

IN THE COURT OF MS. POONAM CHAUDHARY  
ASJ (CENTRAL-01) : DELHI

CC No.37/05

**SECURITIES AND EXCHANGE BOARD OF INDIA**, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its head Office at Mittal Court, B-Wing, 224 Nariman Point, Mumbai - 400021 represented by its Legal Officer, Shri Sharad Bansode.

**VERSUS**

- 1 **Startek Plantation and Resorts forest . & Ors.** a company incorporated under the provisions of Companies Act, 1956 and having its registered office at : 25/34 , 1<sup>st</sup> Floor, Anand Chambers, East Patel Nagar, Opp. Rajendra Place , New Delhi.
- 2 Sh. V. K. Sharma, Director/Promoter of accused no. 1 ; 25/34 , 1<sup>st</sup> Floor, Anand Chambers, East Patel Nagar, Opp. Rajendra Place , New Delhi.
- 3 Sh. M. K. Siddiqui, Director/Promoter of accused no. 1 ; 25/34 , 1<sup>st</sup> Floor, Anand Chambers, East Patel Nagar, Opp. Rajendra Place , New Delhi.

Arguments heard on : 14.01.2010  
Judgments reserved for : 21.01.2010  
**Judgments announced on : 30.01.2010.**

**JUDGMENT**

1. The brief case of the Securities and Exchange Board of India (herein after referred to as 'SEBI') a statutory body established under the provisions



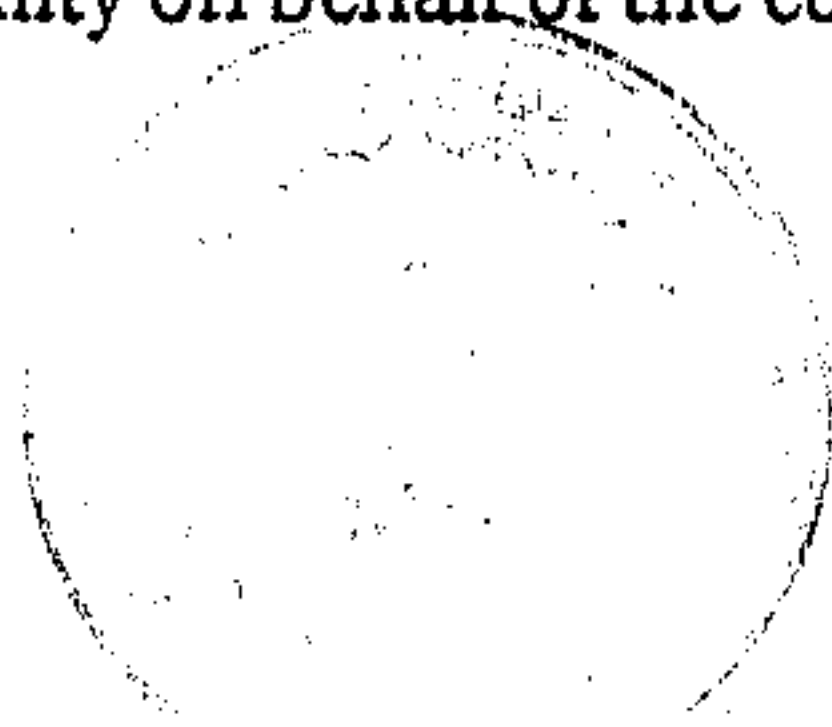
of Securities and Exchange Board of India Act 1992 (herein after referred to as the Act) as disclosed in the complaint is that accused no. 2 being the director of accused no. 1 (herein after referred to as accused company) floated Collective Investment Scheme (for short hereinafter referred to as 'CIS') mobilized funds from the general public.

2. It is also averred that for the Regulations of CIS, being run by entrepreneurs, SEBI notified the Securities and Exchange Board of India Regulation 1999 (herein after referred to as 'Regulations'). However, accused company did not apply for registration neither it took any steps for winding up its CIS and repayment to the investors as per the Regulations. Thereafter, according to the SEBI, accused company committed violations of Sections 11(b), 12(I)(b) of the Act read with Regulations 5(1), 68(1), 68(2), 73 & 74 punishable under Section 24(1) of the Act. SEBI has also claimed that accused no. 2 being the directors of the accused no.1 company was responsible for the conduct of its business and, therefore, were liable for the violations under Section 27 of the Act.

3. After the filing of the complaint, the accused were summoned vide order of Ld. ACM, Delhi dated 14.01.2004. During the pendency of the complaint accused no. 3 expired.

4. Notice of accusation was given to accused to which he pleaded not guilty on behalf of the company and himself and claimed trial.

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5. In support of its case the complainant SEBI examined CW1 Ms. Varsha Aggarwal, Manager, SEBI and CW2 Ms. Jyoti Jindgar, DGM, SEBI.
6. Statement of accused was thereafter recorded u/s 313 Cr.P.C.
7. In support of their defence accused examined one witness and thereafter closed their defence evidence.
8. I have heard the Ld. Counsel for parties and perused the record.
9. The questions for consideration is whether SEBI has been able to prove its case beyond reasonable doubt against the accused.
10. The present case hinges upon the admitted documents issued by SEBI and accused prior to the institution of the present case.
11. CW 1 Ms. Versha Aggarwal Manager, SEBI deposed that the government of India vide press realase dated 18.11.97 directed that bonds which were in nature of plantation bonds and agro bonds issued by the company would be considered as Collective Investment Schemes as stipulated u/s 11 of the SEBI Act,1992. She further stated that SEBI issued Press release dated 26.11.97 and public notice dated 18.12.97 directing companies which were running CIS to file the information with SEBI



regarding their scheme such as details of funds mobilized, name of directors/promoters in case they were desirous of obtaining benefits of section 12 (1B) of the SEBI Act. In pursuance to this company filed information with SEBI regarding its CIS vide letter dated 15.12.97 which is Ex. CW 1/1 accompanied by photocopy of the bank cash certificate issued to the investors and brochure of the company regarding its current scheme. She further stated that as per brochure the promoters of the company were accused no. 2 and 3 (Since deceased). She further stated that vide letter dated nil received on 1.7.98 Ex. CW 1/2, the company contested the jurisdiction of SEBI over plantation companies. She further stated that vide letter received on 11.08.98 Ex. CW 1/3 company sought clarification regarding nature of complaint of the Ramesh Kumar.

12. CW-1 further testified that SEBI CIS Regulation 1999 were notified on 15.10.99 and intimation regarding notification of these regulations was sent to the accused company vide public notice dated 20.10.99 and letter dated 21.10.99 sent by registered post. But the letter was returned undelivered with the remarks "office left", the undelivered envelope is ex. CW 1/4 and letter is Ex. CW 1/5. She further stated that in terms of the said regulation, the company was required to apply for registration or windup its schemes in terms of the regulations 73 and 74. She also stated that as per the procedure laid in the regulations the company was required to circulate information memorandum to its investors and to repay and wind up its schemes and submits the winding up and repayment report with SEBI within 5 ½ months.

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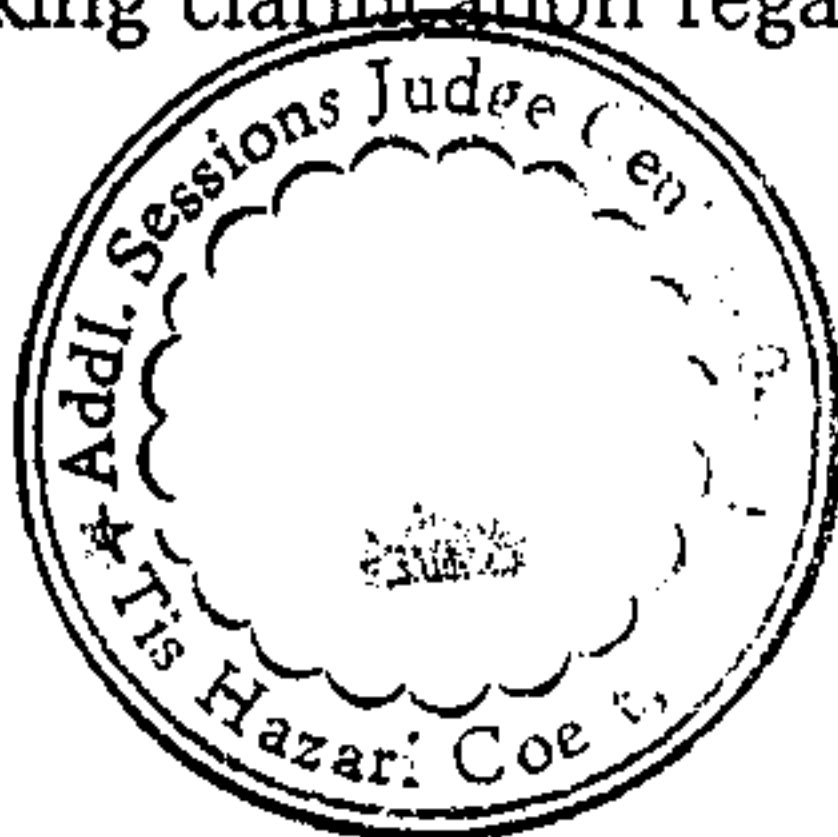
These regulatory obligations were communicated to the company vide specific letters dated 10.12.99 and 29.12.99. The letter dated 10.12.99 was returned undelivered with the remarks "left without address" the returned envelope is Ex. CW 1/6 and letter is Ex. CW 1/7. She further stated that letter dated 29.12.99 was also returned undelivered with the remarks "left without address", the returned envelop is Ex. CW 1/8 and letter is Ex. CW 1/9. She also deposed that these requirement were also communicated vide public notice dated 10.12.99, the copy of which is Ex. CW 1/10. She further stated that as the company neither applied for registration nor intimated regarding its winding up schemes show cause notice dated 12.05.2000 was issued which was also returned undelivered with the remarks "office left". The returned envelop is Ex. CW 1 /11 and letter is Ex. CW 1/ 12. She further stated that vide letter dated 31.07.2000 SEBI forwarded the format of the winding up and repayment report in which the companies was required to furnish information regarding winding up of the schemes and repayments done thereafter. The said letter was also returned undelivered with the remarks "left without address" the returned envelop is Ex. CW1/ 13 and letter is Ex. CW 1/14. Thereafter, Chairman SEBI vide order dated 7.12.2000 issued directions under section 11 B of the SEBI Act to repay the investors as per the original terms of offer within one month of the said order, the copy of the order was communicated to the accused company vide letter dated 18.12.2000 which was returned undelivered with the remarks "left without address", the returned envelop is Ex. CW 1/15 and letter is Ex. Cw 1/16. She also stated that as per the public notice the name of the company appeared at

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serial no. 445 , copy of which is Ex. CW1/17. She also stated that till date company has not filed the winding up and repayment report.

13. She further stated that she was working as Manager SEBI and as per the delegation of power she was authorized to file the complaint on behalf of the complainant and to continue the complaint. Certified copy of delegation of power was proved as Ex. CW 1/18.

14. In her cross examination she stated that all the communications were sent at the corporate office address as per the letterhead of the company . She also stated that they did not contact the Registration of Companies ROC to obtain the address of the accused company. She also stated that she was not aware whether the registered office of the company was situated at Master Tara Singh Road, Jalandhar. She also stated that she could not confirm wherein the company had abandoned its scheme in the year 1997 prior to the coming into force of the regulations. She also stated that as per the record of SEBI she could not say whether ROC had intimated about the death of one of the director'. She also stated that she could not say whether company had applied to the ROC for winding up on account of the fact that the number of directors had fallen below two. She also stated that she was not aware whether company had made part payment to its investors before regulations were notified. She also stated that she had not checked the record of the ROC hence she did not know whether ROC had sent a letter to the company in March 1999 seeking clarification regarding winding up of the company. She



further stated that 71 complaints were received against the company and company continued its affairs after 1999. She also stated that complaints were not filed on record. She also stated that a separate department was dealing with the complaint. She also stated that she could not comment on the action taken upon those complaints.

15. CW 2 Ms. Jyoti Jindgar DGM SEBI deposed that vide order of chairman SEBI dated 7.12.2000 company was advised to repay the investors as per the original terms within one month. She also stated that prior to the said order company was advised to comply with the SEBI CIS Regulations. She also stated that several complaints were received against the company and details of the 71 complaints is Ex. CW 2/A and SEBI had been forwarding the said list to the company from time to time for redressal however the same was returned as undelivered. She also stated that as company did not comply with the direction issued by chairman SEBI dated 7.12.2000 the present complaint was filed against the company. She also stated that no compliance had been received from the company till date. She further testified that Sh.Sharad Bansode had been authorized by chairman SEBI to file the criminal complaint and as he proceeded on study leave therefore Ms. Versha Aggarwal has been authorized to continue the complaint in view of the delegation of power.

16. In her cross examination she stated that she had not attached the original or copies of the complaints filed with the SEBI and the details of



which were given in Ex. CW 2/1 which is a computer printout. She also stated that there was no certificate at the foot of Ex. CW 2/1 to the effect (1) disclosing the identity about electronic record containing the statement or describing the manner in which it was produced; (2) any other particulars regarding the device involved in production of electronic record for showing that electronic record was produced by the computer; (3) no details about the person on whose instruction the data was fed into the computer, on what date and on what basis; (4) that the computer data is not interpolated from date of feeding to date of taking of print out ; (5) no officer in the office has certified or testified this printout.

17. CW-2 also stated that SEBI had not inquired into correctness of the complaint submitted to it vide CW2/1. She also stated that as per broucher accused no. 2 and 3 were the managing director of accused company as per the information furnished by accused vide Ex. CW 1/1.

18. CW 3 Smt. Ruchi Agashe AGM SEBI deposed that there were 71 complaints pending against the accused company and the complaint received from various investors were collectively Ex. CW 3/2. She also stated that complaints mentioned various amounts invested by the complainants in the company but not refunded to them.

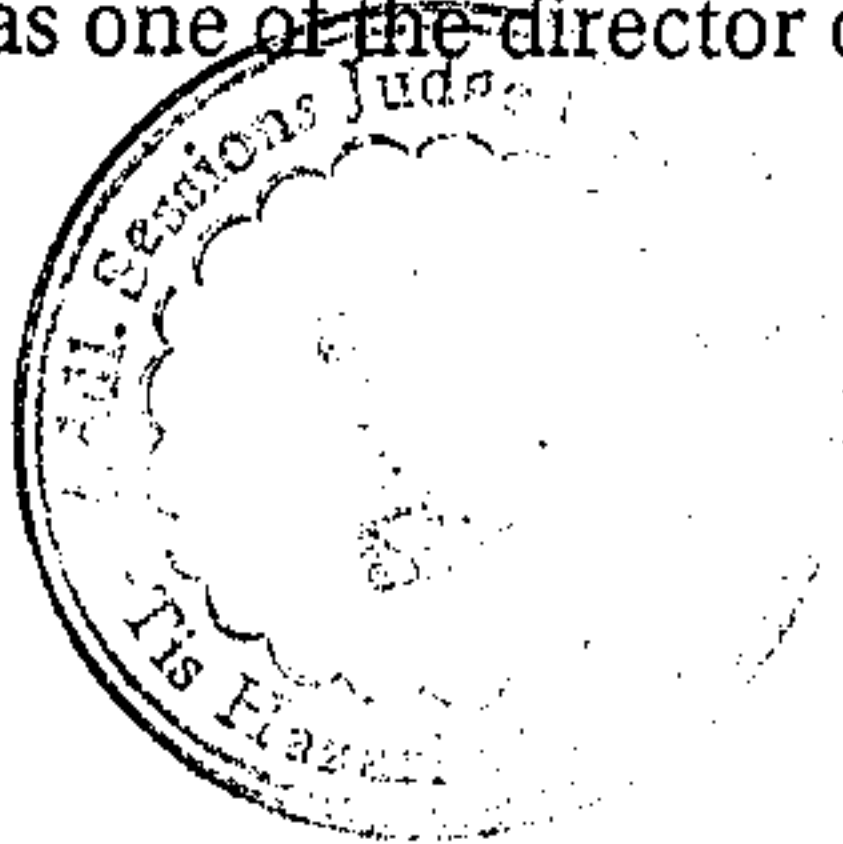
19. In her cross examination she stated that there is no procedure of inquiry on the complaint received by SEBI. She also stated that the the





complaints were sent to the accused company for redressal but the letter addressed to the company was returned undelivered. She also stated that in respect of the complaints of various investors mentioned in Ex. CW 3/1 no independent investigation had been got done by SEBI. She also stated that complaint were sent to the accused company but she could not deny or affirm of the registered office of accused company was at 19 Master Tara Singh Road, Jalandhar City. She stated that as per communication Ex. CW 1/1 sent by accused no. 1 its office was situated at 25/34 1<sup>st</sup> floor Anand, Chambers, East Patel Nagar opposite Rajender Place, New Delhi 110008. She also stated that all letters sent by SEBI after April 2000 to accused no. 1 company had been returned undelivered. She also stated that SEBI did not verify the address of the company from the office of ROC neither SEBI verified whether the company was existing at the time of receipt of the complaint from the investors. She further stated that she was not aware if the accused no. 1 company was wound up on 22.09.1998. She denied that payments made by various investors to accused no. 1 company had been secured by way of fixed deposit issued by it.

20. CW 1 Ms. Versha Agarwal had proved the letter Ex. CW 1/1 issued by the company. The authenticity and genuineness was not challenged by the accused. Therefore Ex. CW 1/1 was deemed to be admitted as correct. As per the brochure annexed with Ex. CW 1/1 the promoters of the company were accused no. 2 and 3. Accused no. 2 admitted in his statement under section 313 Cr.P.C. that he was one of the director of accused company and officiated



as its chairman. Hence as per this undisputed document Ex. CW 1/1 accused no. 2 was the director of accused company on the date of its issue i.e. 15.12.97.

21. The Act came into force w.e.f. 30.01.92 Chapter V relates to the registration certificate. Section 12(1B) was incorporated on 25.01.95 and provides that

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

22. Therefore according to section 12(1B) of the Act no person could sponsor CIS without registration from SEBI in accordance with the regulations. The regulation came into force w.e.f. 15.10.99.

23. As per the letter Ex. CW 1/1 and its enclosures the company had invited general public to invest in its various schemes thus company was running CIS as on 15.12.97.

24. CIS has been defined in 11AA of the Act. which is as follows :-

*"Collective Investment Scheme – (1) Any scheme or arrangement which satisfies the conditions referred to in sub-section (2) shall be a collective investment scheme.*



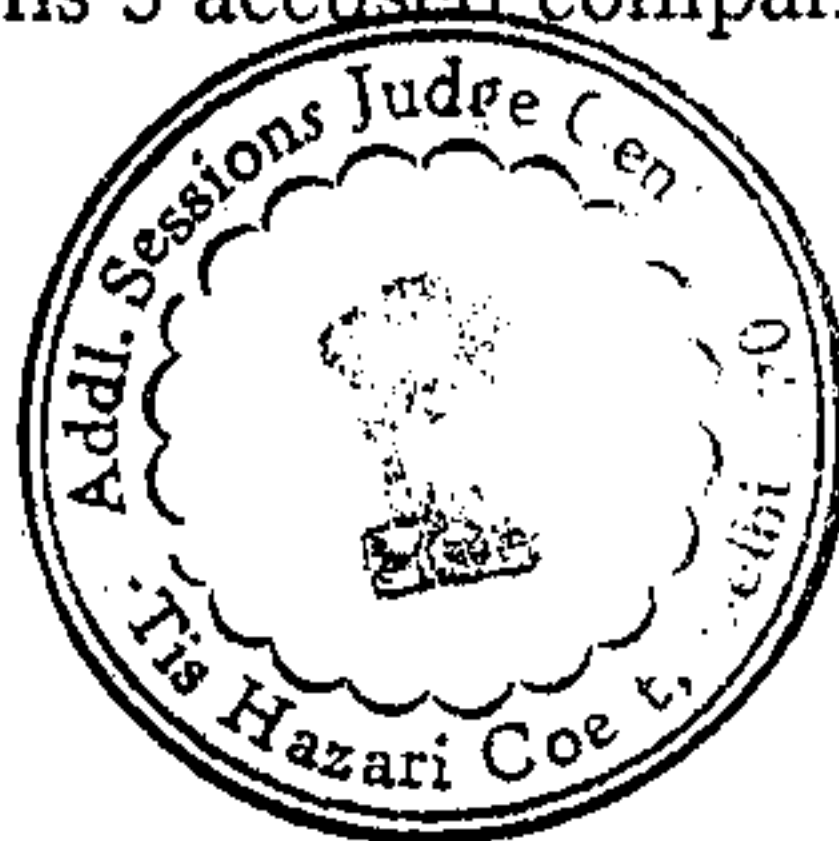
(2) Any scheme or arrangement made or offered by any company under which, -

- (i) the contributions, or payment made by the investors, by whatever name called, are pooled and utilized for the purposes of the scheme or arrangement;
- (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement;
- (iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;
- (iv) the investors do not have day-to-day control over the management and operation of the scheme or arrangement.

25. As per Ex. CW 1/1 the accused company invited general public to invest in its various scheme. So it is an admitted fact that accused company had been running CIS even as on 15.12.97. Hence I hold that accused company had been running CIS even after 1995 and had been collecting funds from the general public.

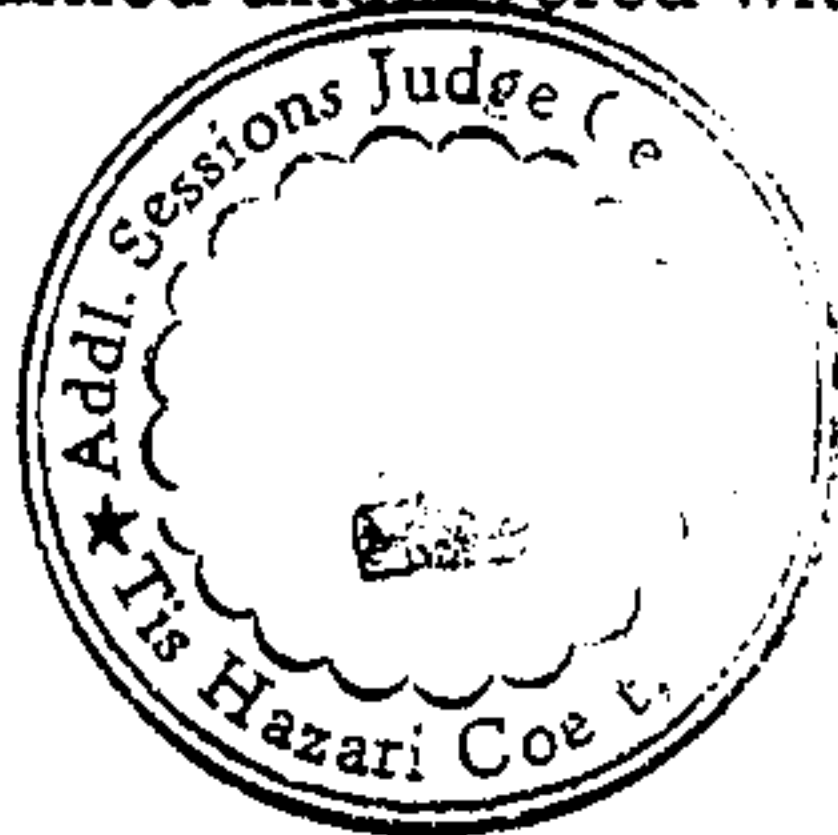
26. After the notification of regulation, intimation regarding notification was communicated to accused company vide public notice dated 20.10.99 and letter dated 21.10.99 which is Ex. CW 1/ 5. This letter was returned undelivered with the remarks " office left".

27. As per regulations 5 accused company had to apply for registration of



its CIS. As per the regulation 73(1) CIS which failed to make an application with SEBI, would wind up the same and repay the investors. Apart from this as per Regulation 74, existing CIS which was not desirous of obtaining provisional registration from SEBI, would formulate a scheme of repayment and make such repayment to the existing investors in the manner specified in Regulation 73.

28. According to Regulation 73(2) the existing CIS to be wound up, shall send an information memorandum to the investors who had subscribed to the schemes, within two months from the date of receipt of intimation from SEBI.
29. Ld. counsel for accused vehemently argued that company had been wound up prior to the coming into force of the SEBI CIS Regulation and company had repaid its investors.
30. The question for consideration is whether company had complied with the aforesaid regulations or not. In this regard CW 1 stated that accused company neither applied for registration nor informed SEBI about the winding up of its scheme as prescribed under CIS regulation 1999. She also stated that chairman SEBI vide order dated 7.12.2000 issued direction to repay the investors as per original terms of offer within one month of the order, copy of which was sent to the accused company vide letter dated 18.12.2000 was returned undelivered with the remarks "left without address"





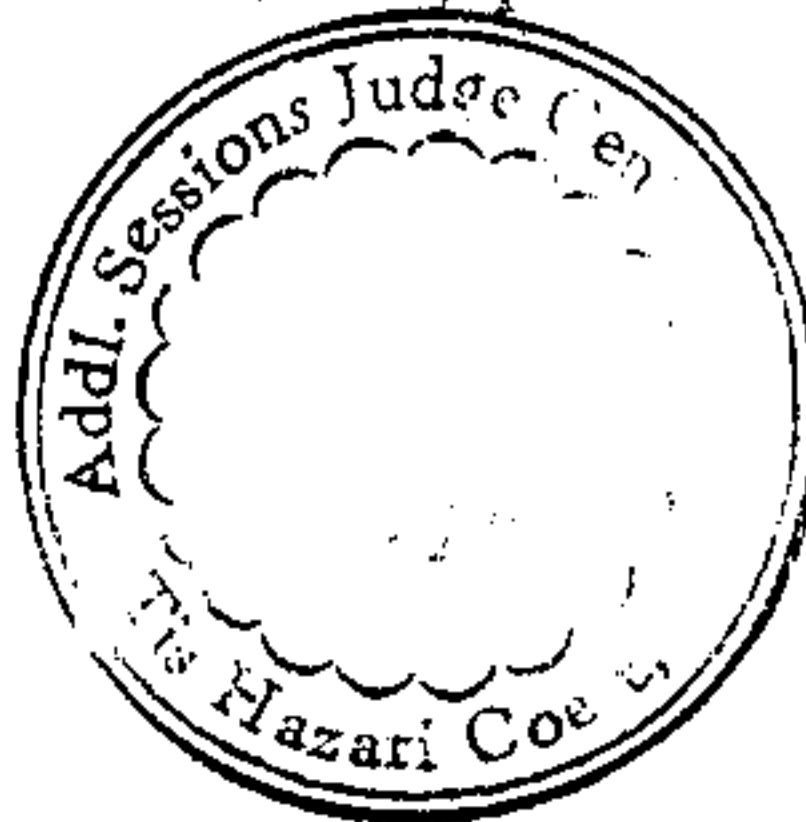
and as per Ex. CW 1/17 the name of the accused company appears at serial no. 445 and till date company had not filed winding up and repayment report.

31. CW 2 also deposed that company did not comply with the directions of the chairman SEBI dated 7.12.2000 even till filing of complaint, no compliance had been received from the company and even till date no compliance of regulations had been received.

32. On the other hand accused stated in his statement u/s 313 Cr.P.C. that company had been wound up its CIS and repaid its investors. He further stated that the company was wound up and its schemes came to an end with the provisions of repayment to the investors photo copies and documents evidencing repayment of amount to investors by means of FDR have been filed.

33. The question for consideration is whether accused company had been wound up and all the investors had been repaid.

34. Accused examined DW1 Sh. Azad Singh AGM Union bank of India who stated that he had brought the details of summon record and their bank issued 126 cash certificate from current account of Startek Plantation and Resorts forest Ltd and the original of these cash certificates were in the possession of the payees. He also stated that 57 cash certificates have been presented for payments and are duly paid to the payees. He also stated that



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remaining cash certificates were not presented for payments. All the cash certificate were overdue for payments. He also stated that Startek Plantation and Resorts Forest Ltd. had not given any instructions to bank till date for not making payment of any cash certificate. In his cross examination he stated that he had not brought the record regarding payment of various cheques which were issued by Startek Plantation and Resorts Forest Ltd. in favour of Ramesh Kumar and Madan. He also stated that he had the details of only cash certificate. He also stated that he could provide details regarding payments or non payments of these cheques after verifying the bank record. He also stated that he could not say whether 12 cheques Ex. DW 1/P 1 to P 12 were dishonored or honored. From the testimony of DW 1 it has not been proved that all the investors had been paid.

35. The accused has sought to raise a defence that investors were paid of their principle amount by issuance of FDRs by the company which were delivered to the investors and FDR were paid off by the bankers to the beneficiaries. It was also alleged that there was gazette notification about the winding up of accused company. It was also argued that accused no. 3 who was incharge of the affairs of accused company had died.

36. Ld. Counsel for accused has also contended that notice of winding up of accused company was published in the gazette notification vide notification dated 3.10.98 and 7.11.98. Copy of gazette notification has been placed on record. Vide said gazette notification notice was given regarding



meeting of creditors of the company to be held to consider and approve the statement of affairs of the company. To consider and approve the resolution for voluntary winding up of the company passed by the member. To consider and pass the resolution for putting the company under creditors voluntary winding up. To consider and appoint voluntary liquidator.

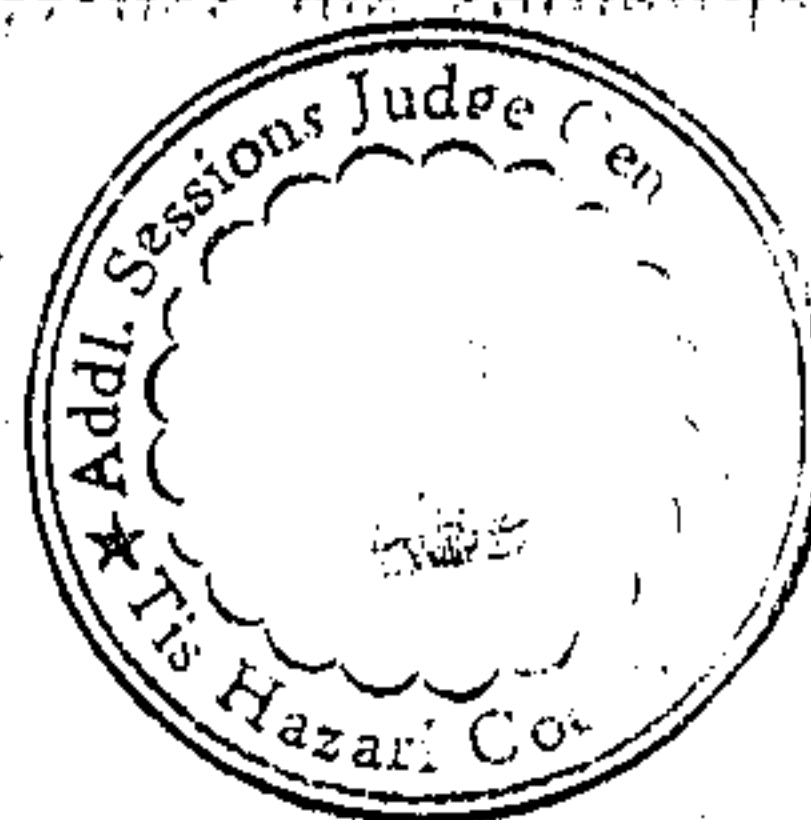
37. The accused company was bound to submit the winding up and repayment report to SEBI in terms of regulations 73 and 74 which they failed to do even till the filing of the complaint. CW 1 stated that SEBI forwarded the format of winding up and repayment report in which companies were required to furnish information regarding winding up of its scheme and repayment done thereafter. The said letter was returned undelivered with the remarks "left without address".

38. Ld. Counsel for SEBI further contended that the accused company did not furnish the details of funds mobilized neither it proved that all the investors were repaid. CW 1 stated that they had received 71 complaints against the accused company and company continued its affairs till 1999. The details of pending list of 71 complaint was Ex. PW 2/A. She further stated that SEBI had been forwarding the letters for redressal but the said letter was returned undelivered. CW 1 also deposed that no compliance of SEBI CIS regulations was received from accused company, Hence, SEBI has proved that complaints has been received from the investors against the accused company and they were sent for redressal to the company but the said letter



addressed to the accused company was returned undelivered. Therefore according to SEBI the complaints of the investors had not been redressed by accused company. Moreover accused company did not file the winding up and repayment report (in short WRR) as per regulation till the filing of the complaint and even till date. Hence violations of SEBI CIS regulation continued. Therefore accused failed to prove that investors had been repaid.

39. The next contention of Ld. Counsel for accused is that none of the letter sent by SEBI were received by the accused company. Sh. Sanjay Mann, Ld. Counsel for SEBI contended that SEBI had sent reminder to the defaulters to confirm compliance of the SEBI CIS regulation however same were returned undelivered with the remarks "left without address". The defence taken by accused company that is accused company had been wound up hence letter were not received. The Ld. Counsel for SEBI submitted that accused were themselves responsible for non-receipt of communication from SEBI as they did not care to inform SEBI of the change of address and ignored the public notices that were issued to remind the defaulters that they were required to confirm compliance. Hence, accused failed to fulfill the legal obligations, ignorance of law cannot absolve the accused of their liability. The Ld. Counsel for accused further submitted that communication was sent by SEBI at the registered office of the accused company furnished by accused company vide Ex. CW 1/1 furnishing information to SEBI in pursuance of press release and public notice. Hence the contention of Ld. Counsel for accused is without any merits.





40. It appears accused had abandoned its office, in these circumstances they cannot plead ignorance for non-compliance. The accused are liable for the actions. Thus at the time of the filling of the complaint the violations continued in the circumstances when WRR had not been submitted to SEBI accused are guilty for violating the regulations.

41. Ld. Counsel for accused further alleged that CW 2/ A is not admissible in view of section 65 D of the Evidence act. Section 65 D which relates to admissibility of electronic documents is as follows:

*(1) Notwithstanding anything contained in this act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.*

*(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following namely:-*

*(a) the computer output containing the information was produced by the computer*



*during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;*

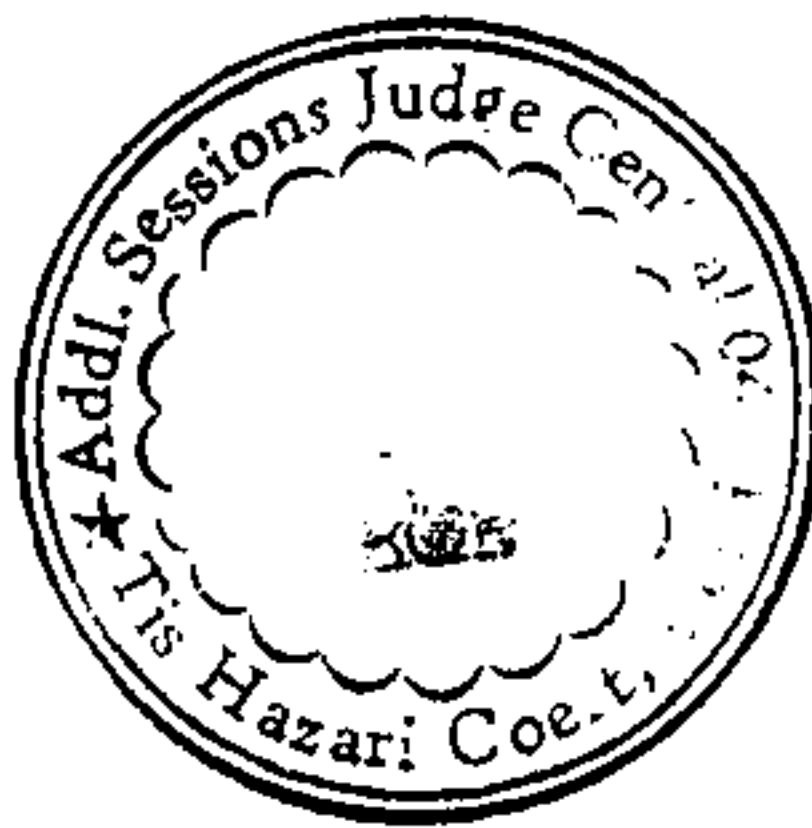
*(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;*

*(c) throughout the material part of the said period, the computer was operating properly, or, if not; then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and*

*(d) the information contained in the electronic record reproduces or is derived from such information fed in to the computer in the ordinary course of the said activities.*

42. It is submitted by Ld. Counsel for accused that no certificate has been appended with the Ex. CW 2/1 to certify its genuineness and authenticity and merely because it is exhibited document it is not proved and Ex. CW 2/1 is not admissible in the evidence.

43. However I am of the view that the contention of Ld. Counsel for accused is without any merits as Ex. CW 2/1 is a list of complaints which were

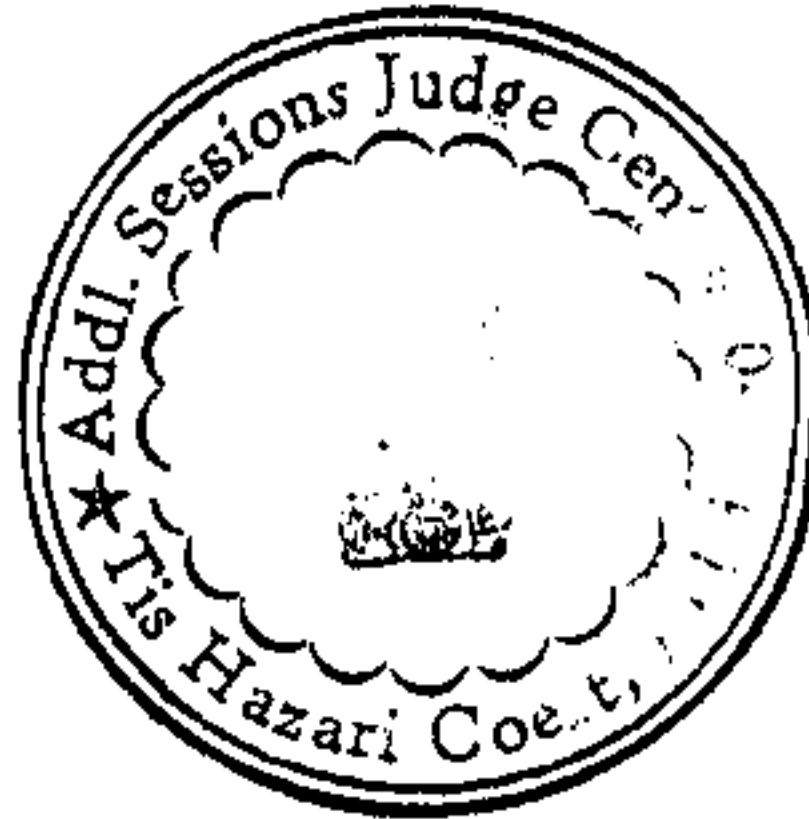


not redressed by the accused company. CW 1 stated that several investors had complained to SEBI. A list of 71 complaint received till 9.10.2002 was Ex. CW 2/1. SEBI forwarded the said list to the accused company from time to time for redressal, however the same had been returned undelivered since April 2000. Moreover, company did not comply with the directions made by the Chairman vide order dated 07.12.2000 to repay investors in terms of original terms of offer within one month of the order. The accused company failed to prove that all the investors had been repaid.

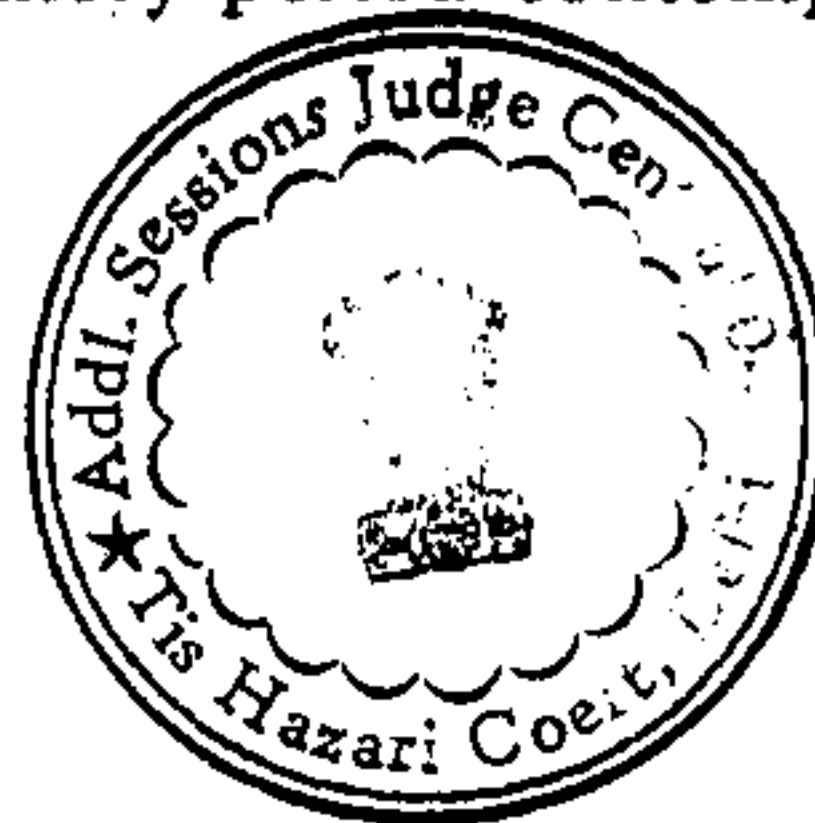
44. It is further contended on behalf of accused that SEBI had not verified whether accused company existed at the time of receiving of various complaints from the investors. However in this regard CW 3 stated that they were not aware whether accused company had been wound up and denied that payments made by various investors to accused company.

45. The contention of Ld. counsel for the accused is that after the death of accused no. 3 company has applied ROC for winding up on account of death of one of the Director had fallen below too in the year 1998.

46. However, CW-1 in her cross-examination stated that she could not tell whether ROC had intimated regarding the death of one of the Director and neither she could state whether the company had applied to ROC for voluntarily winding up on account of number of directors having fallen below two.



47. The accused company failed to prove the facts that company had applied to ROC for winding up as the number of directors had fallen below 2. On the other hand, it has been proved by SEBI that the accused company continued its affair even after the notification of regulations on 15.10.1999 and complaints were received against accused company till 9.10.2002.
48. CW-2 also stated that no compliance of the statutory obligations has been received from the company till filing of the complaint and even till the date of deposition by CW-2, therefore, SEBI has succeeded in proving that the accused company violated the statutory obligations imposed upon them by the SEBI CIS Regulations notified on 15.10.1999. The testimony of CW-2 regarding non-compliance of SEBI CIS Regulations has gone unchallenged.
49. In view of the forgoing reason, I hold that SEBI has been able to prove its case against the accused company of which accused no. 2 was its director to the effect that CIS as contemplated by section 11 AA of the act had been floated and funds mobilized from the general public thereunder without obtaining the certificate of registration as required under section 12 (1B) of the act. further it has been able to prove that despite coming into force of the regulations w.e.f 15.10.99 the accused company failed to make application for registration of its CIS within the statutory period contemplated under the regulations.

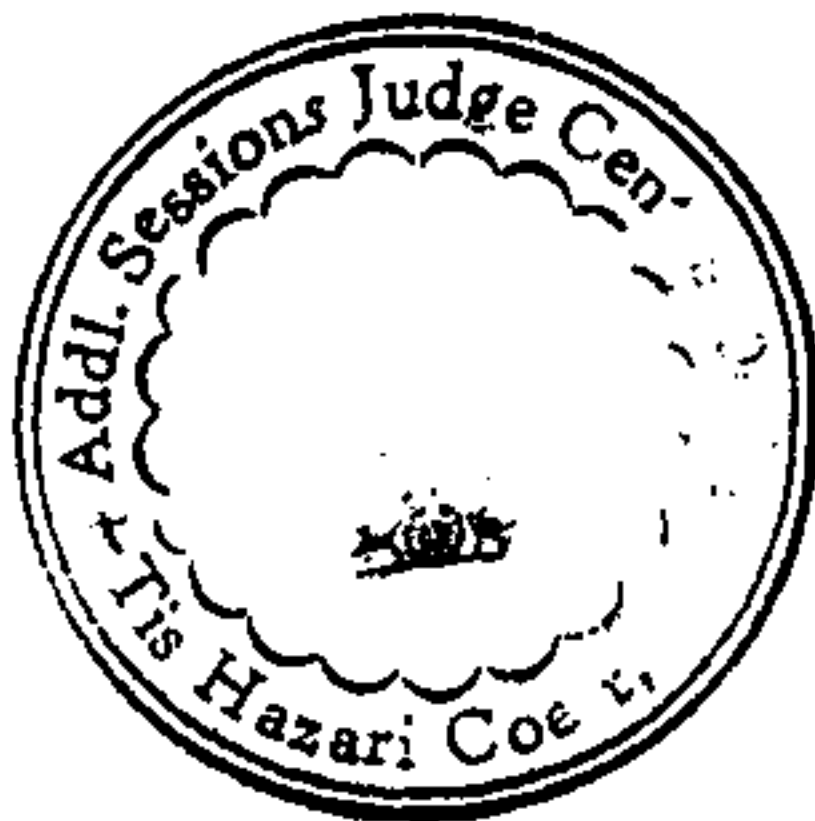




50. I accordingly hold that accused company Startek Plantation and Resorts Forest Co. Ltd. and its director accused no. 2 Sh. V. K. Sharma guilty for violation of Regulation 5(1) read with regulations 68 (1), 68(2), 73 & 74 of SEBI CIS regulations 1999 r/w section 24 & 27 of the SEBI Act. 1992. Accused to be heard on sentence on 4.02.2010.

Announced in the open Court  
On this day of 30<sup>th</sup> January 2010

*Poonam Chaudhary*  
(POONAM CHAUDHARY)  
AS Additional Sessions Judge  
(Central)-01  
Tis Hazari Courts, Delhi



IN THE COURT OF MS. POONAM CHAUDHARY  
ASJ (CENTRAL-01) : DELHI

CC No.  
SEBI Vs. Startek Plantation and Forest Ltd.  
04.02.2010.

ORDER ON SENTENCE

Present: Sh. Sanjay Mann, counsel for SEBI.

Convict no. 2 with counsel Sh. Jagjit Singh.

1. I have heard the Ld. Counsel for SEBI Sh. Sanjay Mann and Sh. counsel for convicts on the point of sentence.
2. It is submitted on behalf of convict no. 2 that that he is 59 years old and his family comprises of his wife, two children besides his aged mother who is solely dependent upon him. It is also submitted on behalf of convict no. 2 that he is the sole earning member of the family. It is further submitted that he is suffering from various diseases, prayer is made for taking a lenient view.
3. Ld. Counsel for SEBI has strongly opposed the submission made by Ld. Counsel for convicts and submits that accused had mobilized funds from general public in violations of SEBI CIS regulations.
4. Ld. Counsel for SEBI Sh. Sanjay Mann states that the Act came into force in 1992 to provide for establishment of a Board to protect the the interest of investors in securities and to promote the development of, and regulate securities market and matters connected therewith.
5. I am of the view that convict had sufficient time to comply with the provisions of the act and regulations made thereunder however violation continued till filing of the complaint and even as till date.



6. According to section 12(1B) of the Act, the Collective Investment scheme could not be run without obtaining registration as per regulations.
7. Convicts no. 2 was the directors of accused no. 1 company and accused company in violations of section 12(1B) of the SEBI Act floated Collective Investment Scheme and collected amount from general public.
8. Ld. Counsel for SEBI states that 71 complaints were received against the accused company which remained unredressed
9. It is significant to mention that w.e.f 29.10.2002 section 24 of the Act was amended and provides imprisonment extending up to 10 years and fine up to Rs. 25 crores or both. This shows that the legislature has viewed the offences under the act and regulation very seriously. Hence in my view lenient view cannot be taken.
10. However as the offence in question was committed before the amendment came into force hence, in these facts and circumstances of the present case accused no. 2 is sentenced to RI for 1 year. In addition accused company and accused no. 2 shall pay a fine of Rs. 5,00,000/- (Five lack) each and in default thereof accused no. 2 shall undergo SI for 6 months u/s 24 read with section 27 of the Act. Out of the amount of fine realised a sum of Rs. 20,000/- be paid to SEBI after expiry of period of revision, appeal, towards the expenses incurred by it. Copy of order be given to convicts free of cost. File is consigned to record room.

*Poonam Chaudhary*  
(POONAM CHAUDHARY)  
ASJ(Central-01)/DELHI.

04.02.2010.

Addl. Sessions Judge  
(Central)-01  
Hazari Courts, Delhi