

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

CC NO: 1836/2008
15712103

**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

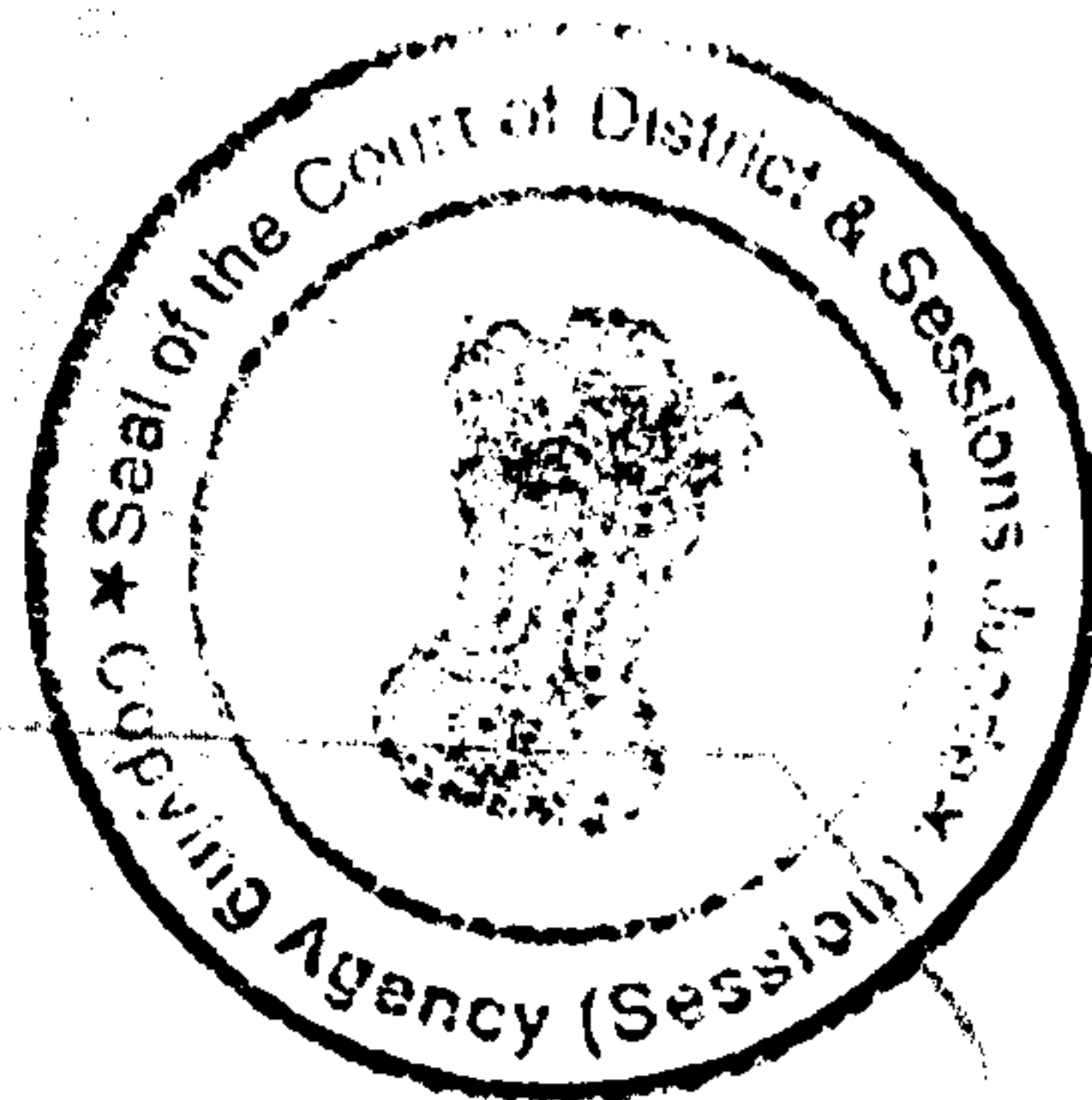
VERSUS

1. M/s. Pallavi Forestry Ltd.
Having its Registered Office at
212, Shekhpura, Aliganj, Lucknow.
Also at:
C-77, Sector M (nr. Usman Enclave),
Aliganj, Lucknow.

498/23, Faizabad Road, Daliganj,
Lucknow.
2. Shri Ashok Kumar Singh,
(Director)/Promoter.
S/o Shri A.P.Singh,
212, Shekhpura, Aliganj, Lucknow.
3. Shri Dinesh Pratap Singh,
(Director)/Promoter.
S/o Shri V.D.Singh
212, Shekhpura, Aliganj, Lucknow.
4. Shri Indramani, (Director)/Promoter.
S/o Shri Ram Dayal,
C/o A. Banerjee,
73, Nazer Bagh,
Lucknow.
5. Smt. Sanju Singh, Promoter/Director
W/o Shri D.P. Singh,
212, Shekhpura, Aliganj, Lucknow.
6. Shri Parakram Singh, Promoter/Director
S/o Shri J.P. Singh,
212, Shekhpura, Aliganj, Lucknow.
7. Shri Shilesh Pratap Singh,
Promoter/Director

ATTESTED

Date Copying Agency (Sessions)



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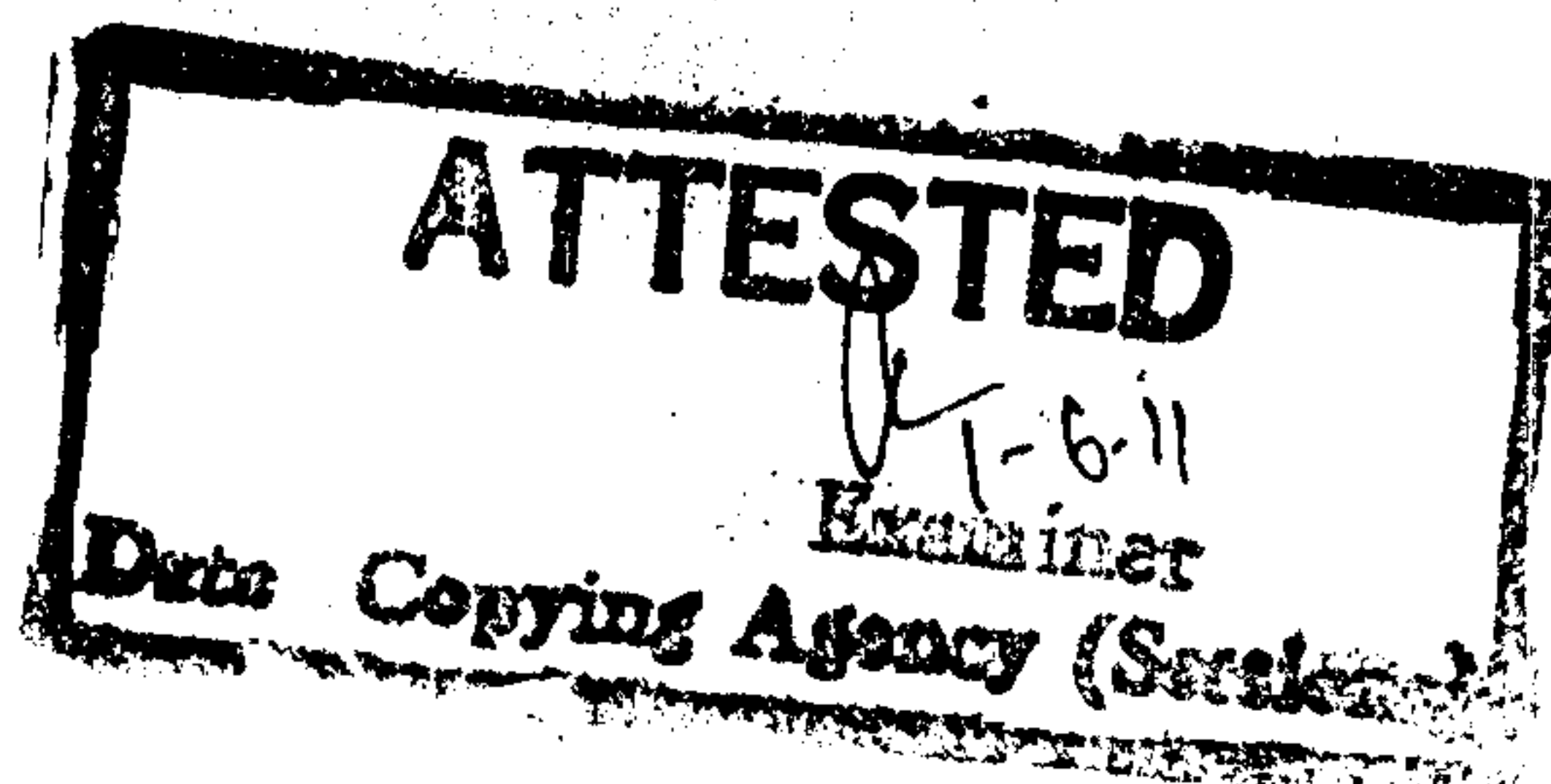
S/o Shri A.P. Singh,
212, Shekhpura, Aliganj, Lucknow.

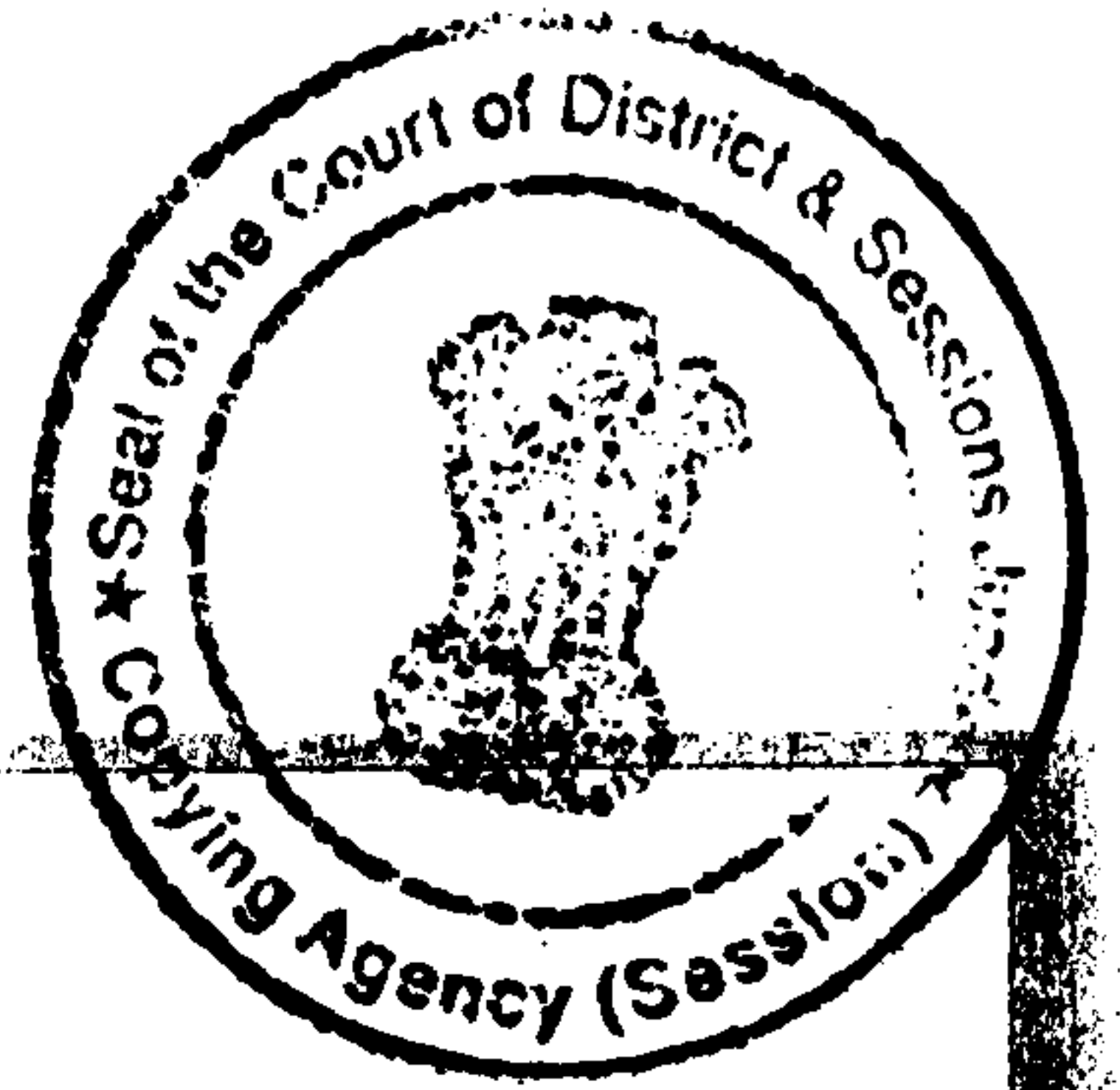
8. Smt. Mala Singh, Promoter/Director /
W/o Shri S. P. Singh,
212, Shekhpura, Aliganj, Lucknow.

.....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**

MAY IT PLEASE YOUR HONOUR:





CC No. 43/10

19.05.2011

Present: Sh. Ashish Aggarwal, Advocate with Ms. Priyanka Tyagi,
Counsel for complainant SEBI
Accused no.1 is company and represented by Accused no.2.
3 & 8 are on bail with Sh. Chittranjan Hatti, Advocate.

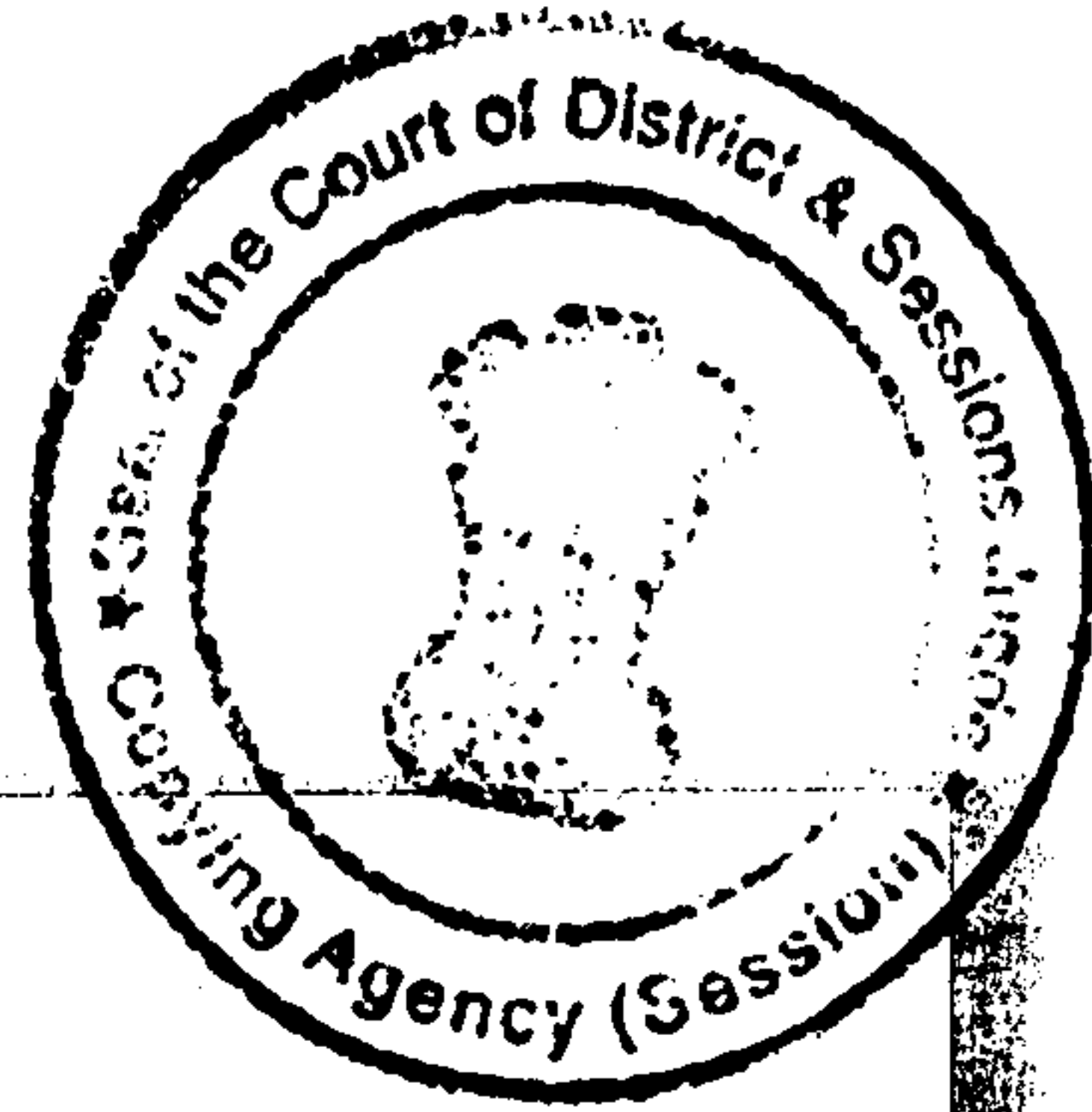
Vide separate judgment, A1 to A4 are held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

Renotify the matter for order on the point of Sentence on
20.05.2011.

(Pawan Kumar Jain)
Additional Sessions Judge-01
Central/THC/Delhi
19.05.2011



(69)



SEBI Vs. M/S Pallavi Forestry Ltd. etc.

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

**Complaint Case No. 43/10
ID No: 02401R0230632003**

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 and represented by its Manager Ms. Rekha Verma.

Versus

1. **M/S Pallavi Forestry Ltd.**
Having its Registered office at
212, Shekhpura, Aliganj, Lucknow.
Also at:
C-77, Sector M (nr. Usman Enclave),
Aliganj, Lucknow.
498/23, Faizabad Road, Daliganj, Lucknow.

.....Accused no.1

2. **Sh. Ashok Kumar Singh**
(Director)/Promoter.
S/o Sh. A. P. Singh
212, Shekhpura, Aliganj, Lucknow.

.....Accused no.2

3. **Sh. Dinesh Pratap Singh**
(Director)/Promoter.
S/o Sh. V. D. Singh
212, Shekhpura, Aliganj, Lucknow.

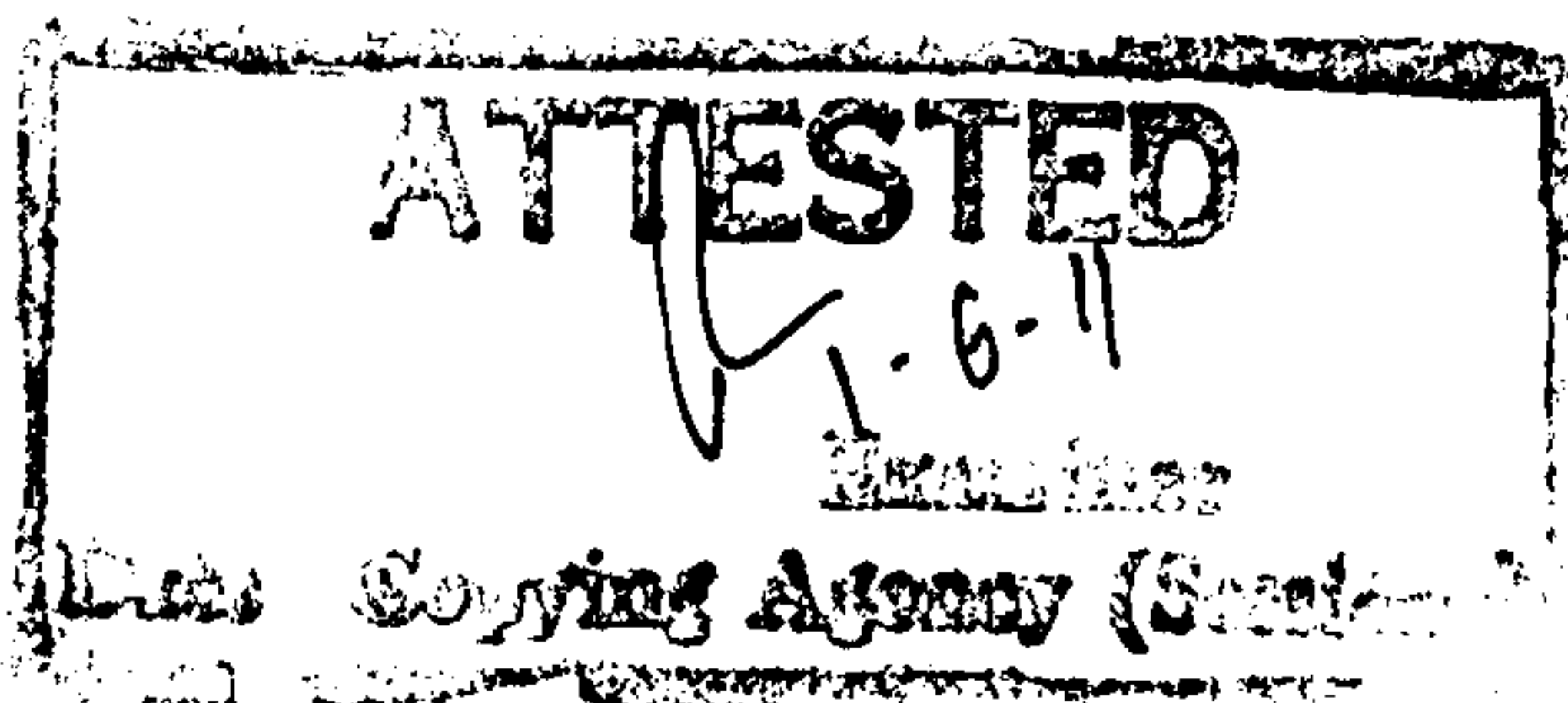
.....Accused no.3

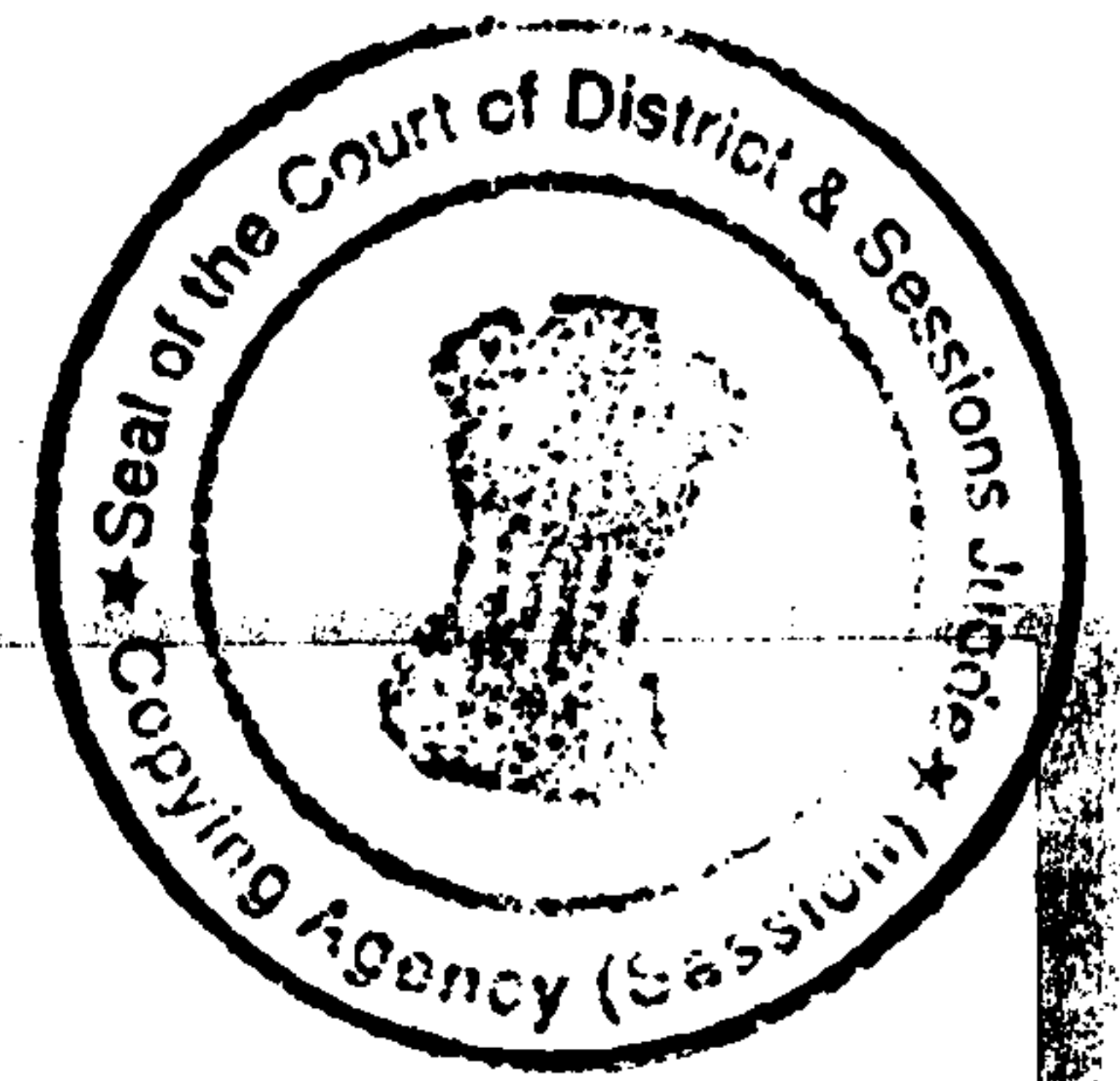
SC No. 43/10

(43)

19/5/11

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4. **Sh. Indramani**
(Director)/Promoter.
S/o Sh. Ram Dayal,
212, Shekhpura, Aliganj, Lucknow.

.....Accused no.4

5. **Smt. Sanju Singh**
(Director)/Promoter.
W/o Sh. D.P.Singh,
212, Shekhpura, Aliganj, Lucknow.

.....Accused no.5

6. **Sh. Parakram Singh**
(Director)/Promoter.
S/o Sh. J.P.Singh,
212, Shekhpura, Aliganj, Lucknow.

.....Accused no.6

7. **Sh. Shilesh Pratap Singh**
(Director)/Promoter.
S/o Sh. A.P.Singh,
212, Shekhpura, Aliganj, Lucknow.

.....Accused no.7

8. **Smt. Mala Singh,**
(Director)/Promoter.
W/o Sh. S.P.Singh,
212, Shekhpura, Aliganj, Lucknow.

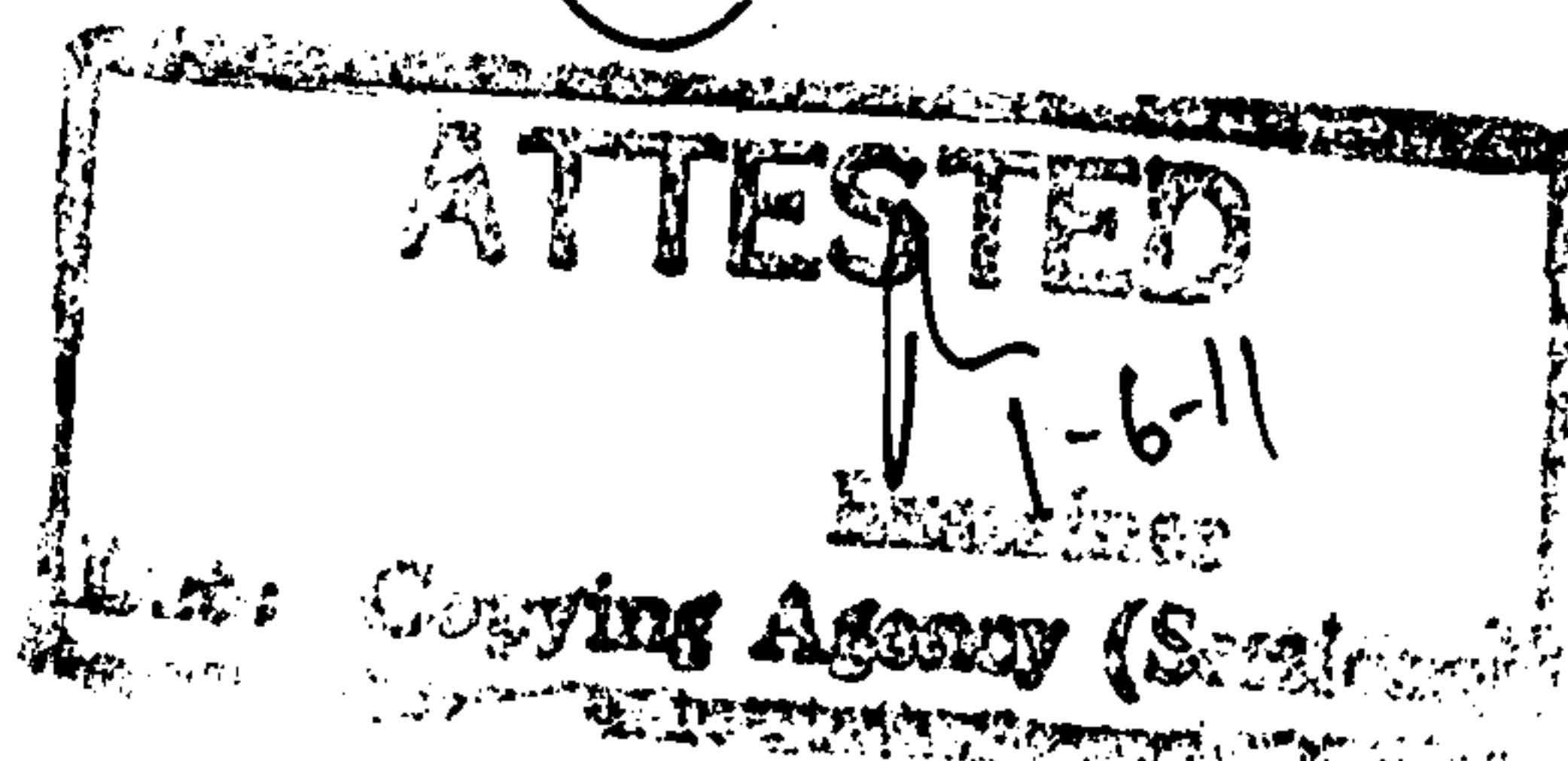
.....Accused no.8

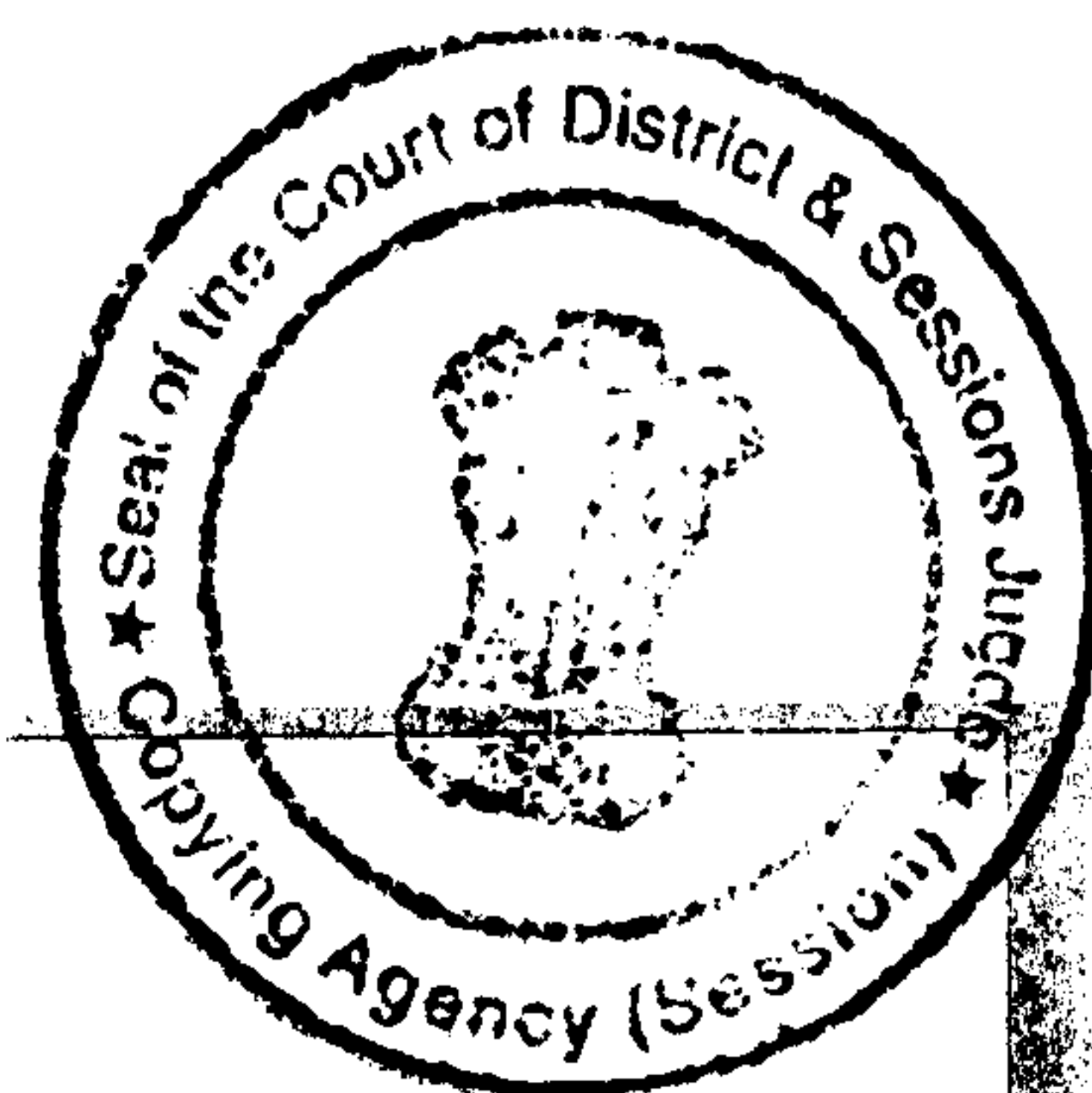
Date of Institution : 15.12.2003
Date of Judgment reserved on : 09.05.2011
Date of pronouncing of judgment : 19.05.2011

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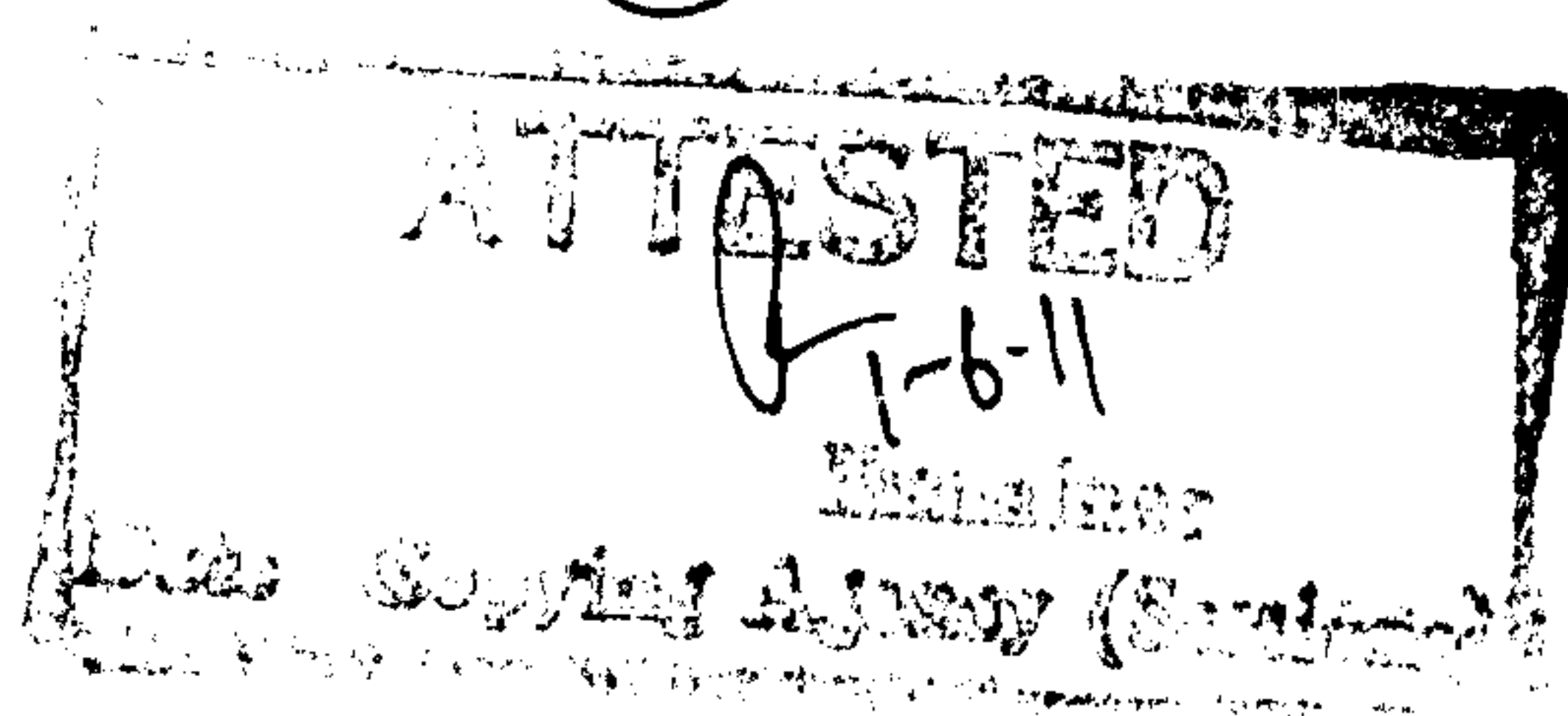
Present: Sh. Ashish Aggarwal, Advocate, Counsel for
complainant SEBI
Sh. Chitranjan Hati, Advocate, Counsel for
all accused persons (accused no.1 company
is represented by accused no.2)

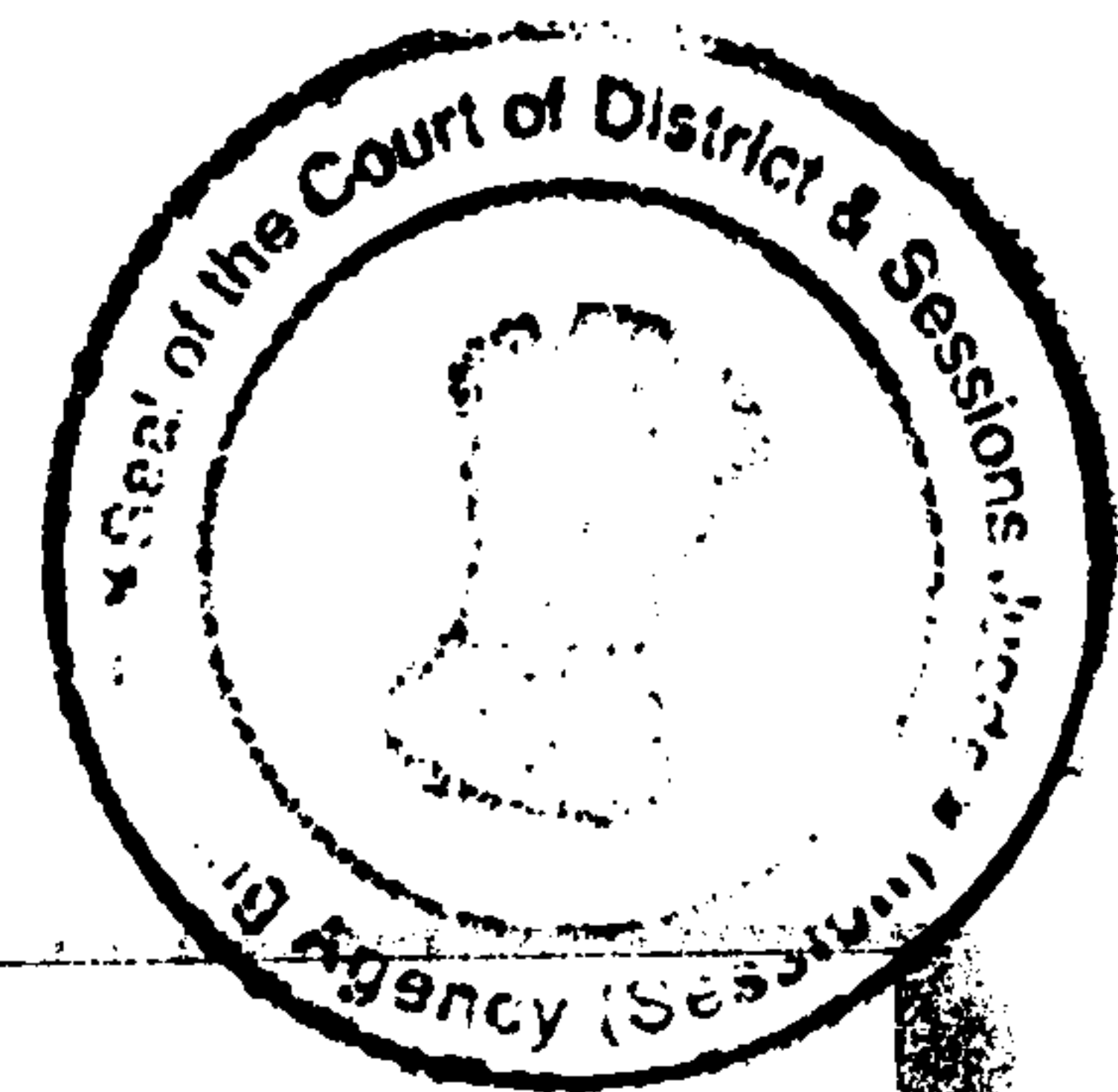
J U D G M E N T :

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 & 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 Pallavi Forestry Ltd. (hereinafter, "A1" or "the Company Accused"), accused No. 2 Sh. Ashok Kumar Singh ("A2"),

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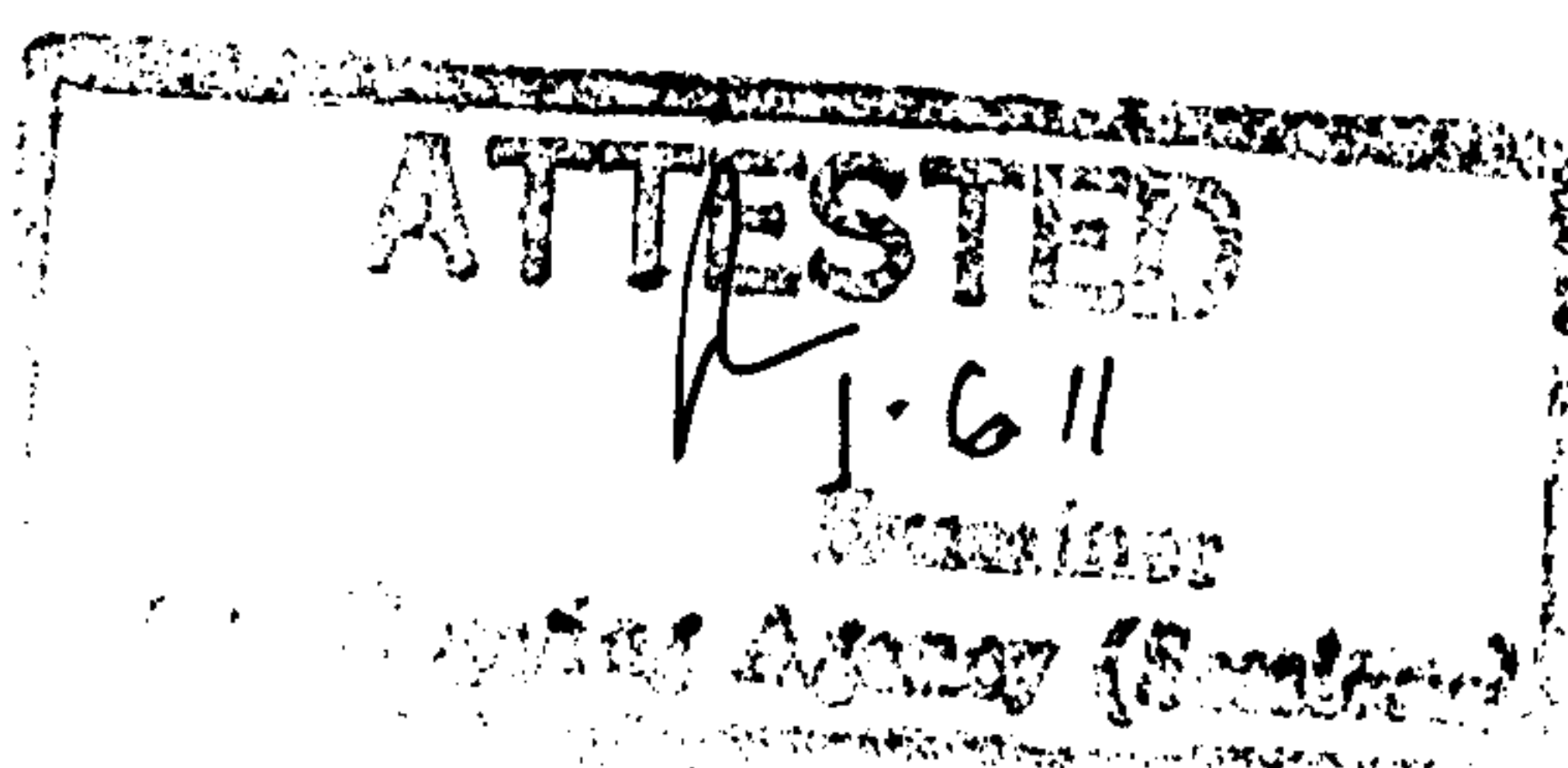
accused No. 3 Sh. Dinesh Pratap Singh ("A3"), accused No.4 Sh. Indramani ("A4"), accused No.5 Smt. Sanju Singh ("A5"), accused No. 6 Sh. Parakram Singh ("A6"), accused No. 7 Sh. Shilesh Pratap Singh ("A7") & accused No. 8 Smt. Mala Singh Singh ("A8"), It is alleged that A2 to A8 were Directors of the 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 provision contained in Section 27 of the SEBI Act.

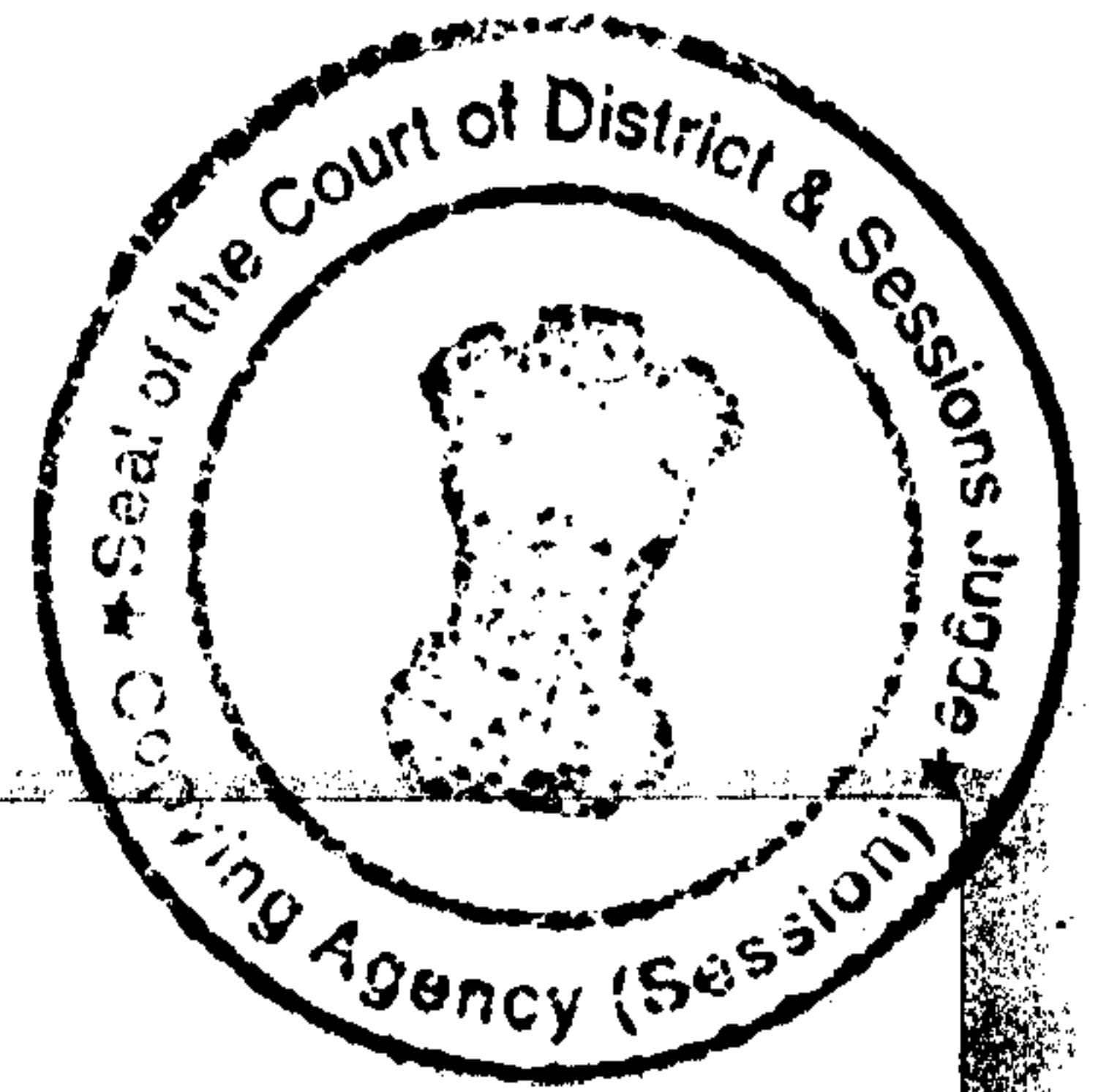
3. It is alleged in the complaint that A1 had floated the Collective Investment Scheme (CIS) and raised amount approximately Rs.3.77 lac from general public, in violation of the provisions contained in Section 12 (1B) of the SEBI Act. It is also alleged that after coming into force of the CIS Regulations 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.

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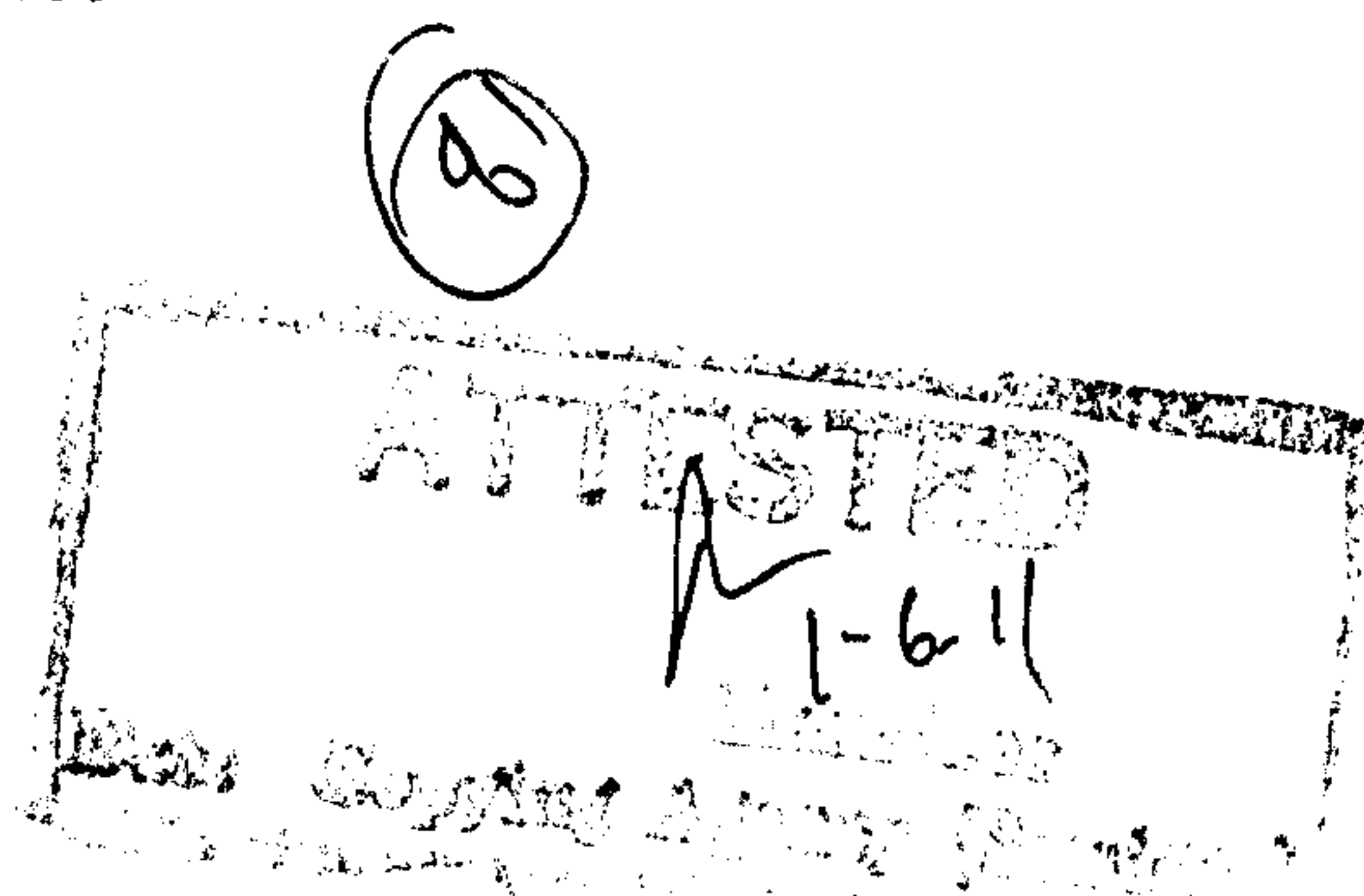
SEBI Vs. M/S Pallavi Forestry Ltd. etc.

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 05.02.2005 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 22.12.2006, a notice for the offence punishable under Section 24 read with section 27 of the SEBI Act was served upon the A1(company), A3 to A5, A7 & A8. Since A2 represented A1 company accused, he also responded to the notice on behalf of company. They all pleaded not guilty and claimed trial. It is pertinent to mention here after appearance of A6, a notice under Section 251 Cr.P.C was served upon him on 23.04.2009, to which A6 also pleaded not guilty and claimed trial.
7. To prove its case, complainant examined only one witness named Ms. Rekha Verma, Manager of SEBI. Thereafter, all accused persons were examined under section 313 Cr.P.C. In their examination under Section 313 Cr.P.C, all accused, persons admitted that the company accused had sent the letter Ex. CW1/5 & CW1/6 under the the signature of A3 to the SEBI and also admitted the press release and public notice issued by the SEBI.

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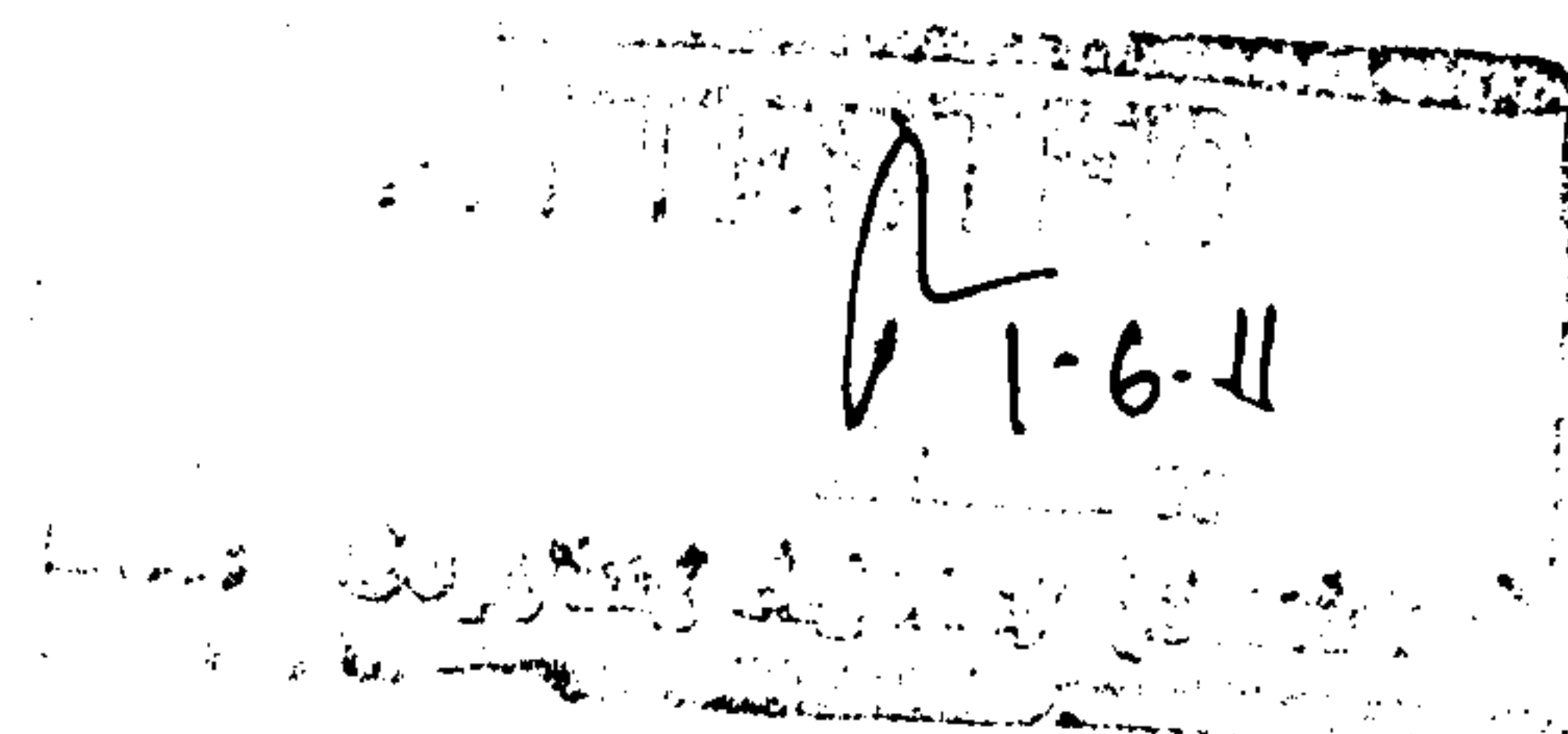
SEBI Vs. M/S Pallavi Forestry Ltd. etc.

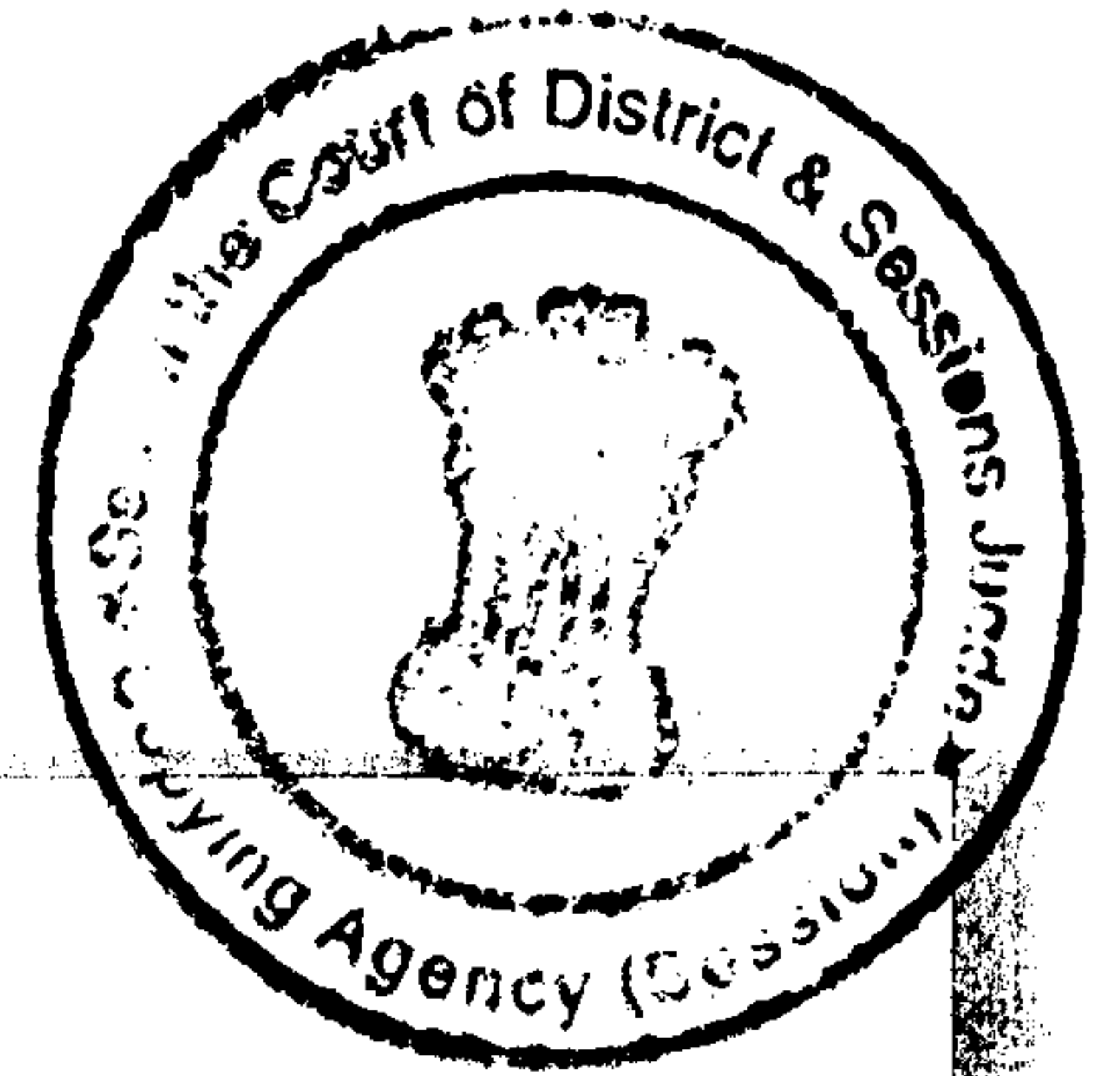
and further stated that the same were duly complied with by company accused and money was refunded to the investors. They also admitted the letter Ex. CW1/11. Accused persons took the defence that no fresh investment was received after 01.03.1998 and the amount already collected had already been refunded to the investors. All the accused persons further submitted that the complaint filed by the SEBI is barred by the time of limitation.

8. I have heard arguments advanced by Sh. Ashish Aggarwal, Advocate, Counsel for complainant and Sh. Chittranjan Hatti Advocate, Counsel for all accused persons, perused the record carefully and gave my thoughtful consideration to their contentions.

9. Learned Defence Counsel for accused persons raised three contentions, firstly that complaint is barred by period of limitation, secondly that only three accused (A2, A3 & A4) were the directors of the company accused and other were only the promoters and thirdly that the company accused had already refunded the amount to the investors. On the other hand, Counsel for complainant refuted the said contentions by arguing that since the offence is continuing in nature, provision of Section 468 Cr.P.C is not applicable in the present matter. It is further argued that the company accused failed to produce any concrete evidence on

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record to prove that company accused had refunded the amount to the investors. Moreover it is argued that the company accused had not complied with the Regulation 73 of the CIS Regulations. Learned Counsel for complainant further submitted that all accused persons are liable as they were the directors/promoters and this fact is admitted by the company accused in its Memorandum of Articles and Article of Association.

10. Section 472 of the Code of Criminal Procedure runs as under:

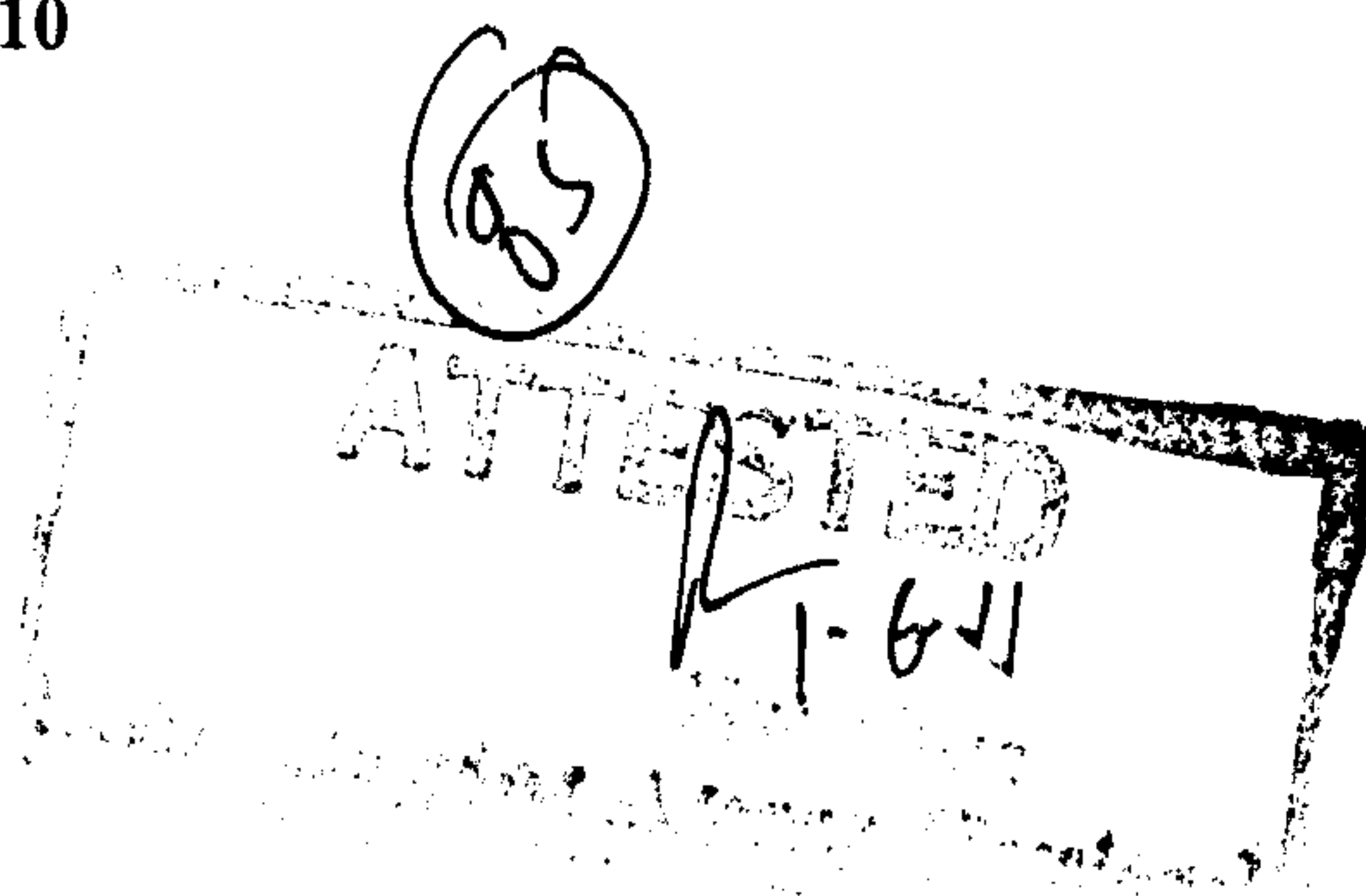
Continuing offence- In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.

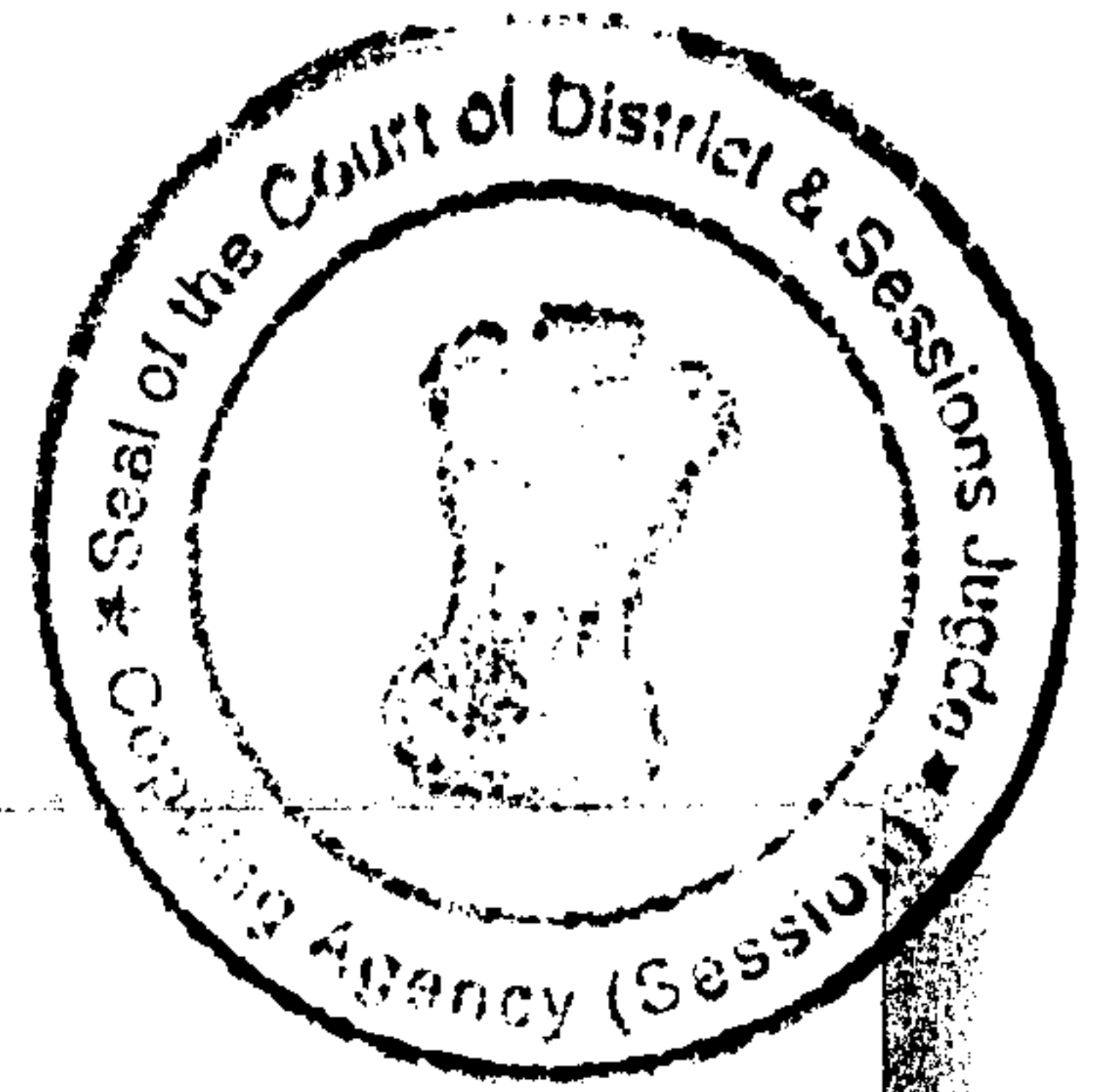
According to the Section 472 of the Code of Criminal Procedure, if offence is continuing in nature, fresh period of limitation shall begin to run at every moment of the time during which the offence continues. In the instant case, company accused had violated Section 12 (1B) of the SEBI Act as it launched the CIS without obtaining the registration from the SEBI and when CIS regulations were notified in October 1999, company accused failed to apply for registration in terms of regulation 5 and if company failed to apply for registration or the registration is declined, as per regulation 73, company accused was liable to

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refund the amount to the investors and to submit the winding up and repayment report with the SEBI. But company failed to comply with the CIS regulations. Since company failed to comply with the regulations till the filing of present complaint, the violations are continuing in nature, hence the limitation period provided under Section 468 Cr.P.C is not applicable in the present matter and complainant is entitled for the benefit of provision of Section 472 of the Code of Criminal Procedure. Same view was taken by the Hon`ble High Court of Delhi in case Vishnu Prakash Bajpai Vs. SEBI, in CR. MC. 1182/2009 decided on 10.02.2010..

11. Coming to the second contention, it is admitted case of the accused persons that they had sent letters dated 13.01.1998 which is Ex. CW1/5 to the SEBI disclosing that A2 to A8 are the promoters/directors of the company accused. Perusal of the said letters reveals that company accused had specifically mentioned in the said letter that A2, A3 & A4 are the directors of the company accused. Company accused also sent another letter dated 28.04.1998 which is Ex.CW1/6 to the SEBI. In the said letter, company accused had mentioned the name of the directors and their addresses, which shows that only A2, A3 and A4 are its directors. SEBI also relied upon the Memorandum of Articles & Articles of Association. According to the said Articles, only A2, A3 & A4 were the directors of the company accused. In the

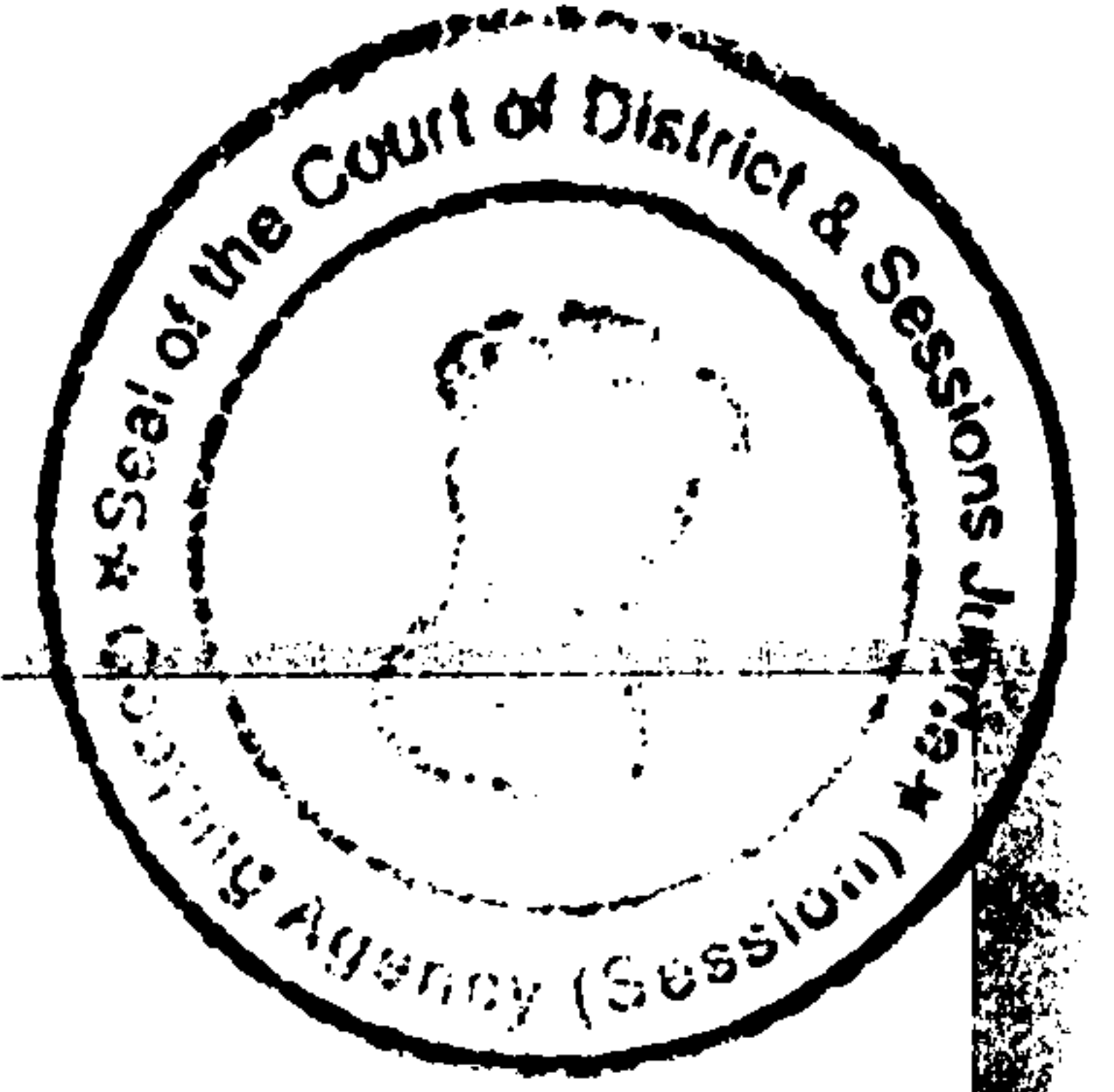
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Memorandum of Articles and Articles of Association, company accused has mentioned the name of other accused persons also but it appears that they are only promoters as they had subscribed some shares in the company accused. From the documents, particularly Ex. CW1/5 & CW1/6, upon which reliance has been placed by the SEBI, it becomes clear that only A2, A3 & A4 were the directors of company accused, thus being the directors A2 to A4 were in charge of, and responsible to, the conduct of company accused. Merely the fact that A5 to A8 were promoters/share holders of the company accused does not prove that they were in charge of, and responsible to, the conduct of the company accused. Needless to say that company acts through its directors as directors are the agents of the company. In these circumstances, I am of the considered opinion that complainant failed to prove that A5 to A8 were in charge of, and responsible to, the conduct of the company accused.

12. Now, coming to their contention that company accused had refunded the amount to the investors, accused persons had examined Sh. Dinesh Pratap Singh(A3) as DW1. In his cross examination, he categorically deposed that the company accused had not filed the winding up and repayment report with the SEBI. It is undisputed fact that the company accused had launched the various CIS schemes and mobilized fund to the tune of Rs. 3.77

19/5/11

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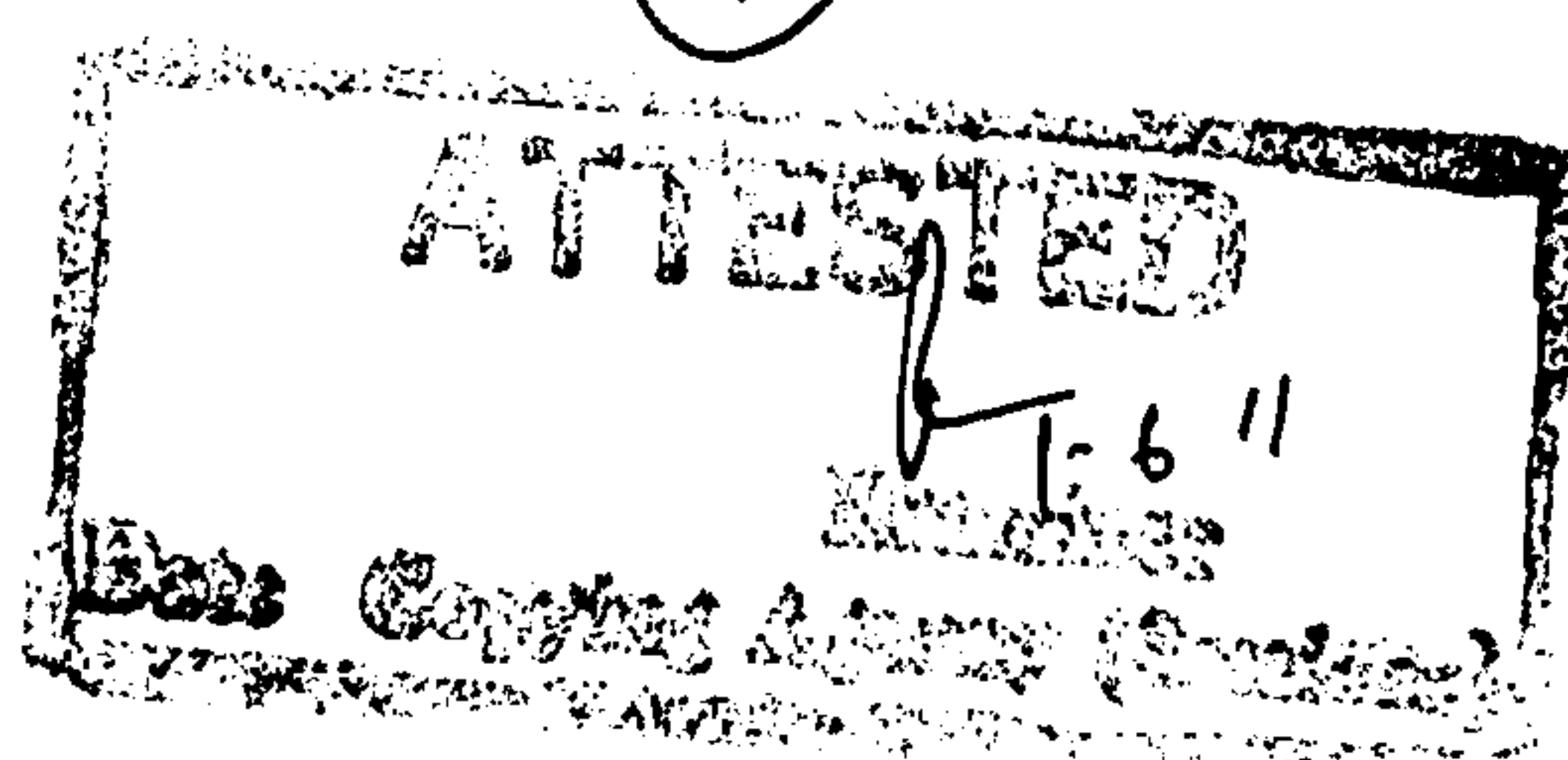
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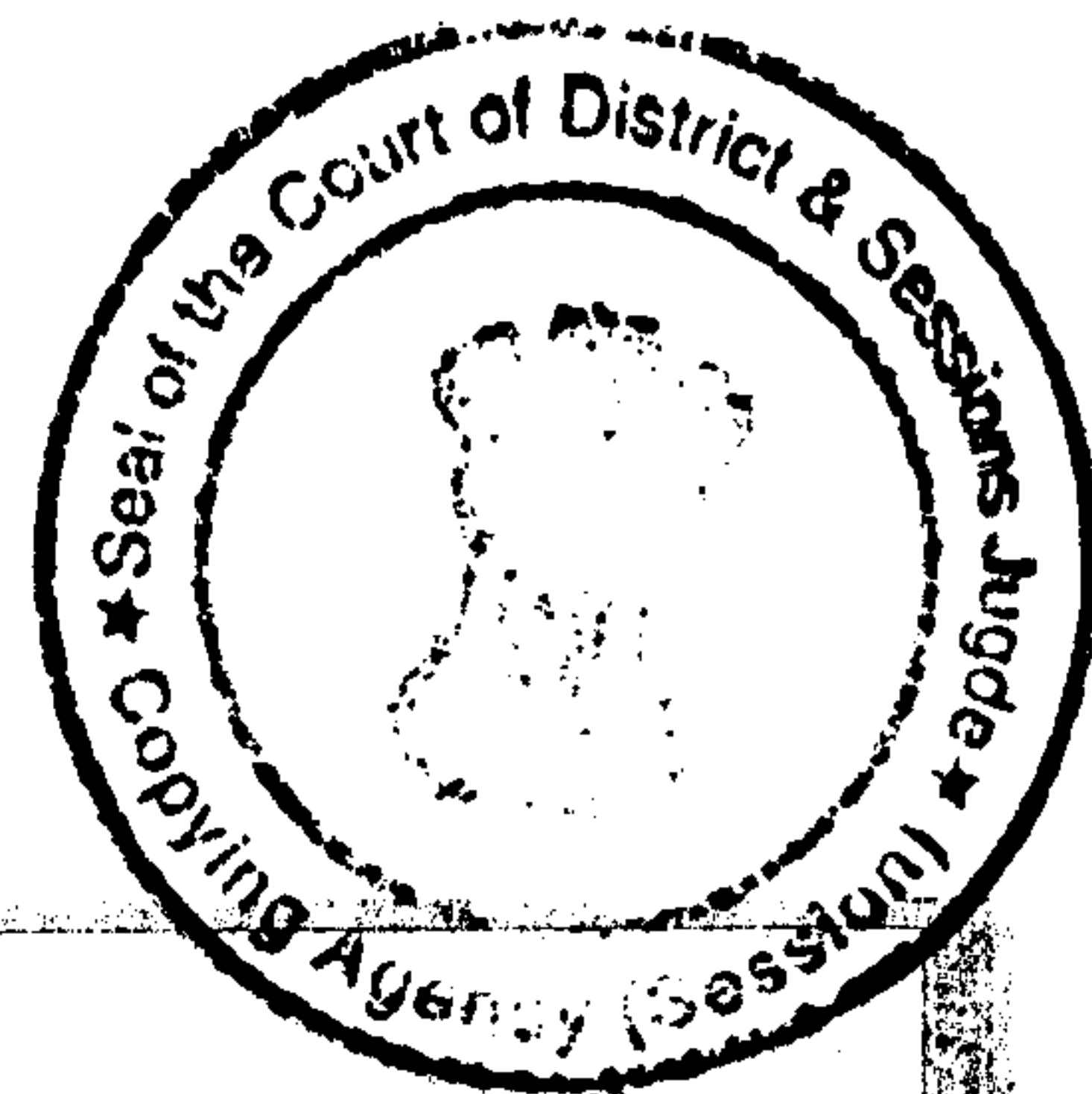


SEBI Vs. M/S Pallavi Forestry Ltd. etc.

lac from general public. It is also undisputed fact that company accused was incorporated on 22.08.1997. 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. 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 submit the winding up and repayment report with the SEBI in terms of regulations 73 of CIS regulations. Thus, to my mind, company accused had violated Regulation 5(1) & 73 of CIS Regulations.

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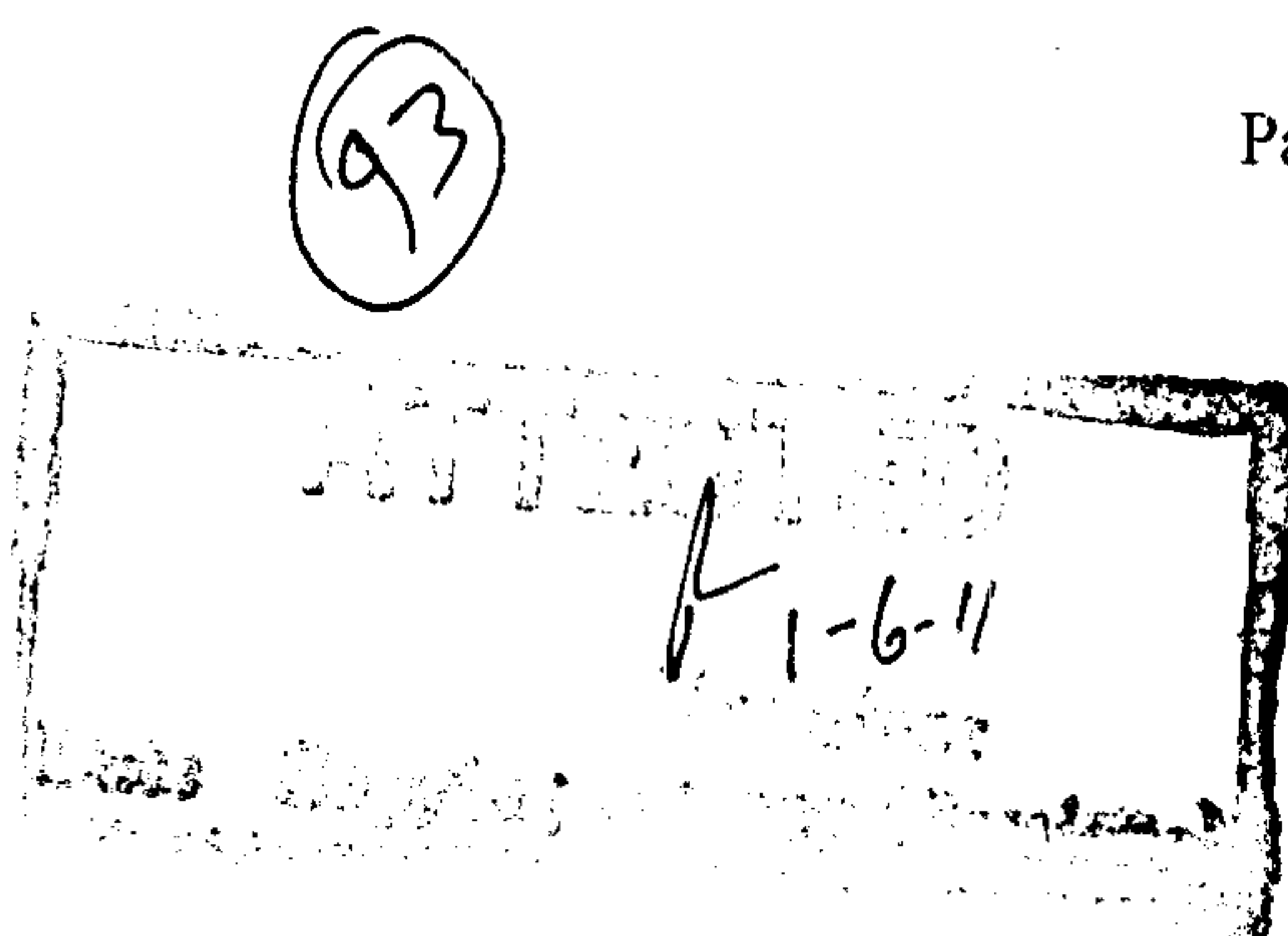
SEBI Vs. M/S Pallavi Forestry Ltd. etc.

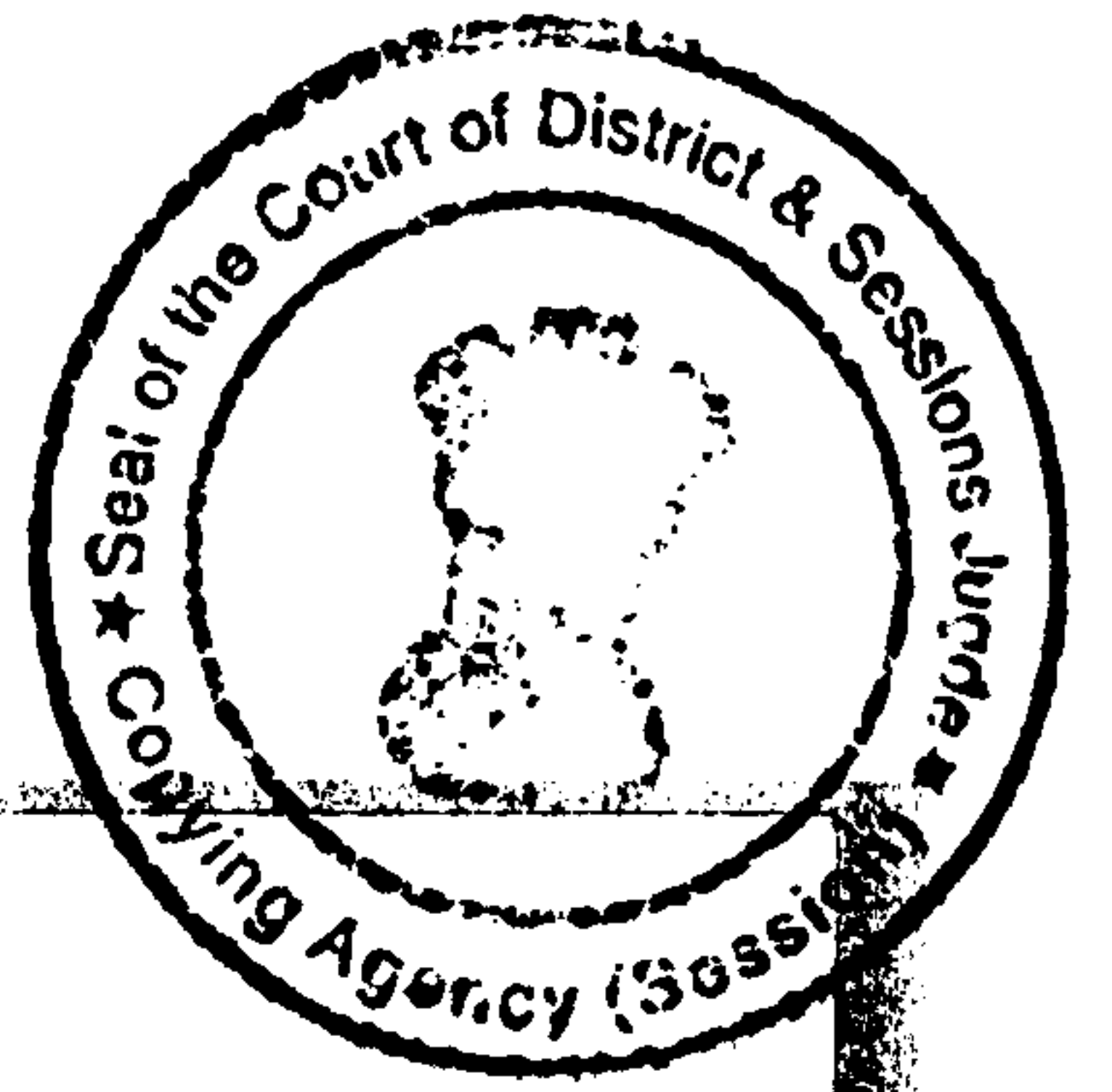
13. As per Section 27 of the SEBI Act, all persons who are in charge of, and responsible to, the conduct of company accused, shall also be deemed guilty for the violation committed by the company. As already held that A2 Sh. Ashok Kumar Singh, A3 Sh. Dinesh Pratap Singh & A4 Sh. Indramani were the directors of the company accused when the CIS was launched and funds were mobilized by the company accused. Being the directors i.e. A2, A3 & A4 were the in charge of, and responsible to, the conduct of the company accused, accordingly they are also liable for the violation committed by A1 in terms of Section 27 of the SEBI Act.
14. Pondering the on going discussion, I am of the considered opinion that complainant succeeds to prove beyond reasonable doubt that company accused has violated the 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 conduct of company accused, A2 Sh. Ashok Kumar Singh, A3 Sh. Dinesh Pratap Singh & A4 Sh. Indramani are also liable for the said violation. Accordingly, I also hold them (A2, A3 & A4) guilty for the offence punishable under Section 24 (1) read with section 27 of the SEBI Act.
15. Since, complainant fails to prove that A5 to A8 were in charge of, and responsible to, the conduct of the company accused,

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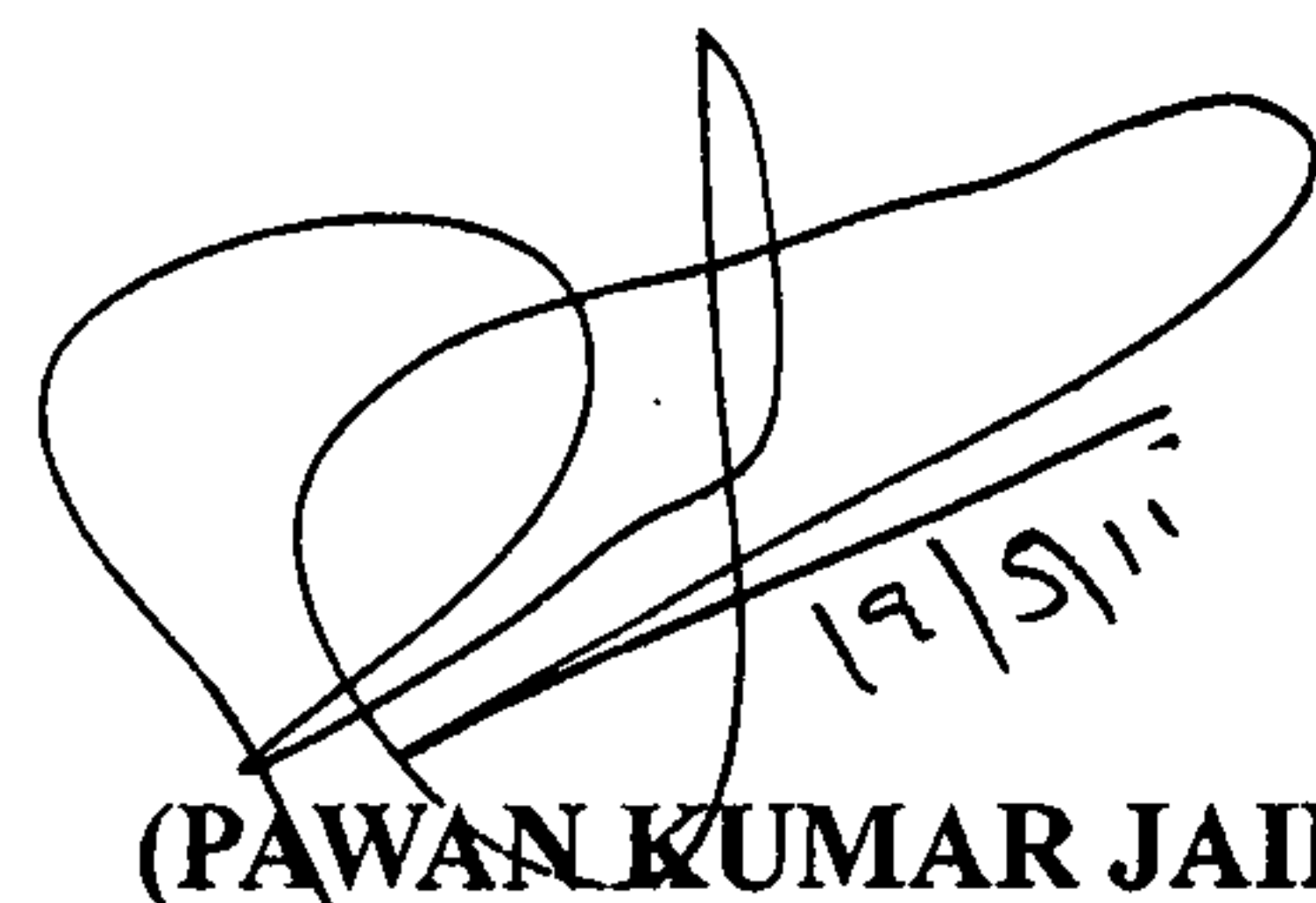




SEBI Vs. M/S Pallavi Forestry Ltd. etc.

I hereby acquit A5 Smt. Sanju Singh, A6 Sh. Parakram Singh, A7 Sh. Shilesh Pratap Singh and A8 Smt. Mala Singh for the charges levelled against them.

Announced in the open Court.
On this 19th day of 2011.


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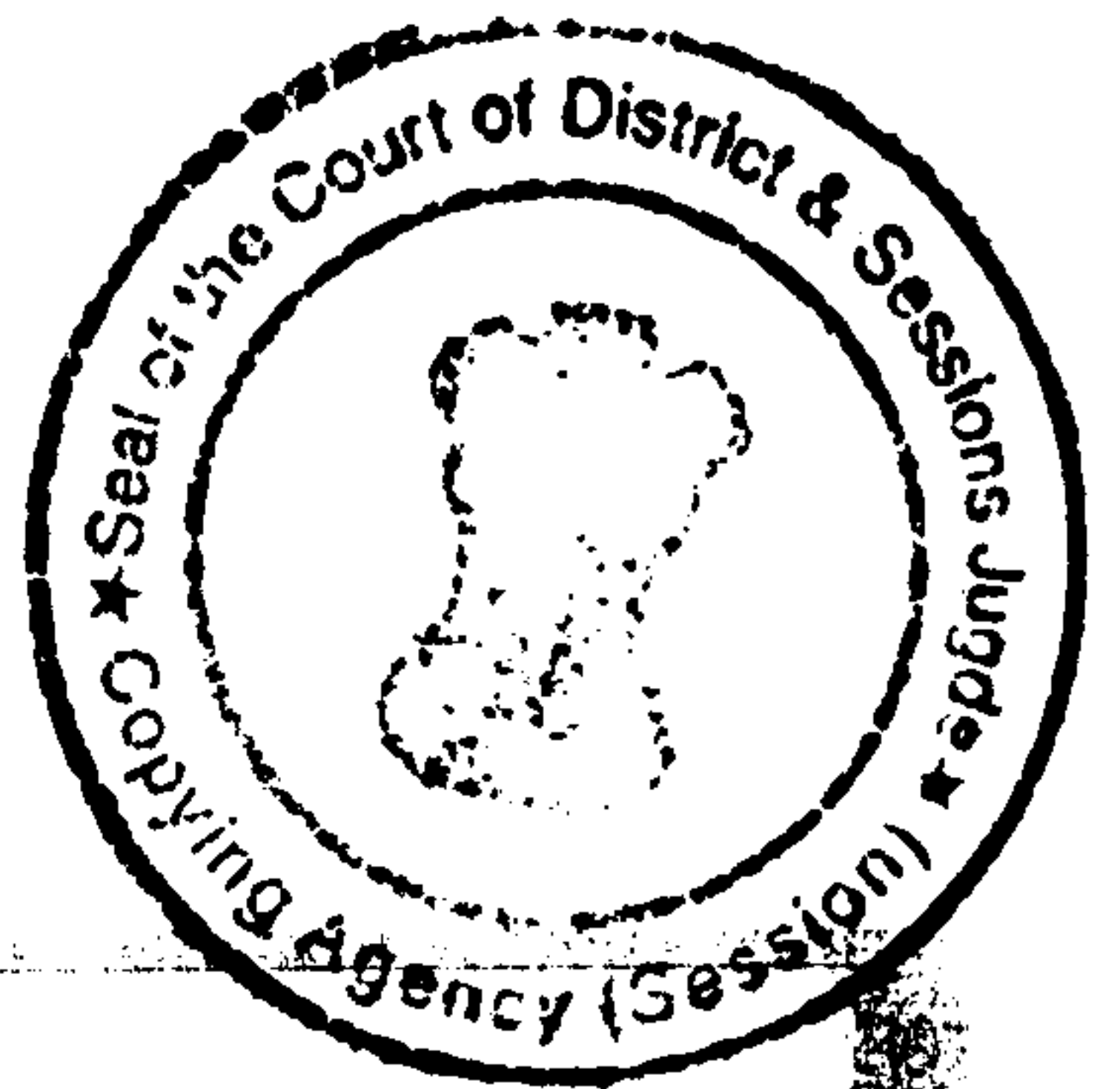
(PAWAN KUMAR JAIN)
Additional Sessions Judge-01,
Central/THC/Delhi

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CC No. 43/10

Item no.17

20.05.2011

Present: Sh. Ashish Aggarwal, Advocate with Ms. Priyanka Tyagi,
Counsel for complainant SEBI
Convict no.1 is company and represented by convict no.2.
convicts no.3 & 4 are in person with Sh. Chittranjan Hatti,
Advocate, Counsel for accused persons.

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. 50,000/-
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.

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

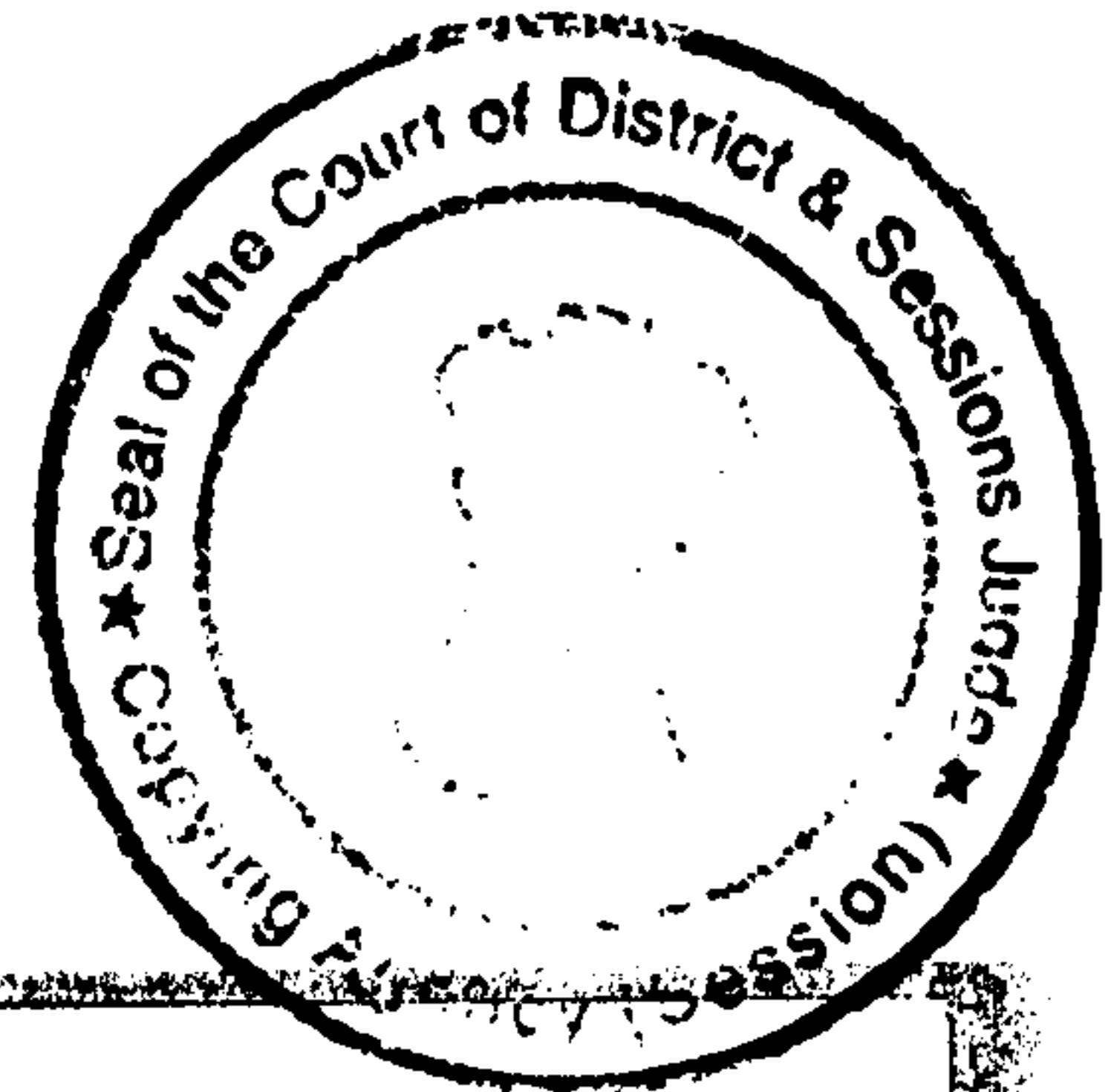
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Copy of Judgment
& order of sentence
Recd.
20/5/2011

20/5/2011

INDRAMANI
20/5/11



SEBI Vs. M/s Pallavi Forestry Ltd.

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

Complaint Case No. 43/10
ID No: 02401R0230632003

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 and represented by its Manager Ms. Rekha Verma.

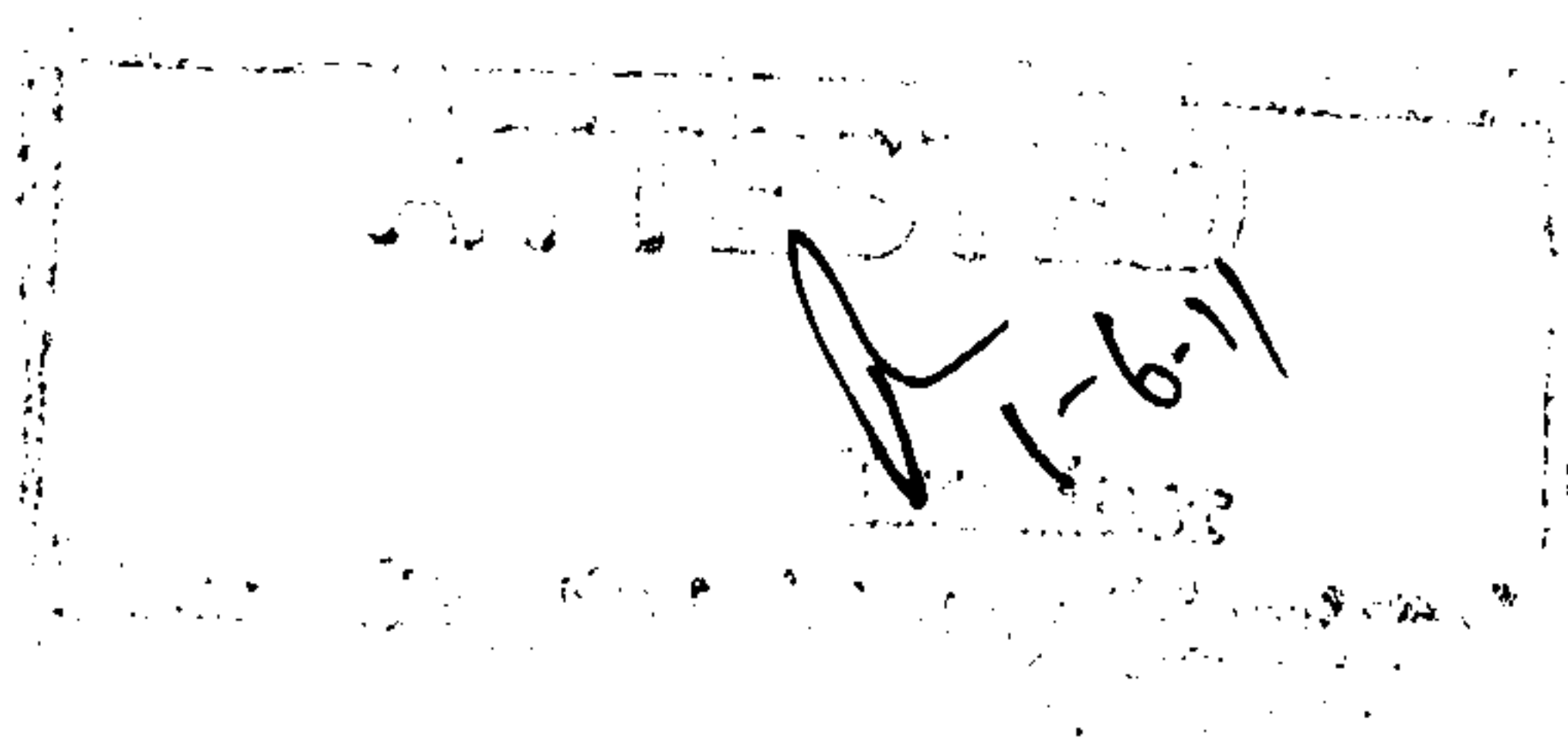
Versus

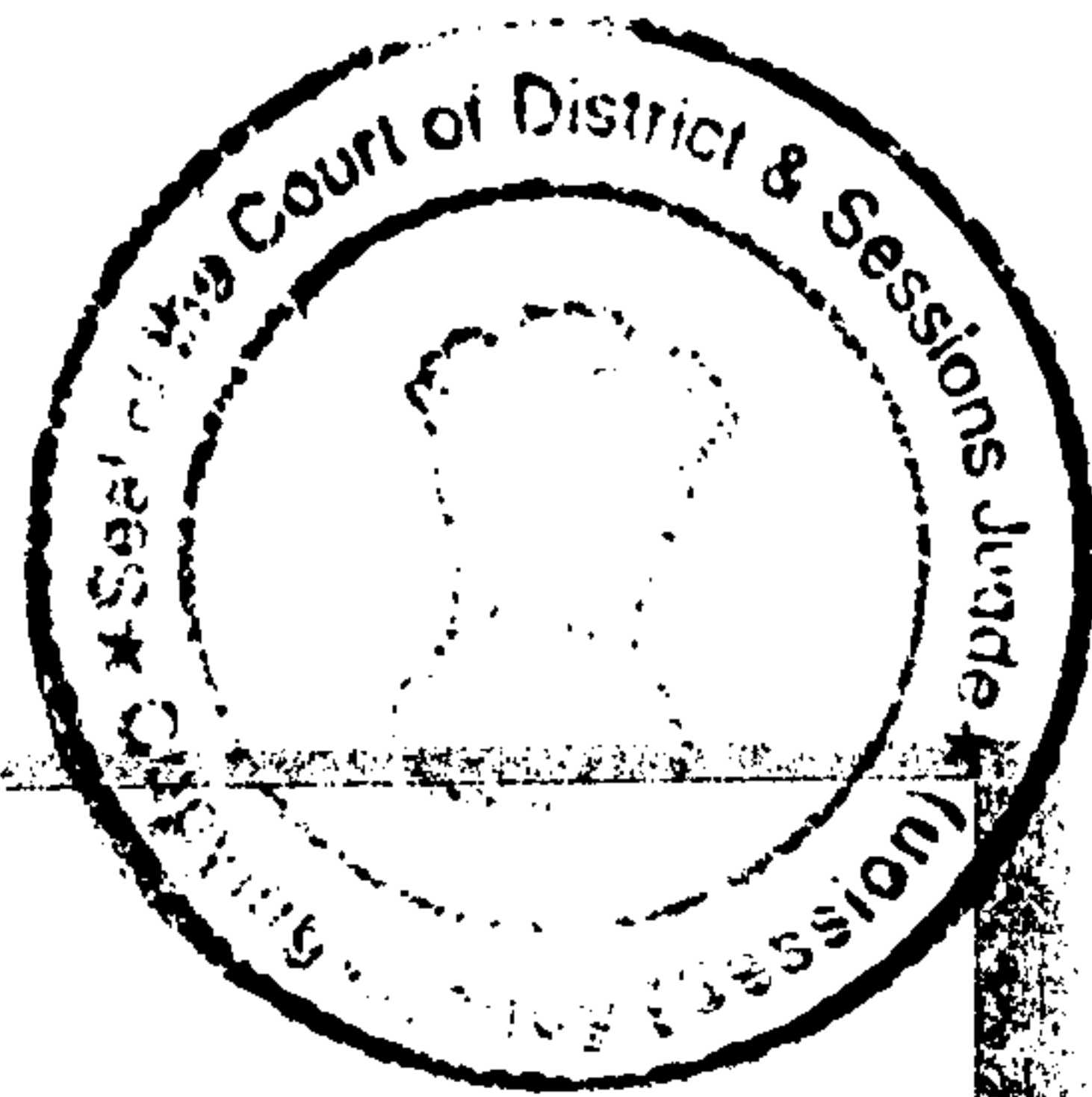
1. **M/S Pallavi Forestry Ltd.**
Having its Registered office at
212, Shekhpura, Aliganj, Lucknow.
Also at:
C-77, Sector M (nr. Usman Enclave),
Aliganj, Lucknow.
498/23, Faizabad Road, Daliganj, Lucknow.
.....Convict no.1
2. **Sh. Ashok Kumar Singh**
(Director)/Promoter.
S/o Sh. A. P. Singh
212, Shekhpura, Aliganj, Lucknow.
.....Convict no.2
3. **Sh. Dinesh Pratap Singh**
(Director)/Promoter.
S/o Sh. V. D. Singh
212, Shekhpura, Aliganj, Lucknow.
.....Convict no.3

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4. **Sh. Indramani**
(Director)/Promoter.
S/o Sh. Ram Dayal,
212, Shekhpura, Aliganj, Lucknow.

.....Convict no.4

Present: Sh. Ashish Aggarwal, Advocate, Counsel for
complainant SEBI
Sh. Chitranjan Hati, Advocate, Counsel for
all convict persons (convict no.1 company
is also represented by convict no.2)

ORDER ON THE POINT OF SENTENCE:

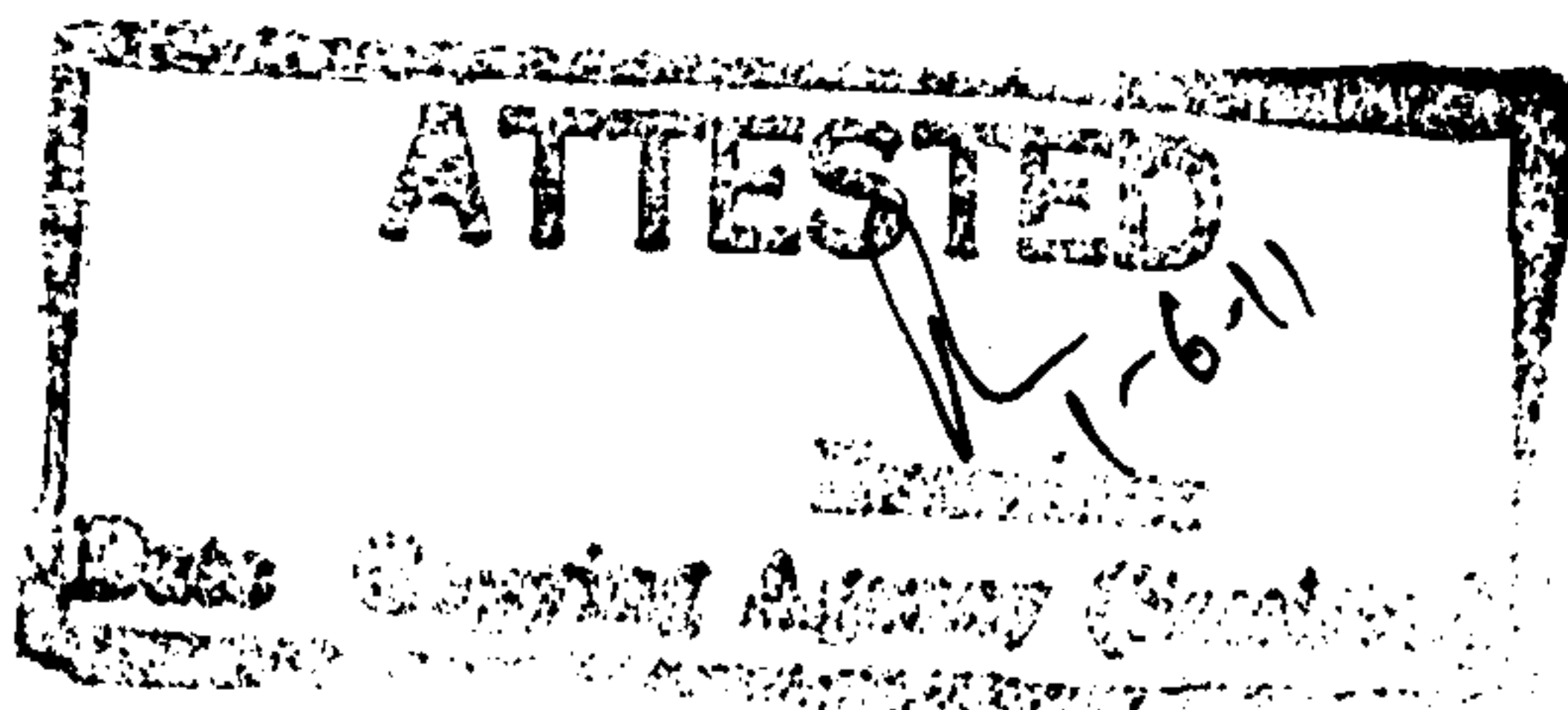
1. Vide judgment dated 19.05.2011, A1 i.e. Company accused, A2, A3 & A4 have been found guilty for the offence punishable under Section 24 (1) of the SEBI Act.

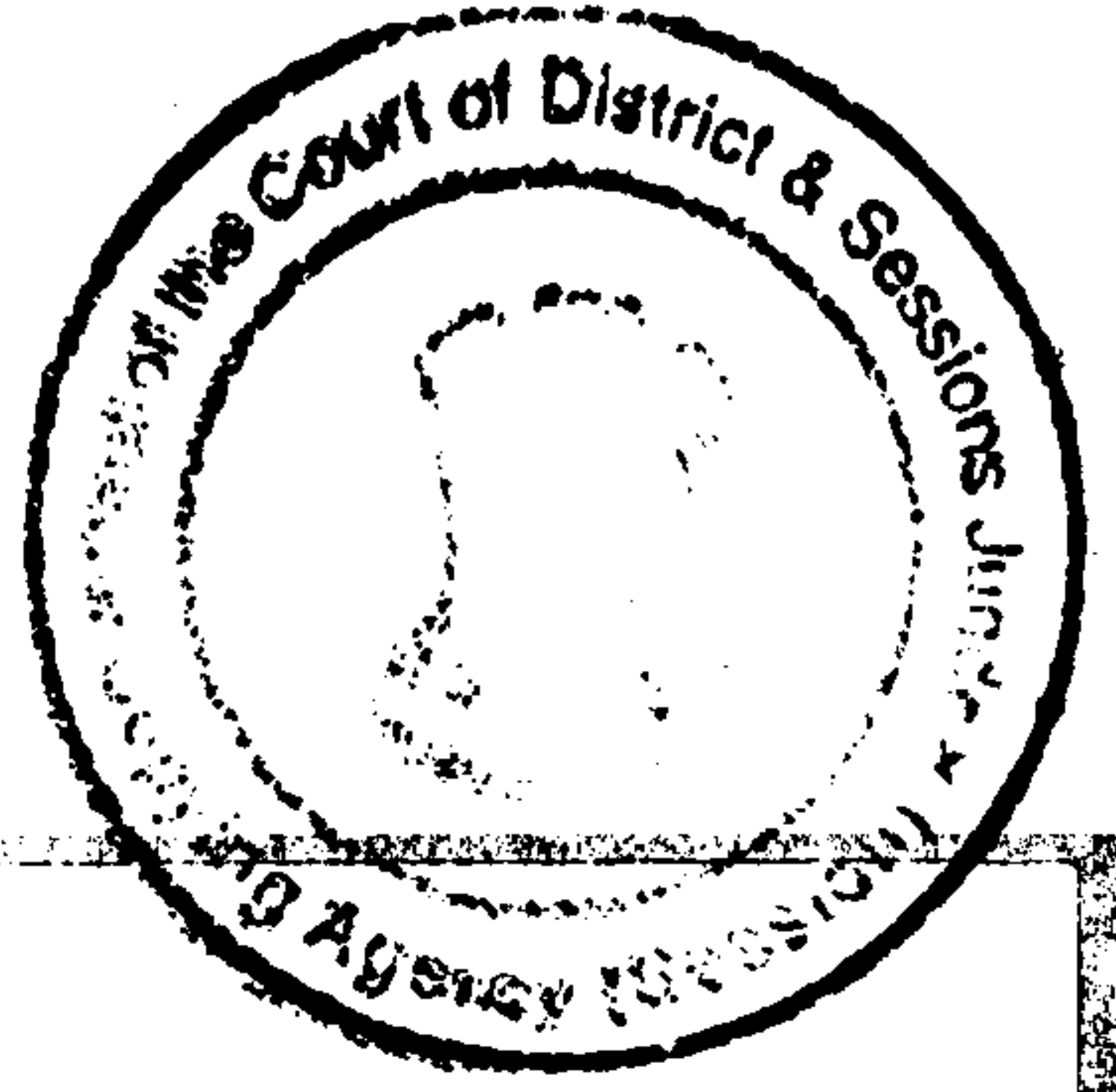
2. Counsel for the convicts requests for a lenient view on the ground that company accused had already refunded the amount to the investors and there is no criminal antecedents against any of the convicts. It is further argued that they are the sole bread earner of their family. On the other hand, Counsel for the complainant requests for substantial punishment on the ground that the company

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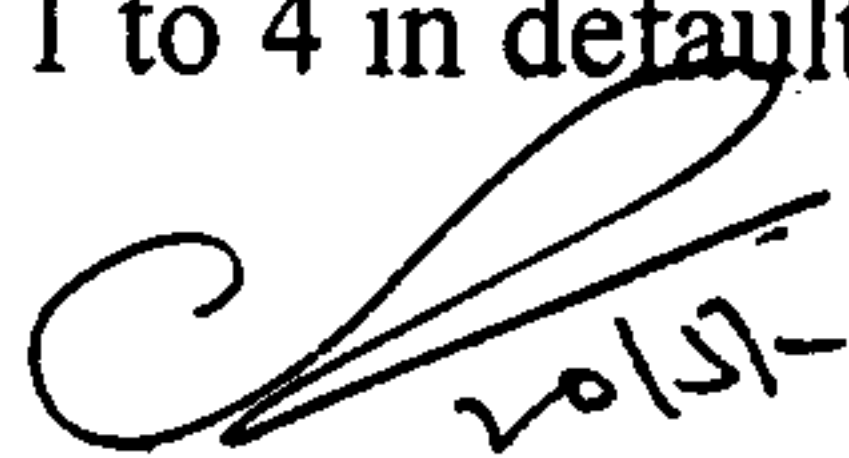
SEBI Vs. M/s Pallavi Forestry Ltd.

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 counsel on the question of sentence, perused the record carefully and gave my thoughtful consideration to their contentions.

4. As per the record, the convict no.1(company accused) had mobilized Rs. 3.77 lac from general public. DW1 in his examination in chief categorically deposed that company accused had refunded the amount to the investors and his deposition has not been challenged during the cross examination, thus at this stage, SEBI cannot take the plea that convicts had not refunded the amount to the investors.

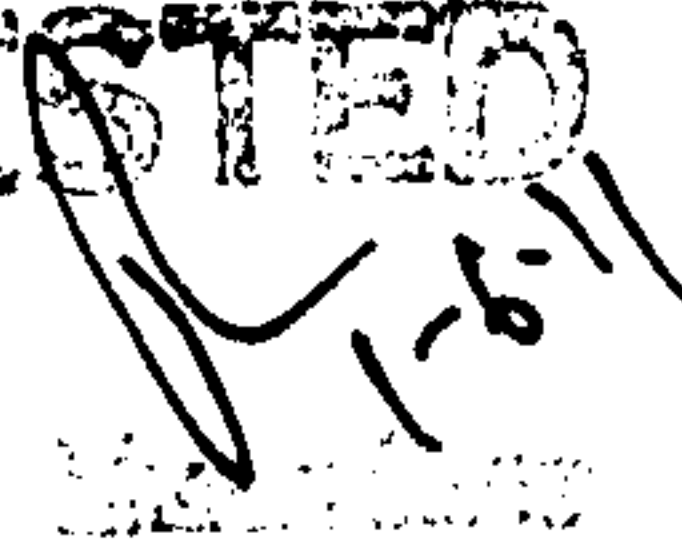
5. Keeping in view the facts and circumstances of the case including quantum of the amount generated under CIS by the convicts, I am of the opinion that ends of justice will be met if convicts are burdened with the substantial fine. Accordingly, I hereby impose a fine of Rs. 50,000/- each on convicts No. 1 to 4 in default 3

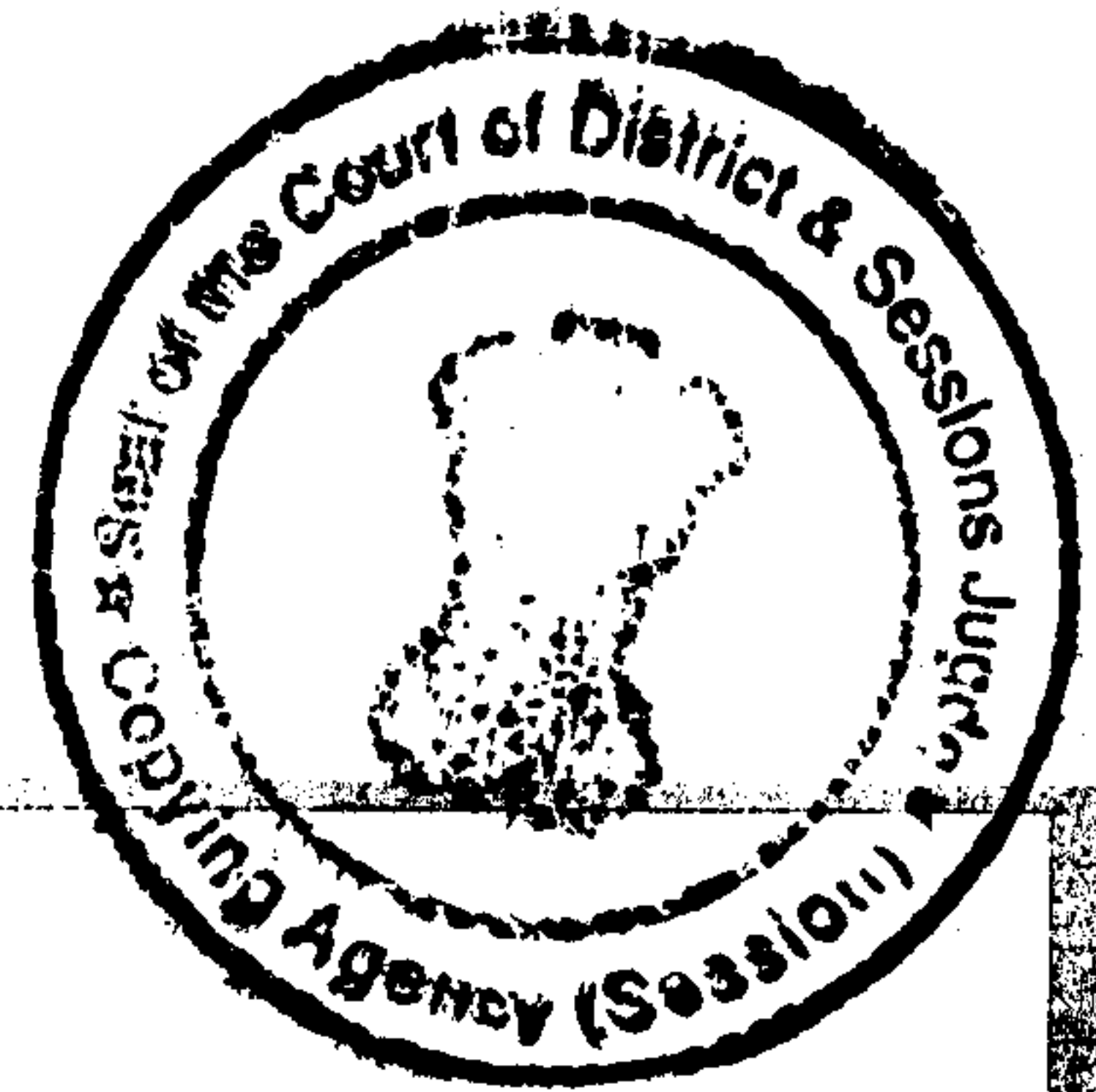

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ATTESTED

1-6-11
JUDGE, COURT OF DISTRICT & SESSIONS (Muzaffargarh)



SEBI Vs. M/s Pallavi Forestry Ltd.

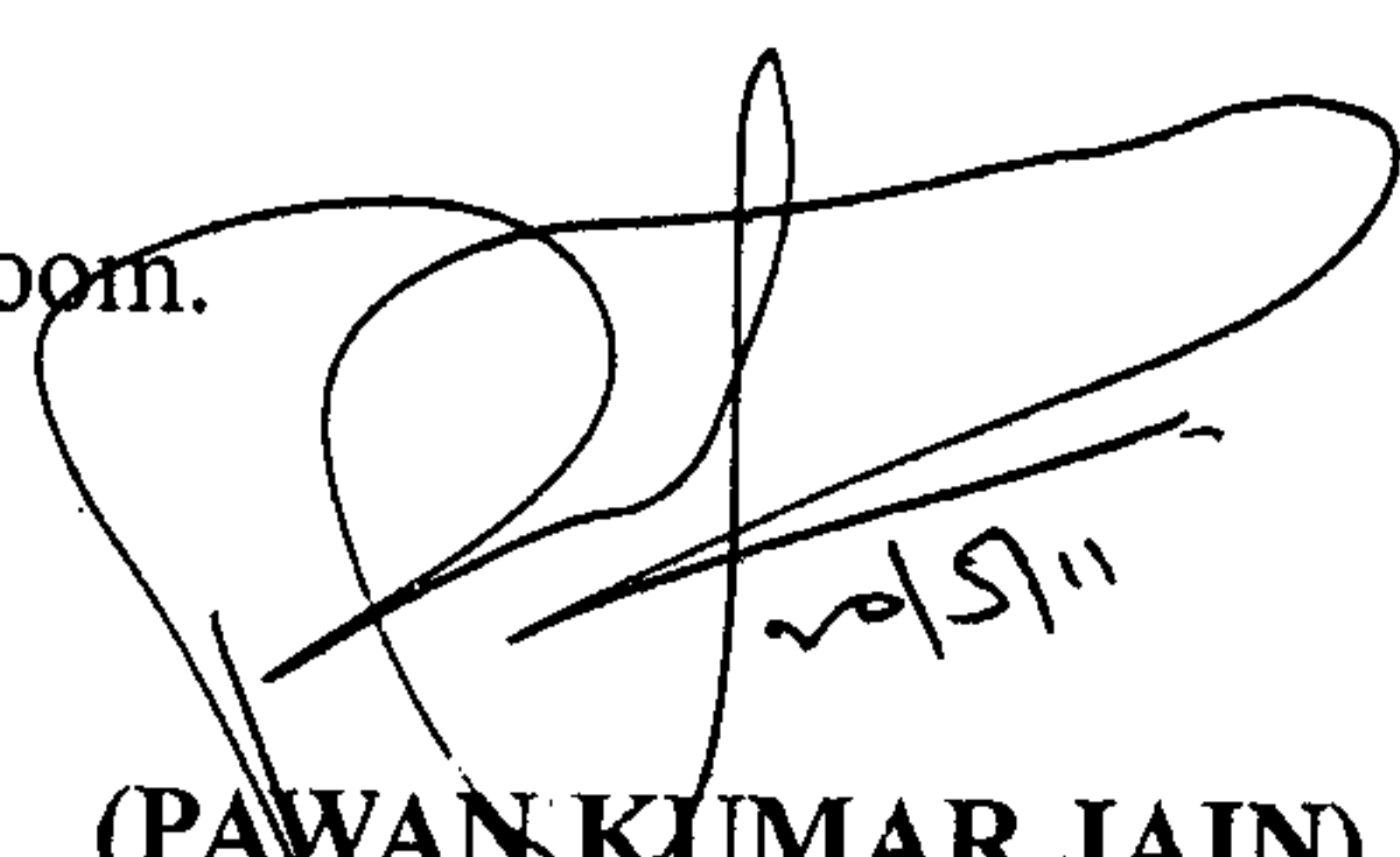
months Simple Imprisonment for the offence punishable under Section 24 (1) of the SEBI Act.

6. Bail Bond and Surety bond of convicts stand cancelled. Their surities stand discharged.

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.

**Announced in the open Court
on this 20th day of May, 2011**


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

