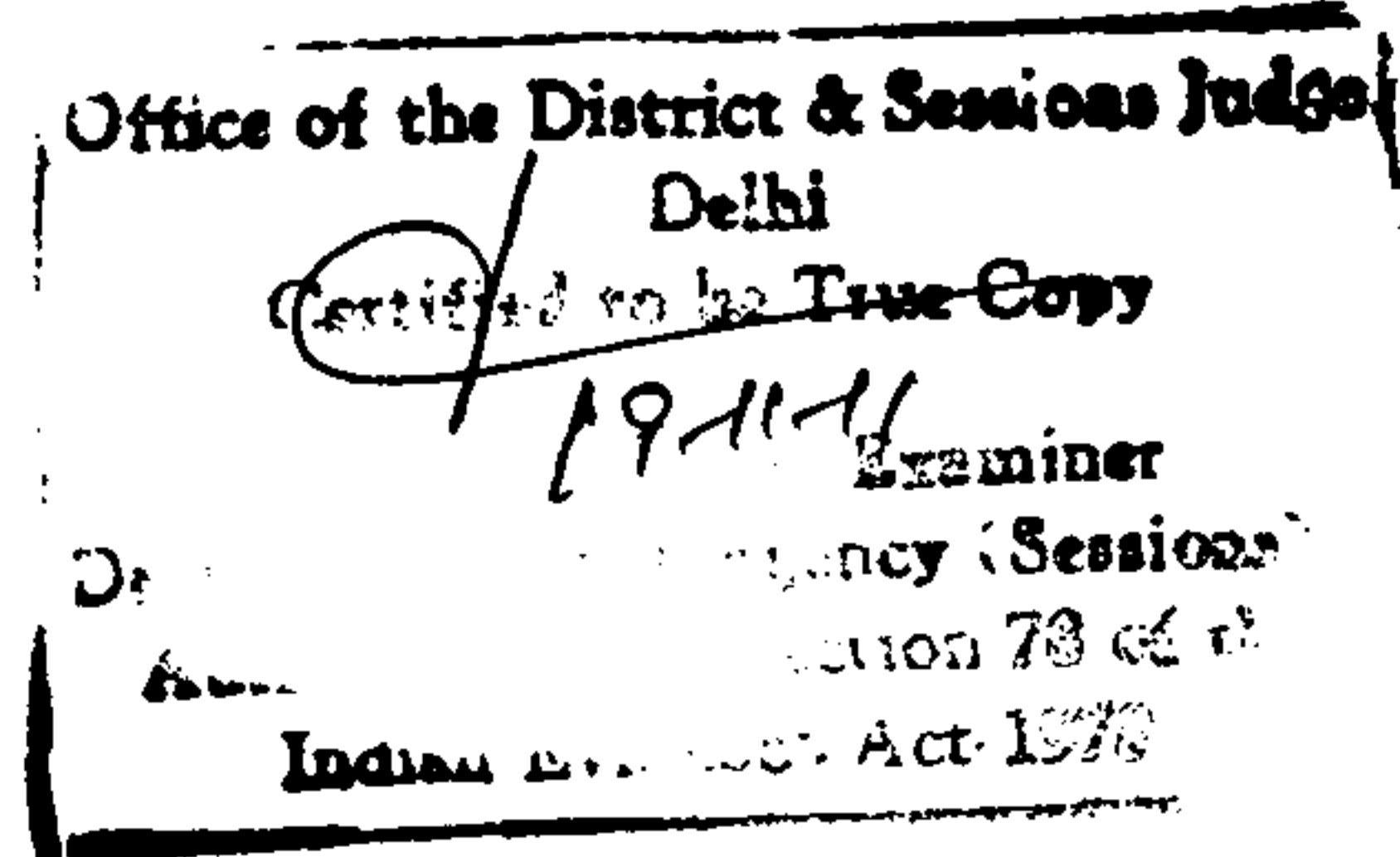
5. Fine amount is paid.

6. Copy of judgment alongwith order on the point of sentence be given to the convicts/their counsel free of cost.

Announced in the open Court.

On this 11<sup>th</sup> day of November 2011

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



*Copy given to the Convict  
in open Court at free*

*Alcari  
16/11/11  
Counsel for Convict*

CC No. 04/10