

IN THE COURT OF MS. MADHU JAIN, A.C.M.M. TIS HAZARI, DELHI.

COMPLAINT NO. 45/2004.

IN THE MATTER OF:

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 New Delhi, represented
by its Legal Officer/Manager/Asst.
General Manager Mr. Sharad Bansode.

COMPLAINANT

VERSUS

1. WULLAR AGRO PLANTATIONS LTD.
K.P.ROAD,
ANANTNAG,
JAMMU AND KASHMIR.

2. Mohd. Maqbool Mir,
S/o. AB. Gani Mir,
R/o. Kathpora, Yaripora,
ANANTNAG,
JAMMU AND KASHMIR

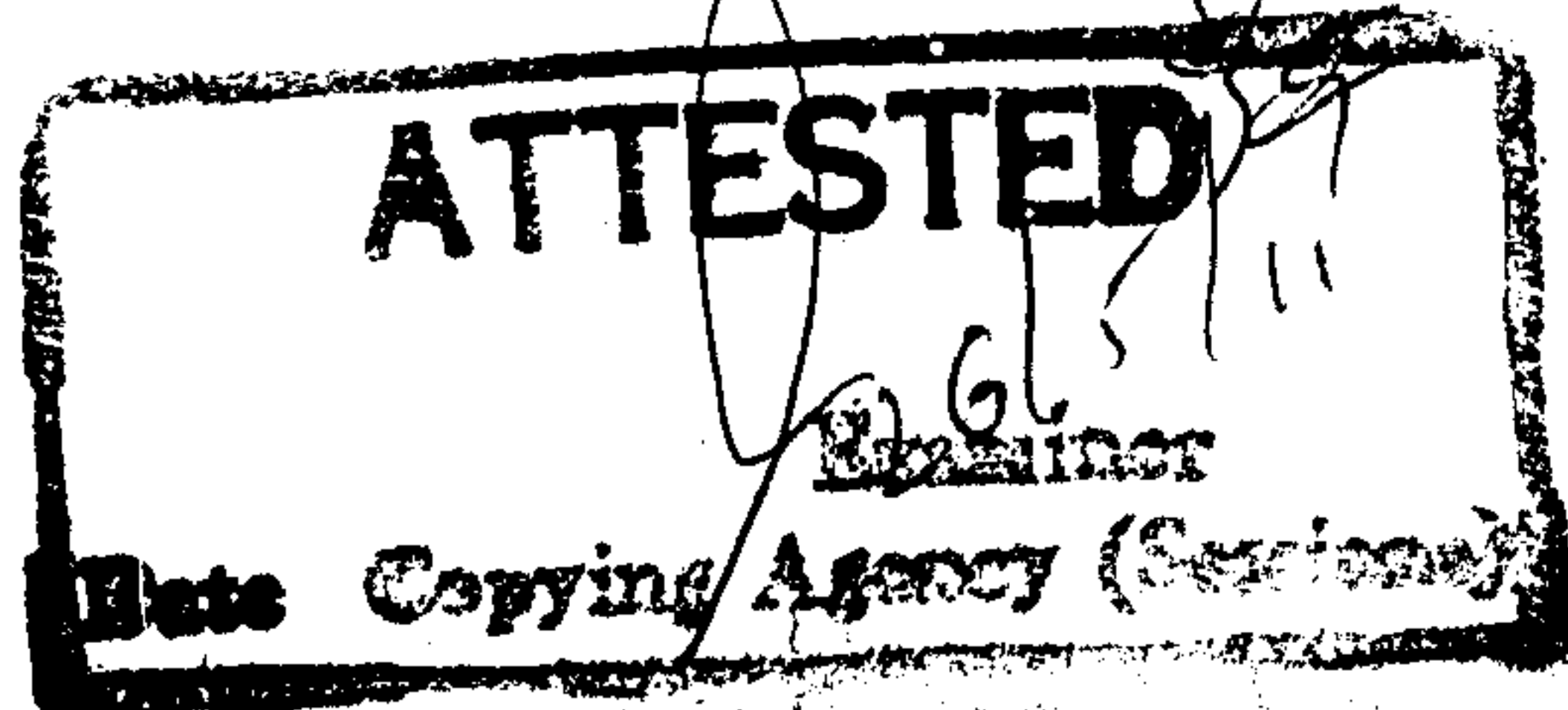
3. Zahoor Ahmed Mir, - P.O.
S/o. Ab. Gani Mir,
R/o. Kathpora, Yaripora,
ANANTNAG,
JAMMU AND KASHMIR.

4. Farooq Ahamed Salroo, /
S/o. Mr. Gh. Mohd. Salroo,
R/o. Bijehbara,
ANANTNAG,
JAMMU AND KASHMIR.

5. Mushtaq Ahmed Malik,
S/o. Mr. Gh. Mohd. Malik,
R/o. Halmethpura,
Kupwara,
JAMMU AND KASHMIR.

6. Mr. Tariq Marghoob,
S/o. Dr. G.M. Marghoob,
R/o. Umer Colony, Lal Bazar,
Srinagar,
JAMMU AND KASHMIR.

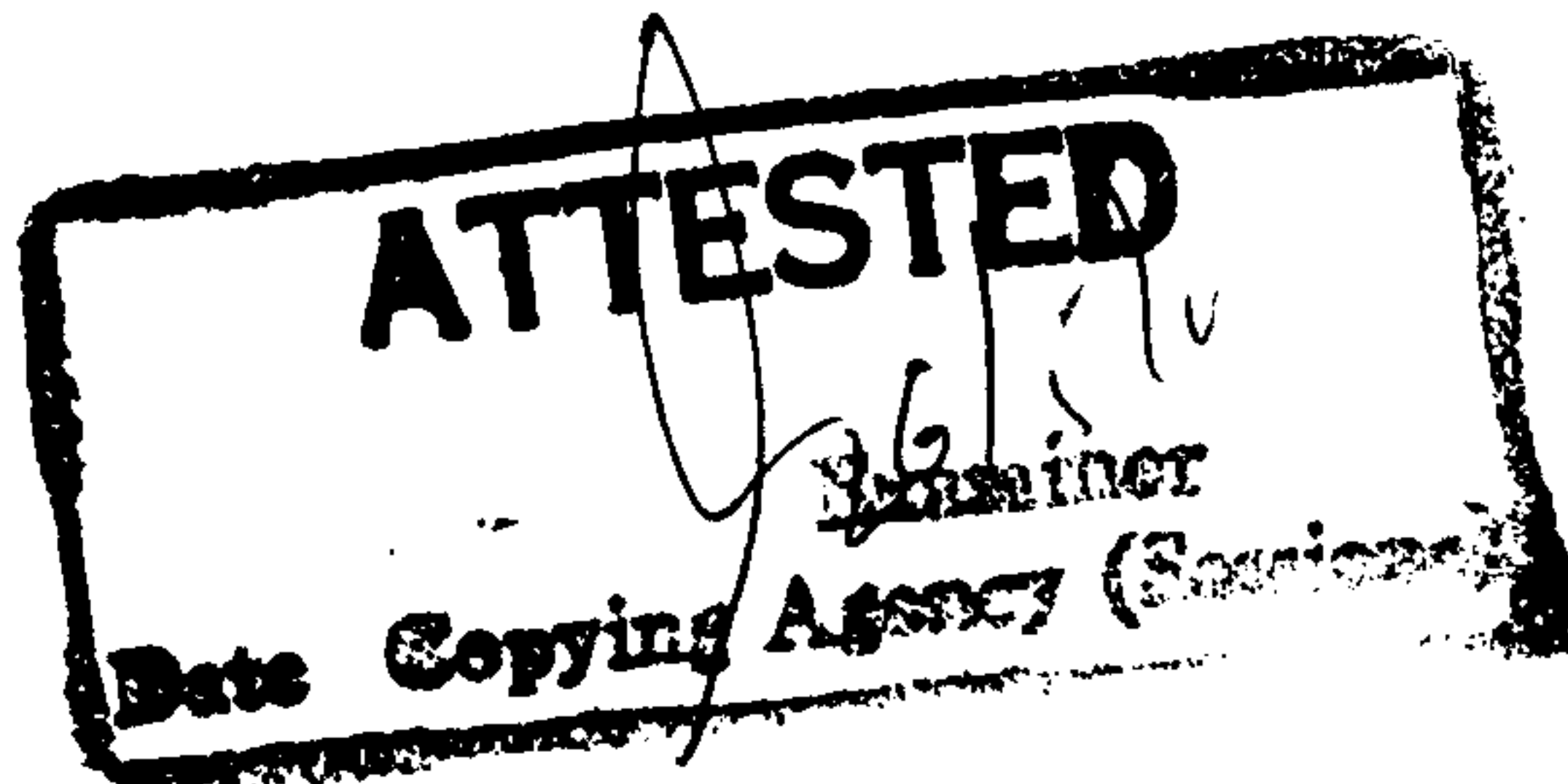
ACCUSED





COMPLAINT UNDER SECTION 200 OF THE CODE OF CRIMINAL
PROCEDURE, 1973 READ WITH SECTION 24(1), 27 OF SECURITIES
EXCHANGE BOARD OF INDIA ACT, 1992.

MOST RESPECTFULLY SHOWETH:





CC No. 50/10

Item no. 07
30.04.2011

Present:- Sh. Ashish Aggarwal, Advocate for the complainant
SEBI.

Accused no. 1 is represented by accused no.2 who is
present.

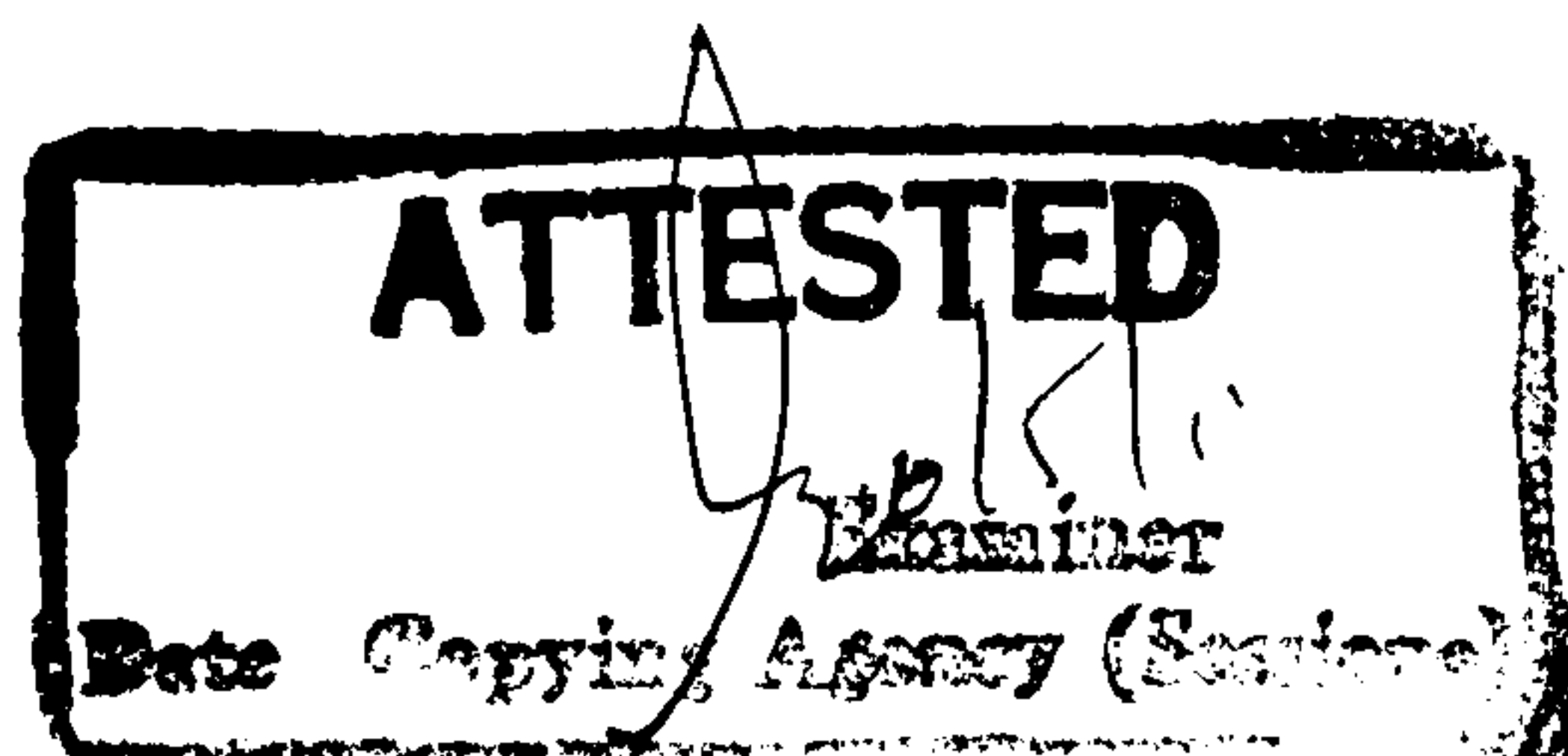
Accused no. 3 is PO vide order dated 26.09.2008.

Accused no. 4,5 & 6 are in person with counsel Sh. Vinod
Trisal, Advocate.

Vide separate judgment accused no. 1,2,4,5 & 6 are
convicted for the offence punishable under Section 24 (1) r.w. Section
27 of SEBI Act.

Renotify the matter for order on the point of sentence on
02.05.2011.

[PAWAN KUMAR JAIN]
ASJ-01/CENTRAL/DELHI
30.04.2011.





SEBI Vs. Wullar Agro Plantations Ltd.

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

Complaint Case No. 50/10
ID No: 02401R5191722004

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 New Delhi, represented by its Legal Officer/Manager/Asst. General Manager Mr. Versha Aggarwal.

Versus

1. WULLAR AGRO PLANTATIONS LTD.

K. P. Road, Anantnag,
Jammu & Kashmir.

.....Accused no.1

2. Mohd. Maqbool Mir

s/o AB. Gani Mir,
R/o Kathpora, Yaripora,
Anantnag, Jammu & Kashmr.

.....Accused no.2

3. Zahoor Ahmed Mir,

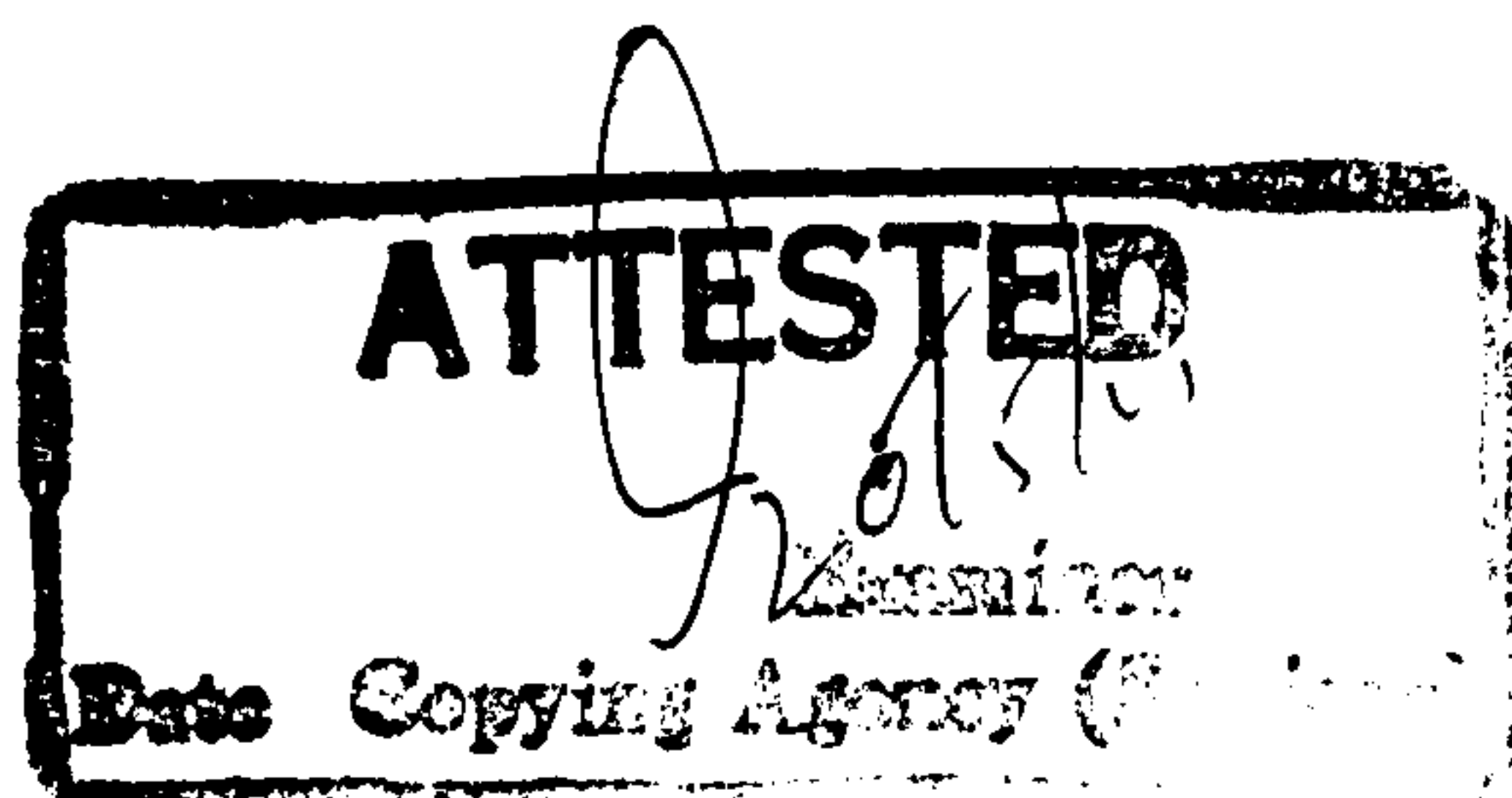
s/o Ab. Gani Mir,
R/o Kathpora, Yaripora,
Anantnag, Jammu & Kashmir.

.....Accused no.3

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4. **Farooq Ahamed Salroo,**
s/o Mr. Gh. Mohd. Salroo,
R/o Bijehbara, Anantnag,
Anantnag, Jammu & Kashmr.

.....Accused no.4

5. **Mushtaq Ahmed Malik**
s/o Mr. Gh. Mohd. Malik
R/o Halmethpura, Kupwara,
Jammu & Kashmr.

.....Accused no.5

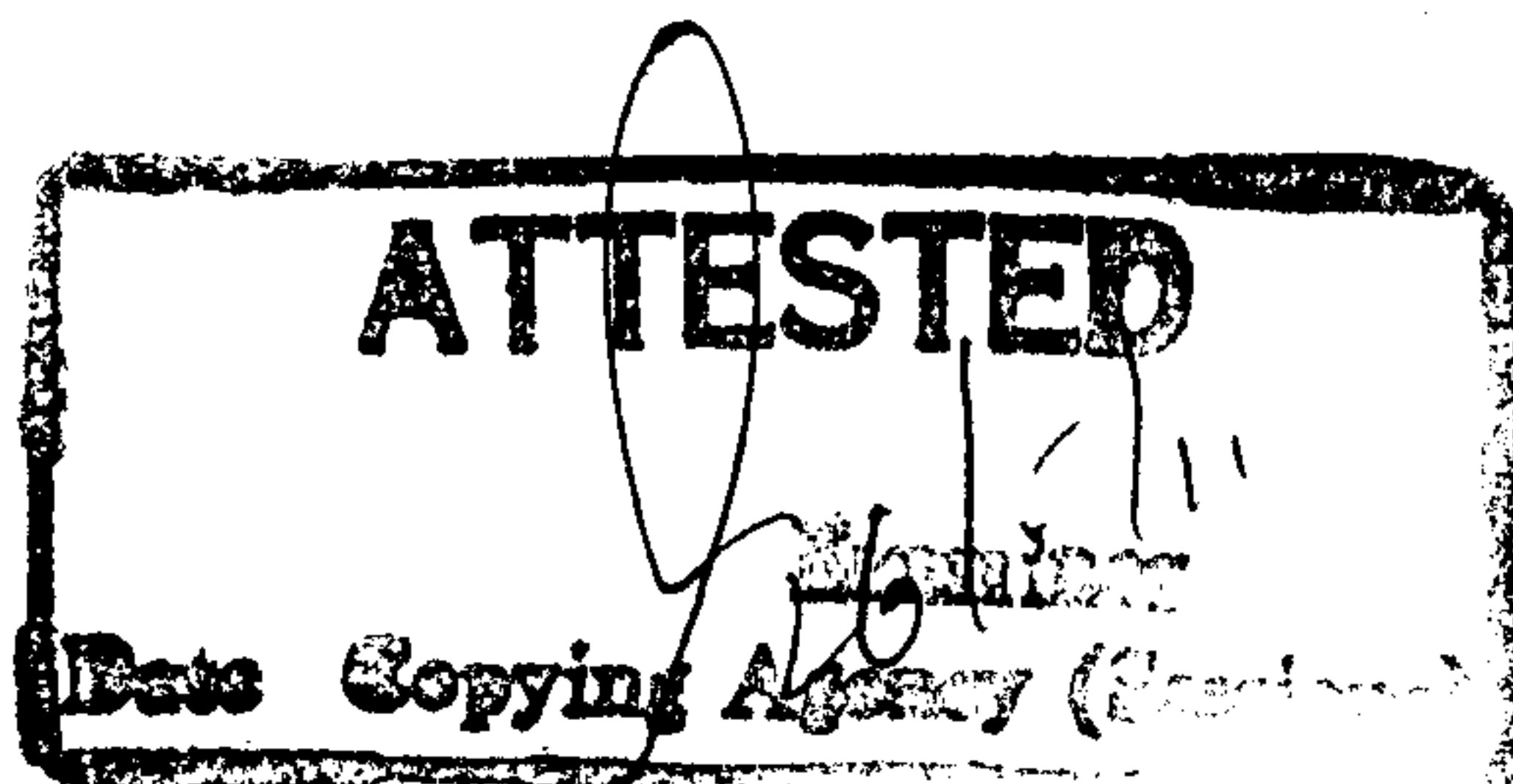
6. **Mr. Tariq Maghroob**
s/o Dr. G.M. Marghoob,
R/o Umer Colony, Lal Bazar,
Srinagar, Jammu & Kashmr.

.....Accused no.6

Date of Institution : 14.01.2004
Date of Judgement reserved on : 23.04.2011
Date of pronouncing of judgment : 30.04.2011

**Present: Sh. Ashish Aggarwal Advocate, Counsel for
complainant**
**Sh. Vinod Trisal, Advocate, Counsel for all accused
persons except accused no.3 (A3).**

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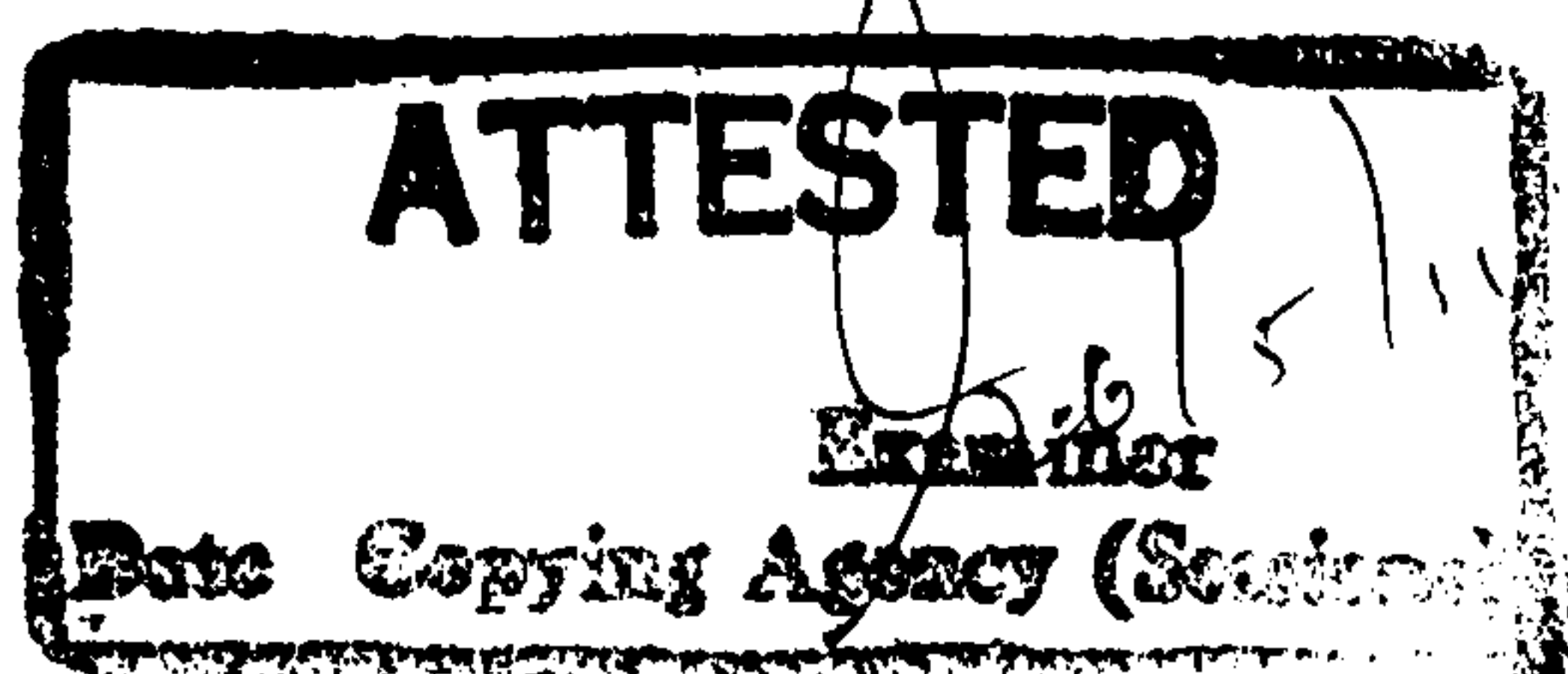


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J U D G M E N T :

1. This criminal complaint was preferred by the Securities & Exchange Board of India (hereinafter referred to as "SEBI" or "the complainant"), on 14.01.2004 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. Six persons were arrayed as accused in the criminal complaint preferred under Section 200 Cr.P.C., they being Wullar Agro Plantations Limited (hereinafter, "A1" or "the Company Accused"), accused No. 2 Mohd. Maqbool Mir ("A2"), accused No. 3 Zahur Ahmed ("A3"), accused No. 4 Farooq Ahamed Salroo ("A4"), accused No.5. Mustak Ahmed Malik ("A5"), accused

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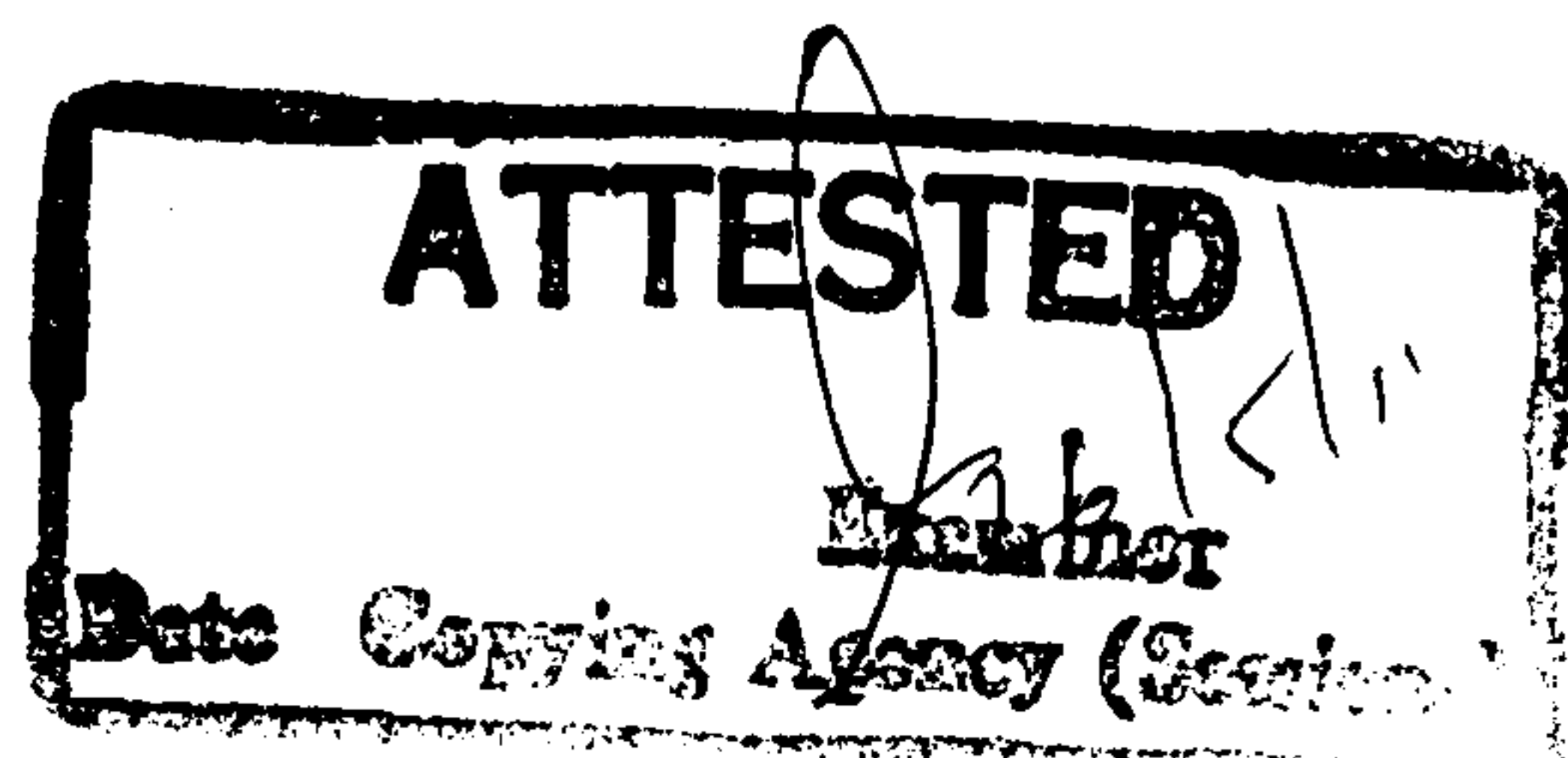


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No.6 Tarik Maghrob ("A6"). It is alleged that A2 to A6 were Directors of the Company Accused and as such persons were in charge of, and responsible to, A1 for the conduct of its business within the meaning of the provision contained in Section 27 of the SEBI Act.

3. It is alleged in the complaint that A1 had operated the Collective Investment Scheme (CIS) and raised huge amount nearly crores of rupees 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 10.12.1999, 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 14.01.2004 whereby process was issued under Section 204 Cr.P.C. against all the accused persons.

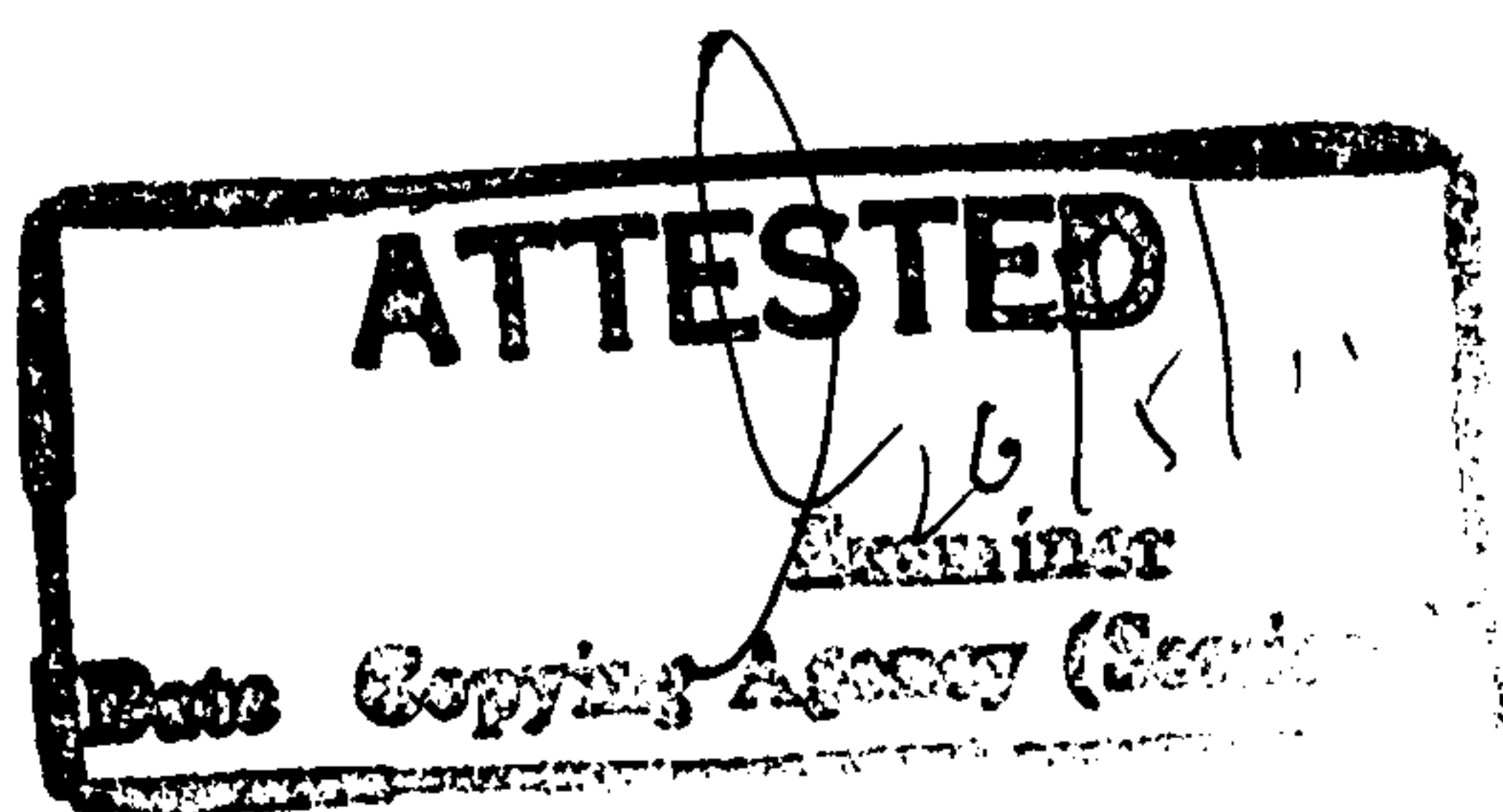




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5. On account of the amendment, particularly in Sections 24 and 26 of the SEBI Act, through Amendment Act which came into force w.e.f. 24.11.02, pursuant to Administrative Directions of Hon'ble High Court, under orders of the Ld. Distt. & Sessions Judge, this case was transferred on 14.12.2004 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 26.08.2008, A3 Zahoor Ahmed Mir was declared Proclaimed Offender. A1 company accused was represented by A2. Vide order dated 14.05.2009, a notice for the offence punishable under Section 24 read with section 27 of the SEBI Act was served upon the accused persons to which all the accused persons pleaded not guilty and claimed trial. Since A2 represented A1 company accused, he responded to the notice on behalf of company.
7. To prove its case, complainant examined only one witness namely Ms. Versha Aggarwal, Asstt. General Manager of SEBI. Thereafter, the statement of accused persons were recorded under section 313 Cr.P.C in which all accused persons took the plea that SEBI had falsely filed frivolous case against them and their

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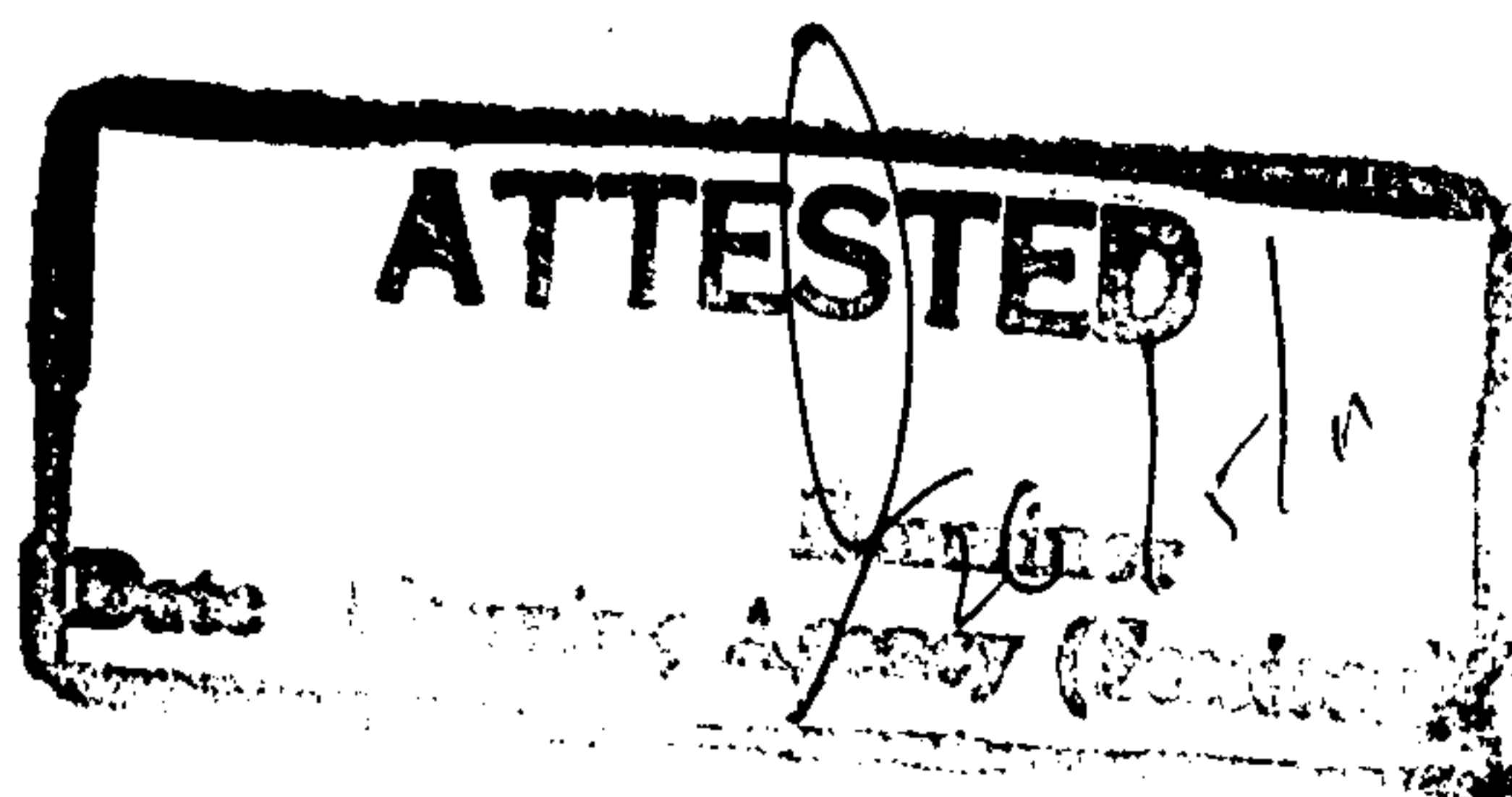
company. In addition to, A4 & A5 took the plea that they had resigned from the company on 10.06.1998 itself, an intimation of which was sent to the Registrar of Companies. However, accused persons preferred not to lead any evidence in their defence.

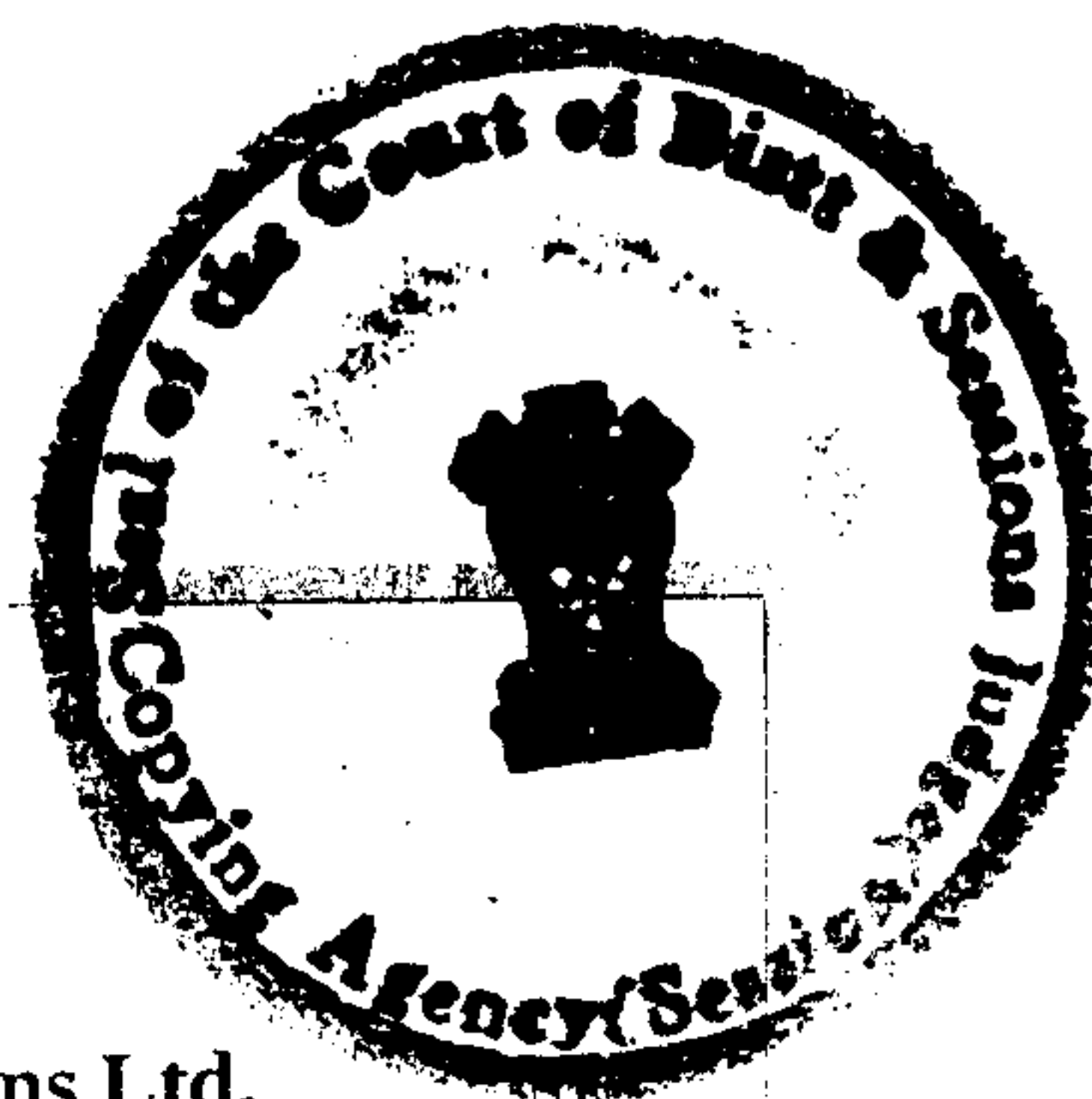
8. Sh. Vinod Trisal, Counsel for the accused persons raised following contentions:-

(i) That accused company had not launched any Collective Investment Scheme (CIS) after the public notice issued by SEBI on 18.12.97. It is further argued that no fund was raised by the company accused under the CIS as the scheme launched by company accused was rated "Grade-V" by CRISIL. Since this rating indicated higher uncertainty of returns from the Collective Investment Schemes (CIS), no investor came forward to invest the amount in the CIS launched by the company accused.

(ii) That A4 and A5 had resigned from the company accused on 10.06.1998 and the

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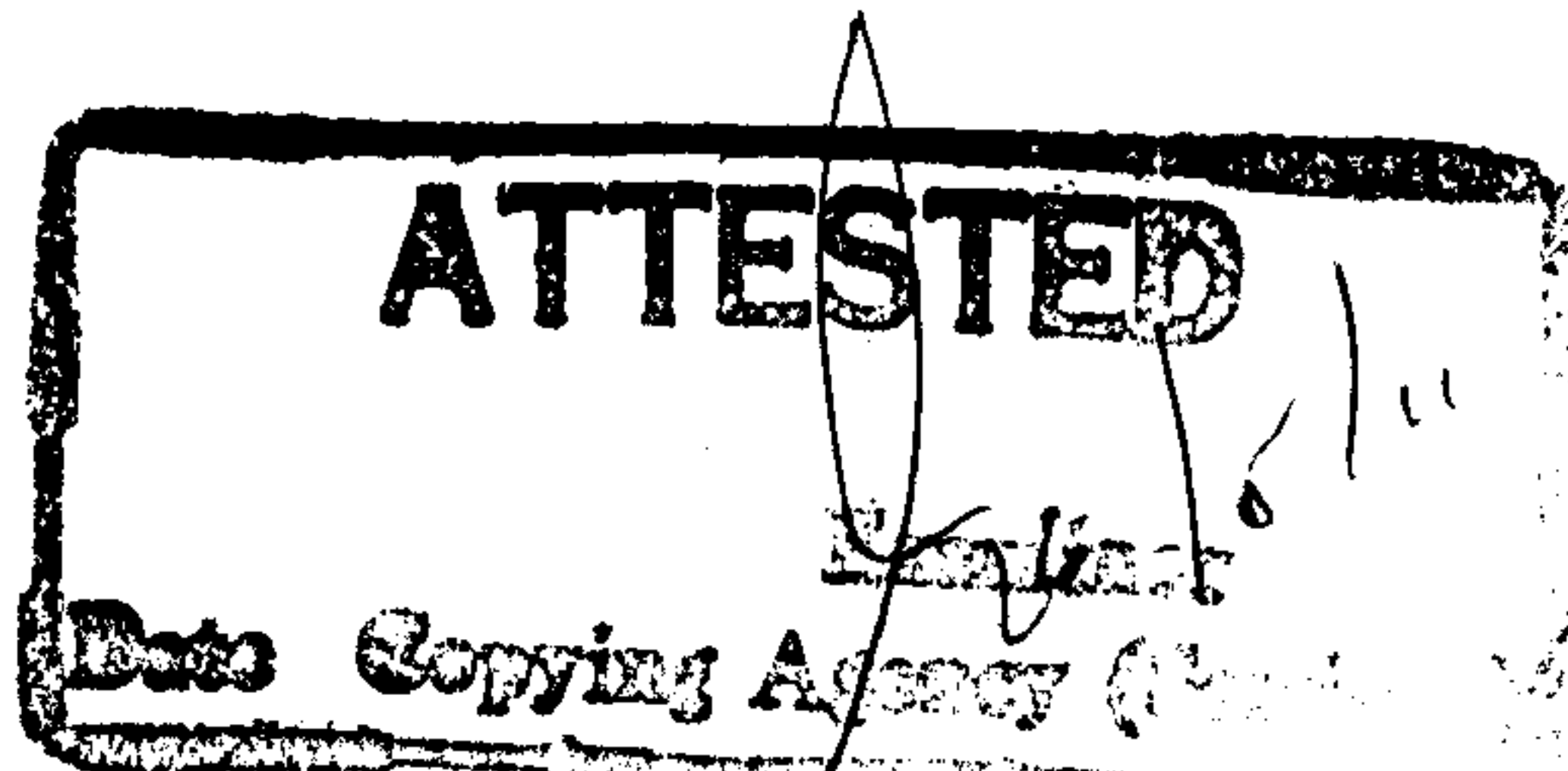
intimation of their resignation was sent to the ROC on 07.10.2005, thus it is argued that they are not liable for the act of the company accused.

(iii) That is argued that since no letter was received by the company accused, A1 is not liable for the offence punishable under section 24 of the SEBI Act. It is further argued that CW1 Ms. Versha Aggarwal, in her testimony admitted that letters were returned undelivered.

9. Except the above contentions, no other contention was raised by the Counsel for the accused persons. The said contentions were assailed by the Counsel for the complainant on the grounds inter-alia that company accused was incorporated in 1997 and as per the provisions of Section 12(1B), company accused could not start CIS unless it obtained registration. It is further argued that even company accused had not approached the SEBI for registration after notification of the CIS Regulations.

10. I have heard Sh. Ashish Aggarwal, Counsel for the

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complainant SEBI and Sh. Vinod Trisal, Counsel for all the accused persons except A3 who had already been declared Proclaimed offender, perused the record and gave my thoughtful consideration to their contentions.

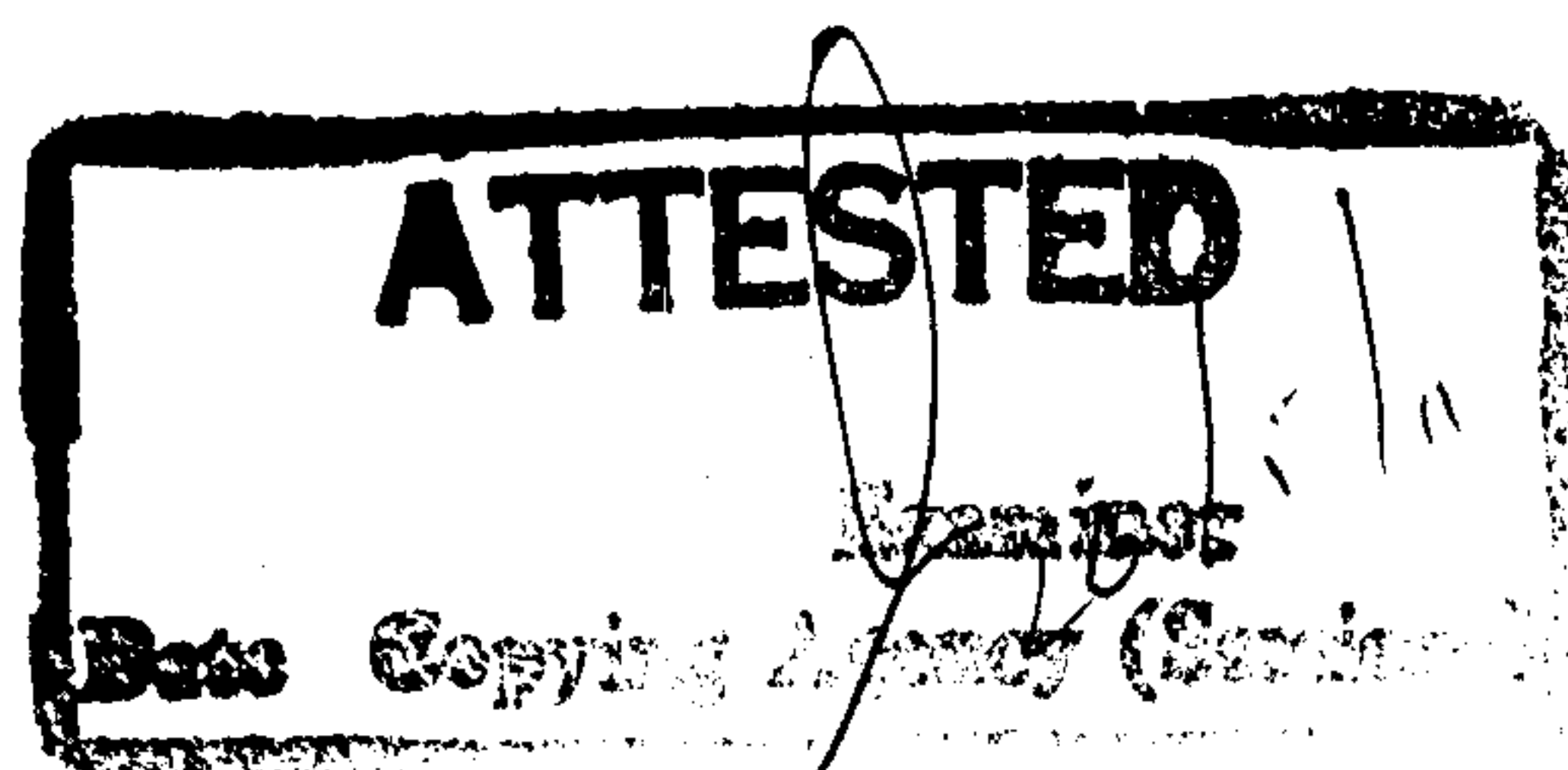
11. Before dealing with the contentions raised by the Counsel of parties, I deem it appropriate to discuss the relevant provisions of SEBI Act and CIS Regulations.

12. Besides the Section 12(1B) of the SEBI Act, Regulations Nos. 5,68(1),73 & 74 of CIS Regulations are also relevant in this case. Violation of the Section 12(1B) and the above CIS Regulations is punishable under section 24 (1) of the SEBI Act. By virtue of Section 27 of the SEBI Act, 'every person' who at the time of offence was in charge of and was responsible to, the Company for the business of the company shall also be deemed to be guilty of the offence.

13. Section 12(1B) reads as under:-

"(1B) No person shall sponsor or 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

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a certificate of registration from the Board in accordance with the regulations:

Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of Section 30.

(emphasis supplied)

14. Regulations 5, 68, 73 & 74 are read as under:

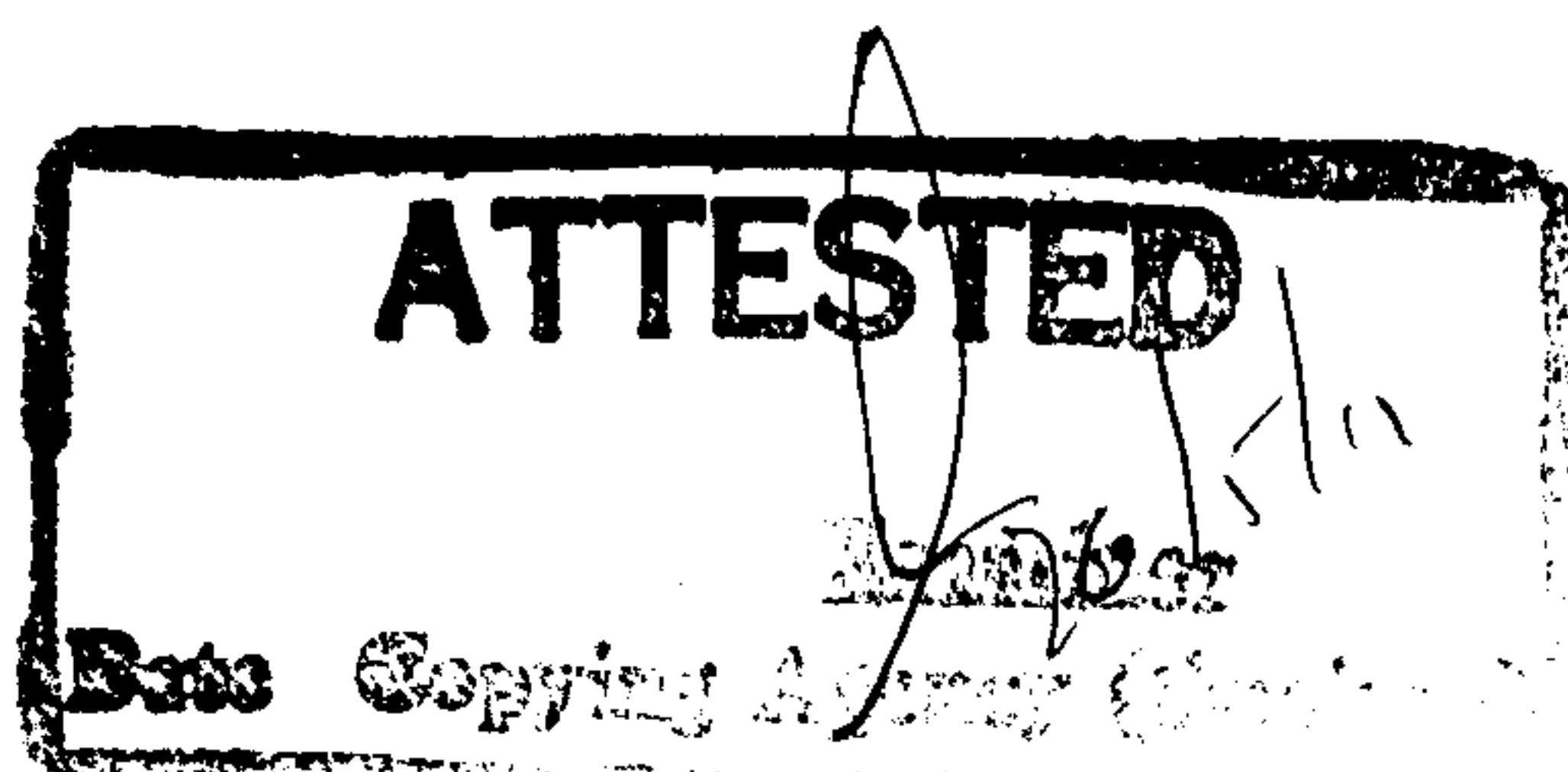
It reads as under:-

"5. (1) Any person who immediately prior to the commencement of these regulations was operating a scheme, shall subject to the provisions of Chapter IX of these regulations make an application to the Board for the grant of a certificate within a period of two months from such date.

(2) An application under sub-regulation (1) shall contain such particulars as are specified in Form A and shall be treated as an application made in pursuance of regulation 4 and dealt with accordingly."

(emphasis supplied)

3.1.11





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"68. (1) Any person who has been operating a collective investment scheme at the time of commencement of these regulations shall be deemed to be an existing collective investment scheme and shall also comply with the provisions of this Chapter.

Explanation: The expression 'operating a collective investment scheme' shall include carrying out the obligations undertaken in the various documents entered into with the investors who have subscribed to the scheme.

(2) An existing collective investment scheme shall make an application to the Board in the manner specified in regulation 5.

(3) The application made under sub-regulation (2) shall be dealt with in any of the following manner:

(a) by grant of provisional registration by the Board under sub-regulation (1) of regulation 71;

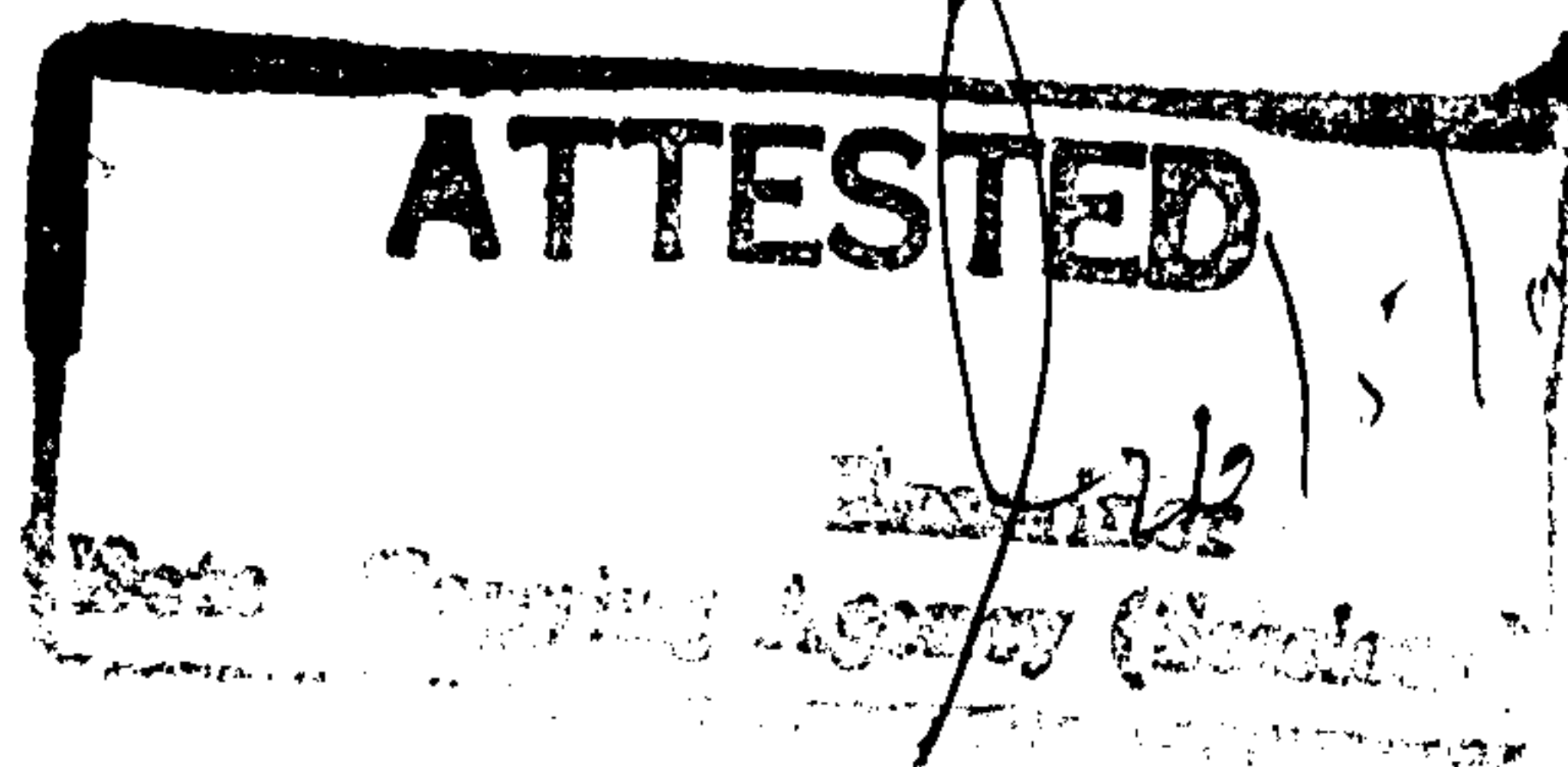
(b) by grant of a certificate of registration by the Board under regulation 10;

(c) by rejection of the application for registration by the Board under regulation 12.

73. (1) An existing collective investment scheme which:

(a) has failed to make an application for registration to the Board; or

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(b) has not been granted provisional registration by the Board; or

(c) having obtained provisional registration fails to comply with the provisions of regulation 71; shall wind up the existing scheme.

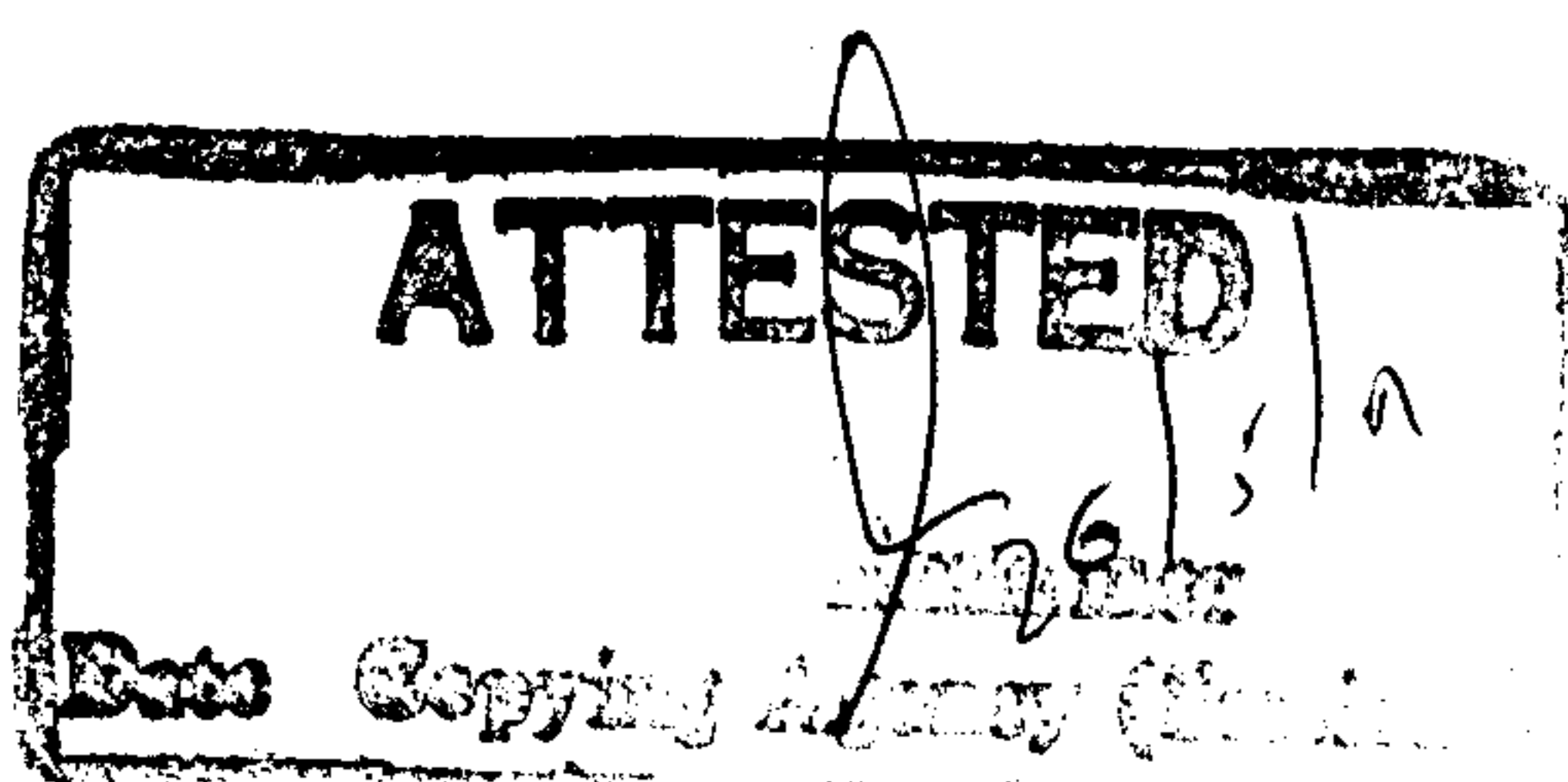
(2) The existing Collective Investment Scheme to be wound up under sub-regulation (1) shall send an information memorandum to the investors who have subscribed to the schemes, within two months from the date of receipt of intimation from the Board, detailing the state of affairs of the scheme, the amount repayable to each investor and the manner in which such amount is determined.

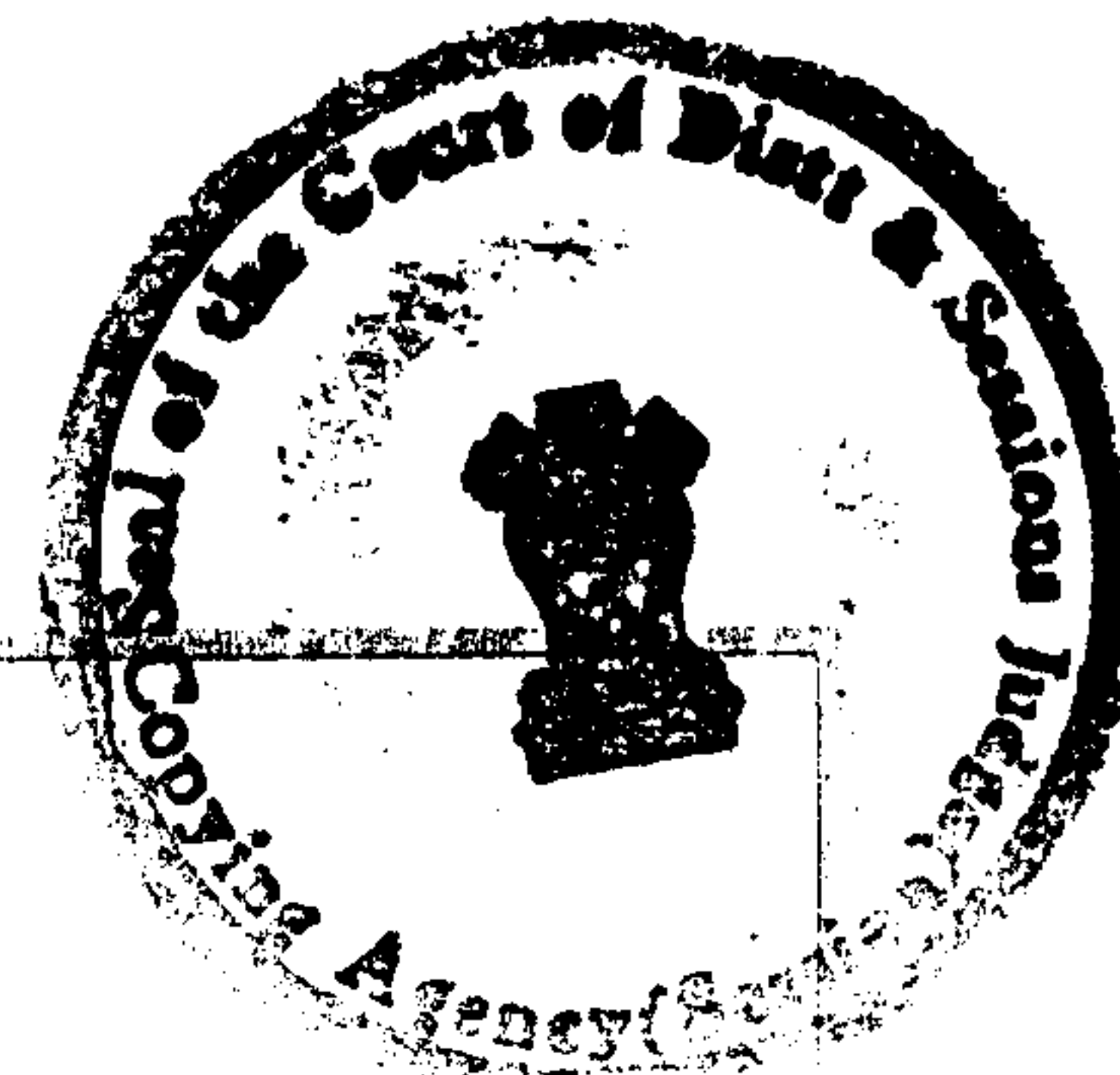
74. An existing collective investment scheme which is not desirous of obtaining provisional registration from the Board shall formulate a scheme of repayment and make such repayment to the existing investors in the manner specified in regulation 73."

[emphasis supplied)

15. Section 12(1B) of the Act which was inserted w.e.f 25.01.1995 wherein it was specifically provided that no person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or Collective Investment

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Schemes including mutual funds, unless he obtains a certificate of registration from the SEBI. Proviso to this sub-section deals with the companies which were already carrying on any such venture or CIS immediately prior to the commencement of (Amendment) Act 1995 and for which no certificate of registration was required, such companies may continue to operate such a venture or CIS till such time regulations are made under clause (d) of sub-section (2) of Section 30.

16. It is undisputed fact that company accused was incorporated on 01.09.1997. This fact is proved by CW1 Ms. Versha Aggarwal in her testimony and she also relied upon the letter dated 16.06.2000 sent by the Registrar of the Companies, which is exhibited as CW1/19 alongwith the Memorandum of Association & Articles of Associations of the company accused. Perusal of the same reveals that company accused was incorporated with the main object to receive voluntary deposits from the public for carrying on the business of acquisition, cultivation, growing & maintenance of lands, estates, orchards, plants, estates, crops & other agricultural, forests and other business to be carried on by the company. Thus, it becomes crystal clear that the main object of, the incorporation of company accused was to receive deposits

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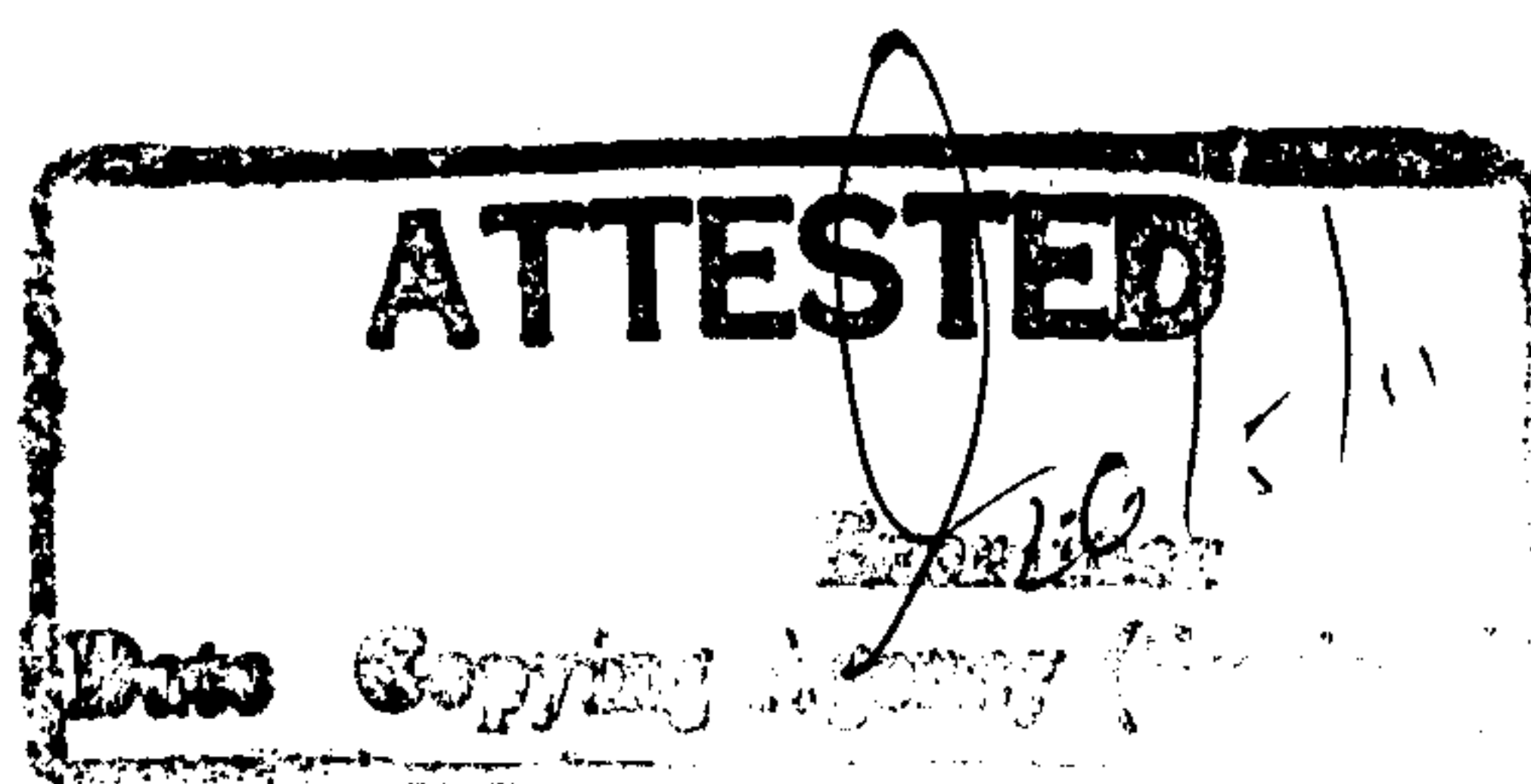
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from the general public for carrying on the business including acquisition, plantation and agro. Since the company was incorporated only in the month of September 1997, in view of section 12(1B) of the SEBI Act, Company could not sponsor or caused to be sponsored any venture or CIS unless company obtained a certificate of registration from the SEBI. Admittedly the company accused had not obtained any certificate of registration from the SEBI in terms of Section 12(1B) of the Act. As the Company was incorporated only in September, 1997, company accused was not entitled for the relaxation as provided under proviso to Section 12(1B) of the Act.

17. SEBI had notified the CIS Regulations on 15.10.99, wide publicity to the same was given through press release and public notice. Even the copy of the press release was sent to the company accused vide letter dated 21.10.1999 which is Ex. CW1/4 but the said letter returned undelivered.

18. According to 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. According to the

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Regulation 68(1) any person who had been operating the CIS at the time of commencement of these regulations shall be deemed to be an existing Collective Investment Scheme.

19. Now the question arises as to whether the scheme launched by the accused company falls under Regulation 5 of the CIS Regulation or not?

20. As per Section 12(1B) of the Act, no person could sponsor or 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 SEBI. However, if any person was already sponsoring or causing to be sponsored any scheme immediately before the commencement of Section 12(1B) of the Act which was inserted on 25.01.1995, no such certificate was required and such scheme may continue till such time regulations are made under clause (d) of sub-section 2 of Section 30 of the Act. The harmonious construction of Section 12(1B) and Regulations 5 of CIS Regulation is that the schemes which were launched prior to the insertion of Section 12(1B) i.e. prior to 25.01.1995, such schemes may get benefit of getting the certificate in terms of

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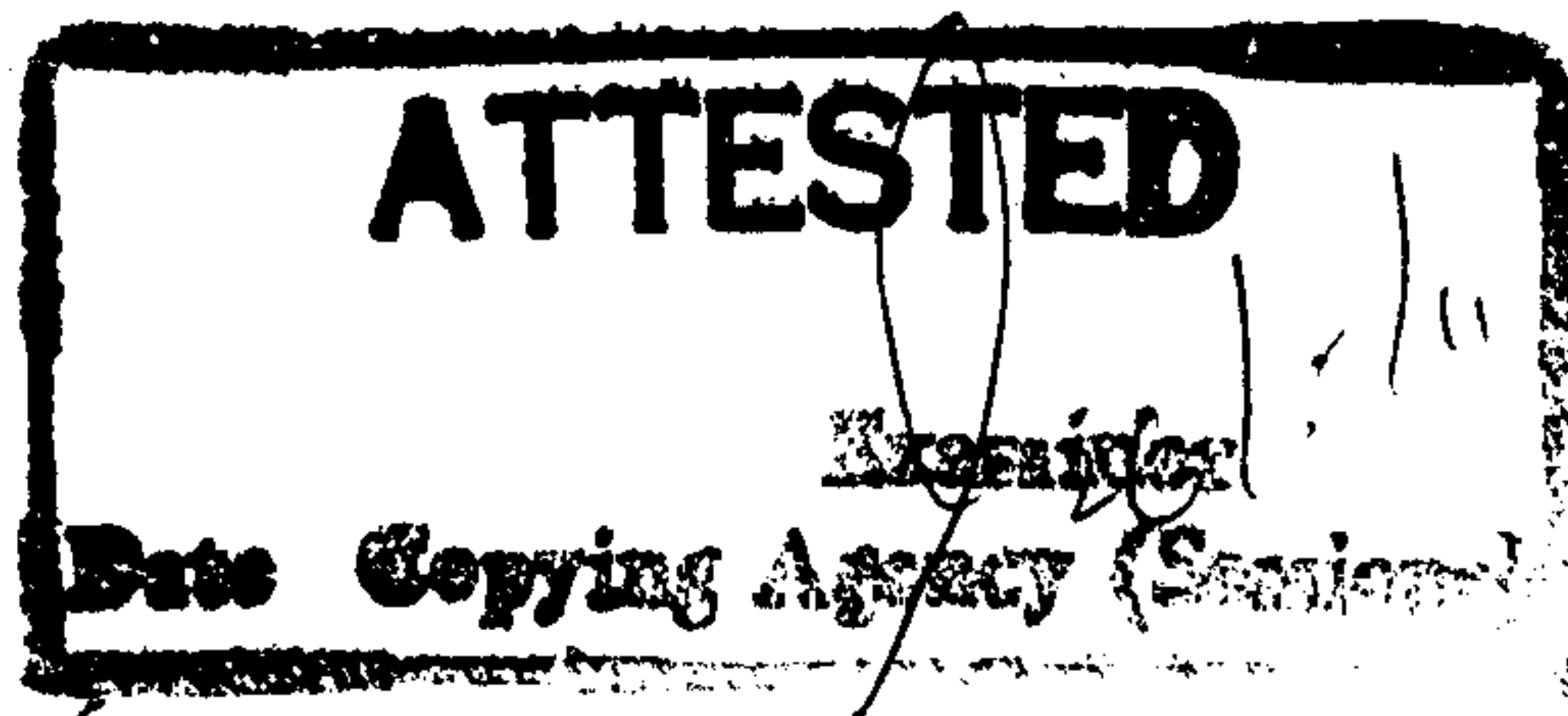
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regulations 5 & 68 of the CIS Regulations. But this benefit was not available to the schemes which were launched contrary to the provision of Section 12(1B). As company accused was incorporated only in September 1997, company could not sponsor or caused to be sponsored the scheme unless obtained a certificate from the SEBI.

21. Above view gets strength from the judgement **Paramount Bio-Tech Industries Limited Vs. Union of India** reported in 2003 INDLAW All 168, wherein High Court of Allahabad 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) 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

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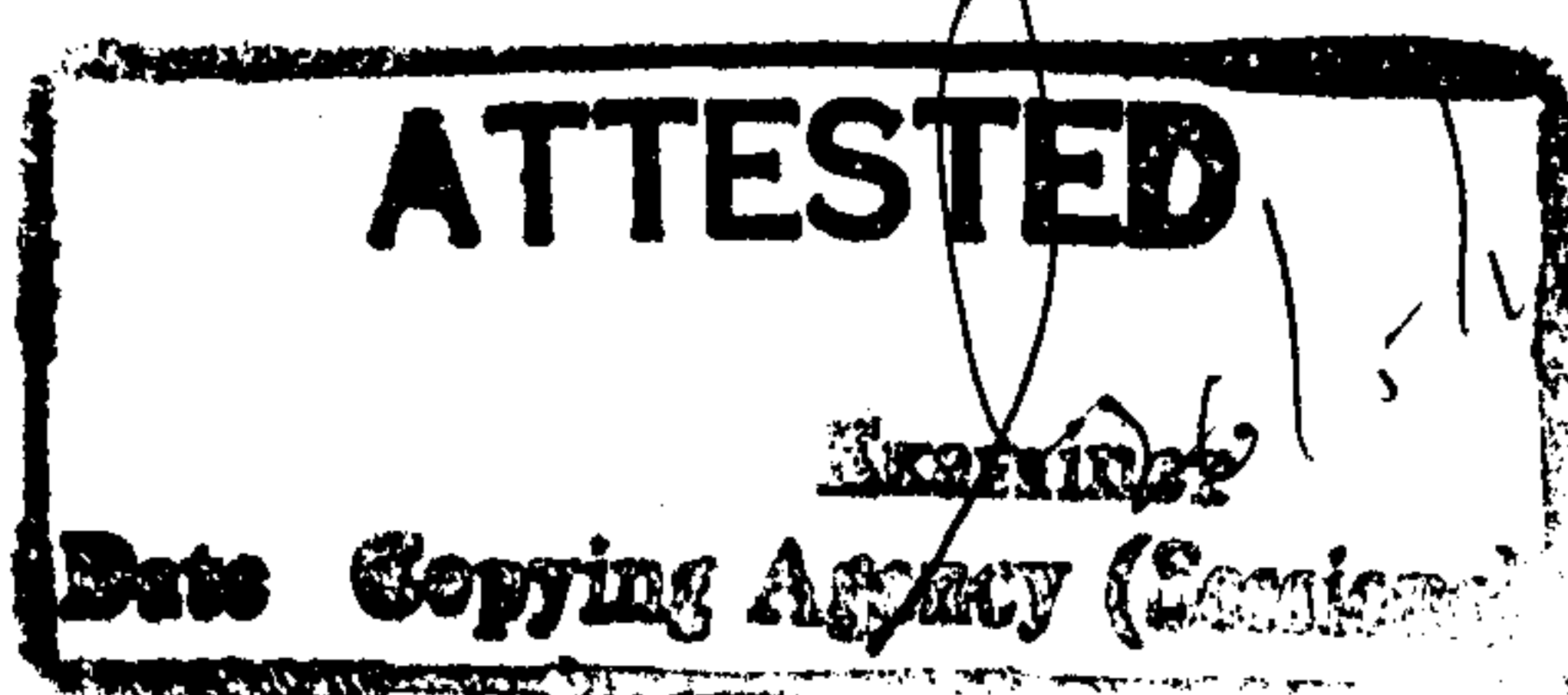




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the writ petition) and, hence, it was obviously not carrying on the said business before 25 January 1995. Hence, it could not get the benefit of the proviso to section 12(1B). It follows that the business of collective investment scheme, which it was 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".

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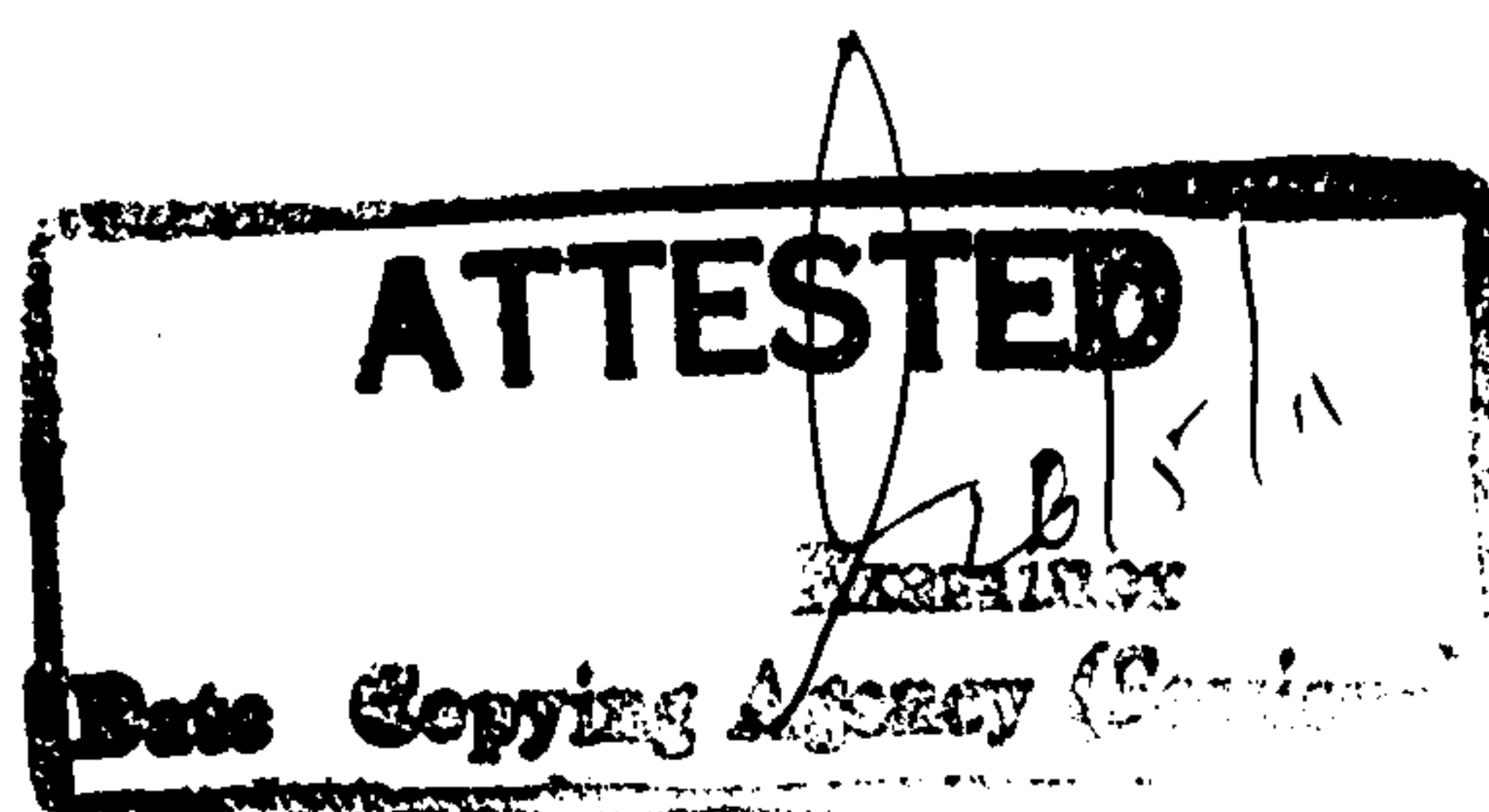


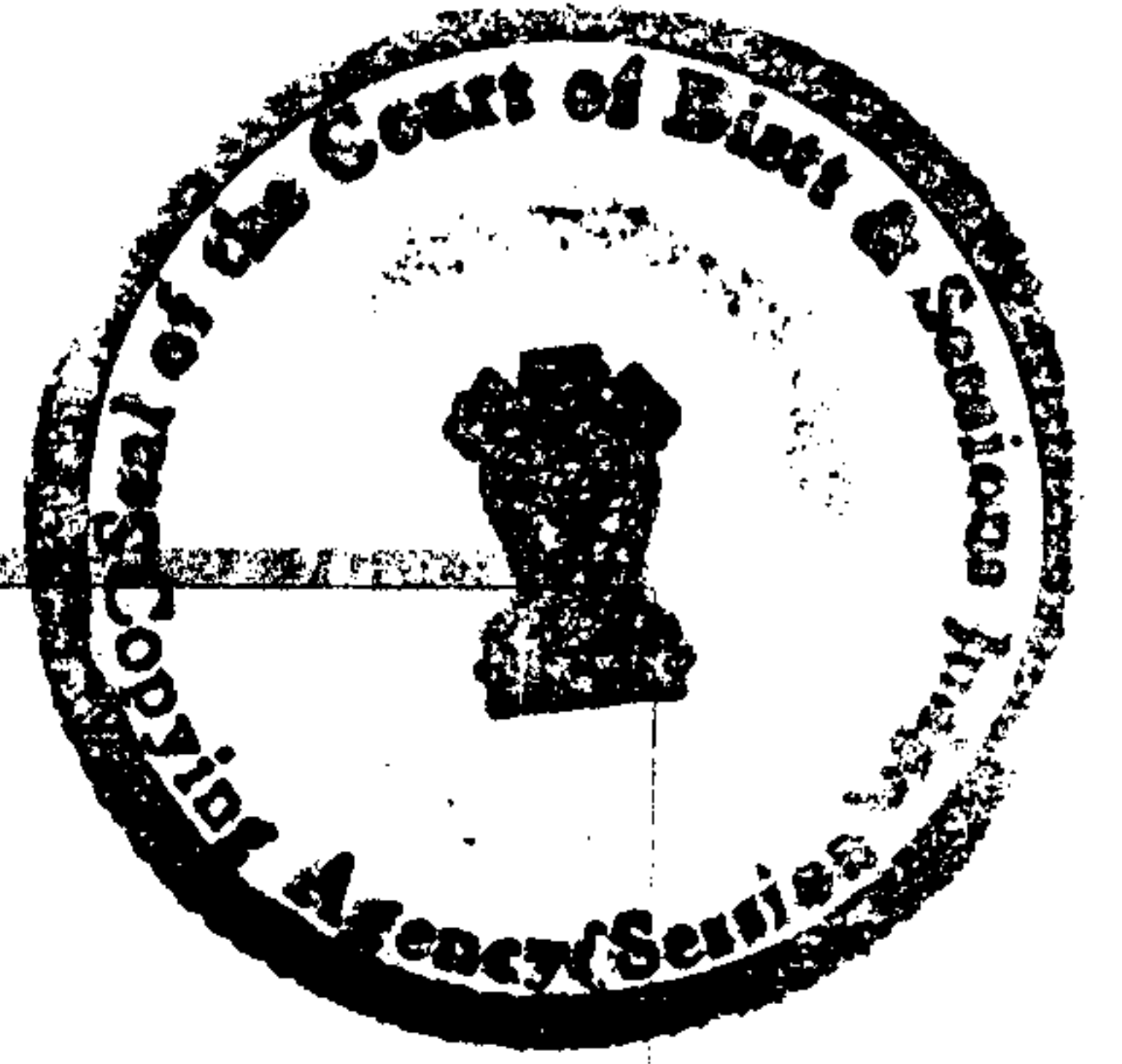
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22. Considering the aforesaid discussion, I am of the view that company accused is not entitled for the benefit of Regulations 5 & 68 of CIS Regulations 1999.

23. From the testimony of CW1, it appears that the SEBI had not initiated any prosecution against the company accused and after notification of the CIS Regulations, SEBI had granted an opportunity to the companies operating Collective Investment Schemes including company accused to get register itself with the SEBI in terms of the rules and regulations of CIS Regulations to which wide publicity was given in daily national newspapers as well as vernacular newspapers. Perusal of the testimony of CW1 reveals that the company accused had not made any application before the SEBI to get register itself for the existing Collective Investment Schemes. Thus, from the testimony of CW1, it becomes abundantly clear that company accused had not got register itself with the SEBI in terms of provisions of CIS Regulations. From the testimony of CW1, it becomes further clear that even the company accused had not submitted the winding up and repayment report in terms of regulations 73(1) of CIS Regulations. From the testimony of CW1, it also becomes clear that when company accused failed to submit the report, SEBI

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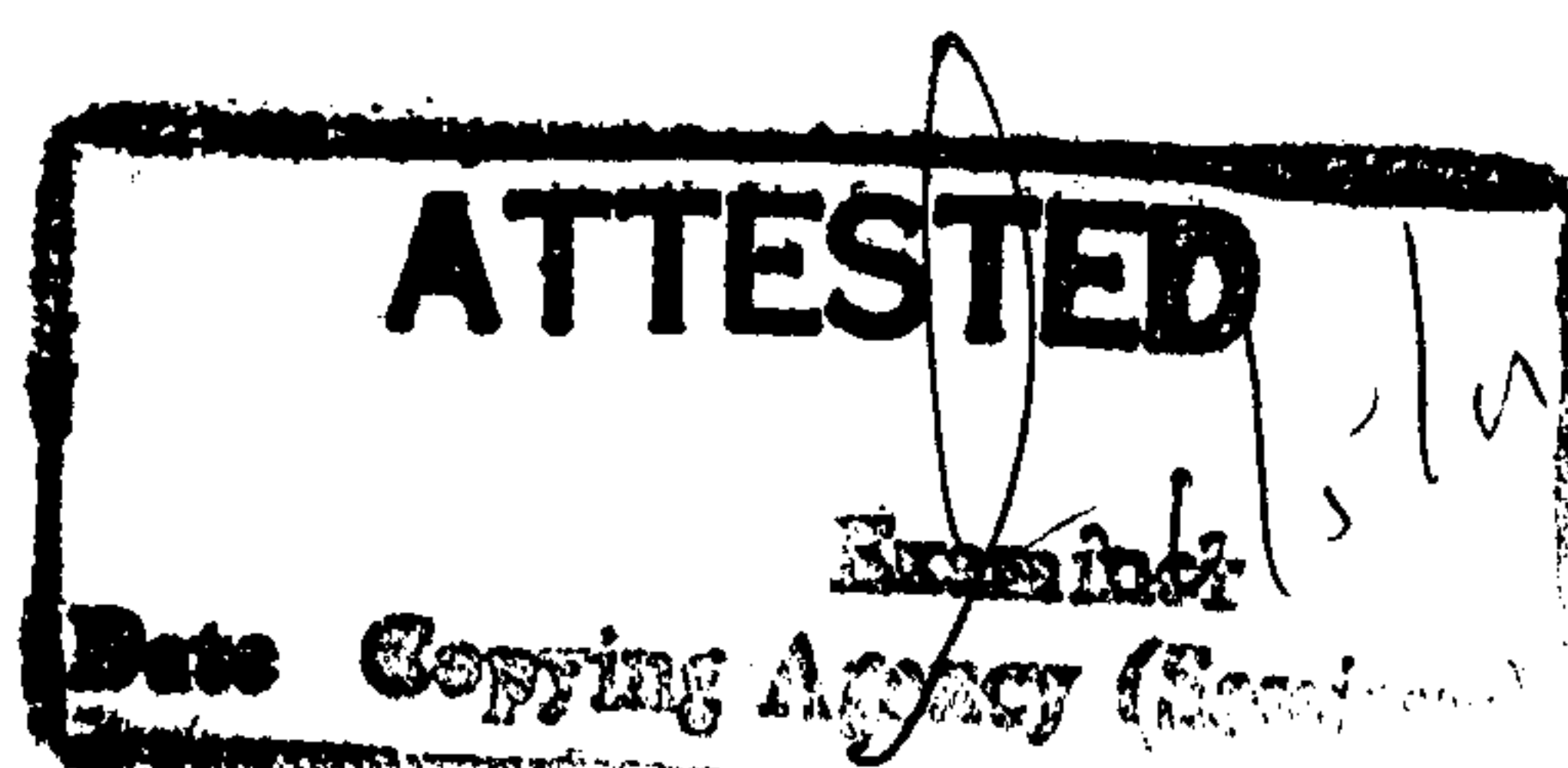




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had sent a letter dated 31.07.2000 alongwith the format of winding up and repayment report, which is Ex. CW1/17 and sent the same at the address of company accused but the said letter was also returned back undelivered. Thereafter, SEBI directed the company accused to repay the amount to the investors within a period of one month from the date of direction i.e 07.12.2002 and the directions were sent to the company accused alongwith the letter dated 18.12.2000 but the same was also returned undelivered. Wide publicity to the directions dated 7.12.2000 was given by issuing public notices in all major national newspapers and vernacular newspapers. Despite that company accused failed to comply with the directions. Though the accused persons took the defence that since they had not received any letter from the SEBI, there is no default on their part. Record reveals that SEBI had sent the letters at the address furnished by the accused persons in their letter dated 17.5.1999 Ex. CW1/2 and at the address furnished by the company accused with the ROC. There is nothing on record which may show that company accused had sent any other address either to the SEBI or ROC. Thus, this contention is not tenable. Moreover, CIS Regulations are statutory in nature, thus company accused was supposed to comply with the same. It is well settled law that ignorance of law

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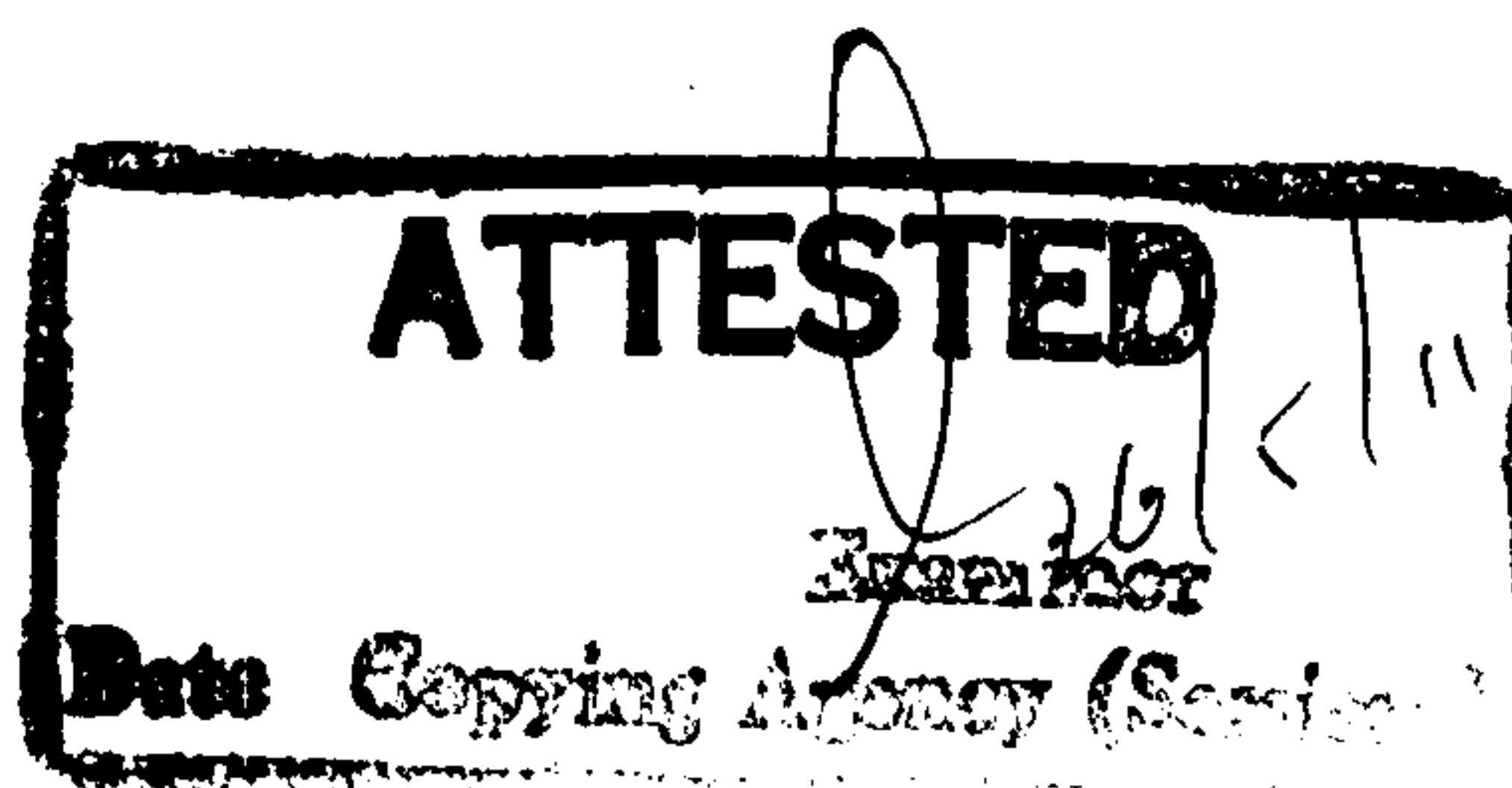


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is no excuse, thus accused persons cannot be permitted to take the plea that they were not bound to comply with the CIS Regulation 1999 as the letters sent by SEBI were not received by them.

24. It is admitted case of the accused persons that company accused had sent a letter dated 17.5.1999 which is exhibited as Ex. CW1/2, to the SEBI wherein it is mentioned that the company accused was mobilizing funds in existing scheme only for which credit rating had been obtained from CRISIL. This proves that company accused had sponsored Collective Investment Schemes contrary to the section 12(1B) of the SEBI Act.

25. Mulling over the above discussion, I am of the considered view that company accused had floated a Collective Investment Scheme in the year 1997 after its incorporation which was in violation of section 12(1B) of the SEBI Act and since company accused also failed even to apply for the registration with the SEBI in terms of regulation 5 and also failed to submit the winding up and repayment report in terms of regulation 73 of CIS Regulations, company accused is liable for the said violation under Section 24 (1) of the SEBI Act.





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26. Now coming to the contention whether A4 & A5 are also liable for the act of company accused or not?

27. It is argued that since A4 & A5 had resigned from the company accused on 10.06.1998, they are not liable for the act of company accused. It is undisputed fact that the intimation of the resignation was first time sent to ROC on 7.10.2005. No explanation has been furnished by the accused persons why the intimation was not sent to the ROC within the reasonable period when A4 Farooq Ahamed Salroo & A5 Mushtaq Ahmed Malik had submitted their resignation on 10.06.1998. This itself cast a doubt on their version. Moreover, the accused persons failed to produce any evidence on the court record to prove that A4 & A5 had tendered their resignation on 10.6.1998. Even accused persons had not produced the Minutes book of the company accused to show that their resignations were accepted in the Board of Directors of the company accused. Further, as per the complainant, the scheme was launched in the year 1997, thus it becomes clear that A4 & A5 were also the Directors of the company when the scheme was launched by the company to mobilize the funds from the general public. Since they were, Directors at the relevant time, presumption will be drawn under

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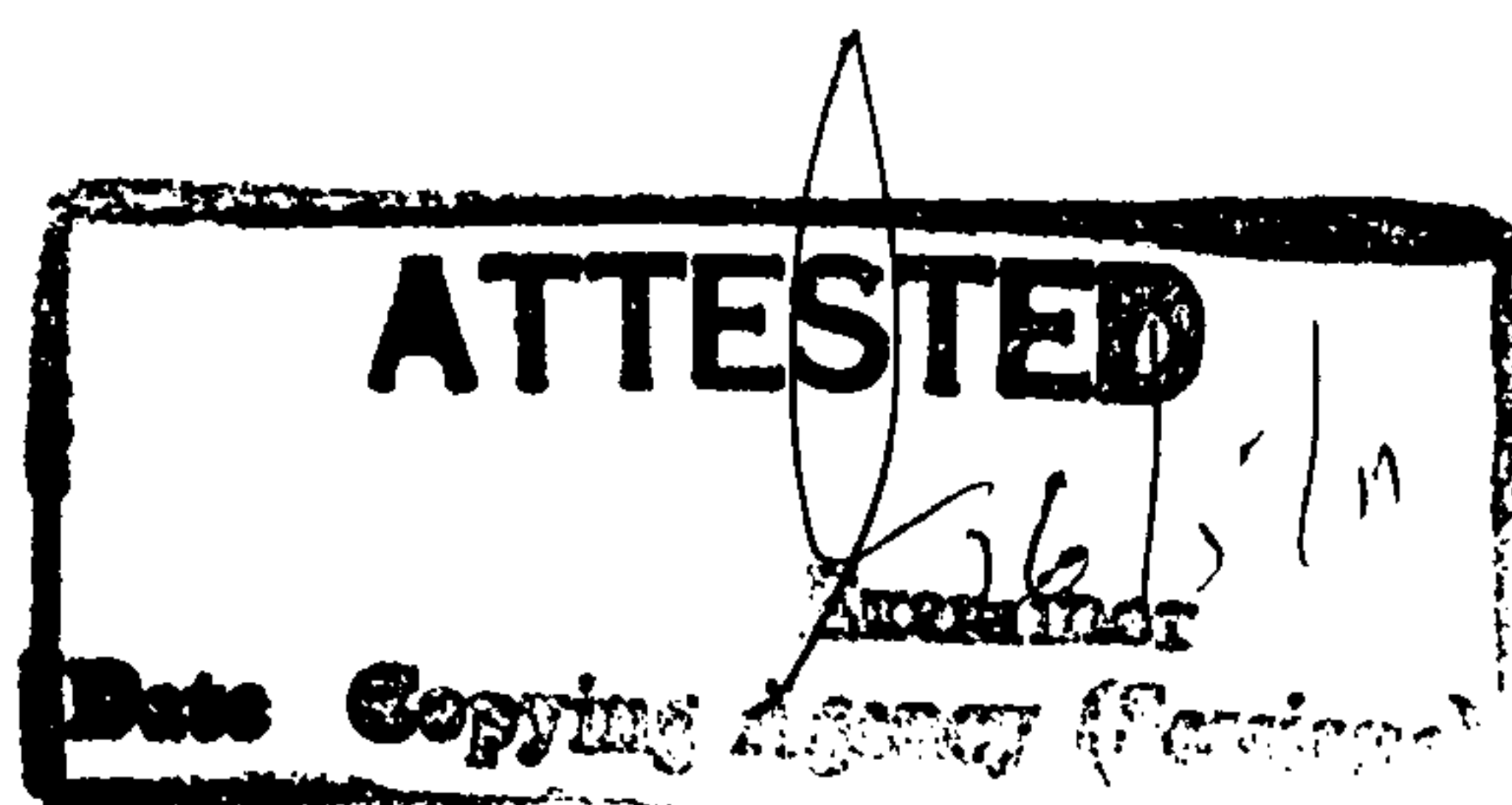
SEBI Vs. Wullar Agro Plantations Ltd.

section 27 of the Act that accused no.4 Farooq Ahamed Salroo & accused no.5 Mushtaq Ahmed Malik were also in charge of and were responsible to, the company for conduct of the business of the company accused. According to the proviso to Section 27 of the SEBI Act, the onus was upon the A4 & A5 to prove that they were not in charge of and responsible to, the company accused for the its business at the time of sponsoring of Collective Investment Scheme or they had no knowledge of the same or they had taken due diligence to prevent the operation of the scheme but accused persons preferred not to lead any evidence in this regard. In the absence of any evidence on record, their contention does not inspire any confidence.

28. From the testimony of CW1, it further becomes clear that A2 & A6 were also directors/promoters of the company accused at the time of launching of CIS by company accused, thus being directors/promoters they were also in charge of and responsible to, the company accused for the conduct of its business. Thus, they are also liable for the violation of Section 12(1B) of SEBI Act as well as violation of CIS Regulations.

29. Pondering the on going discussion, I am of the considered

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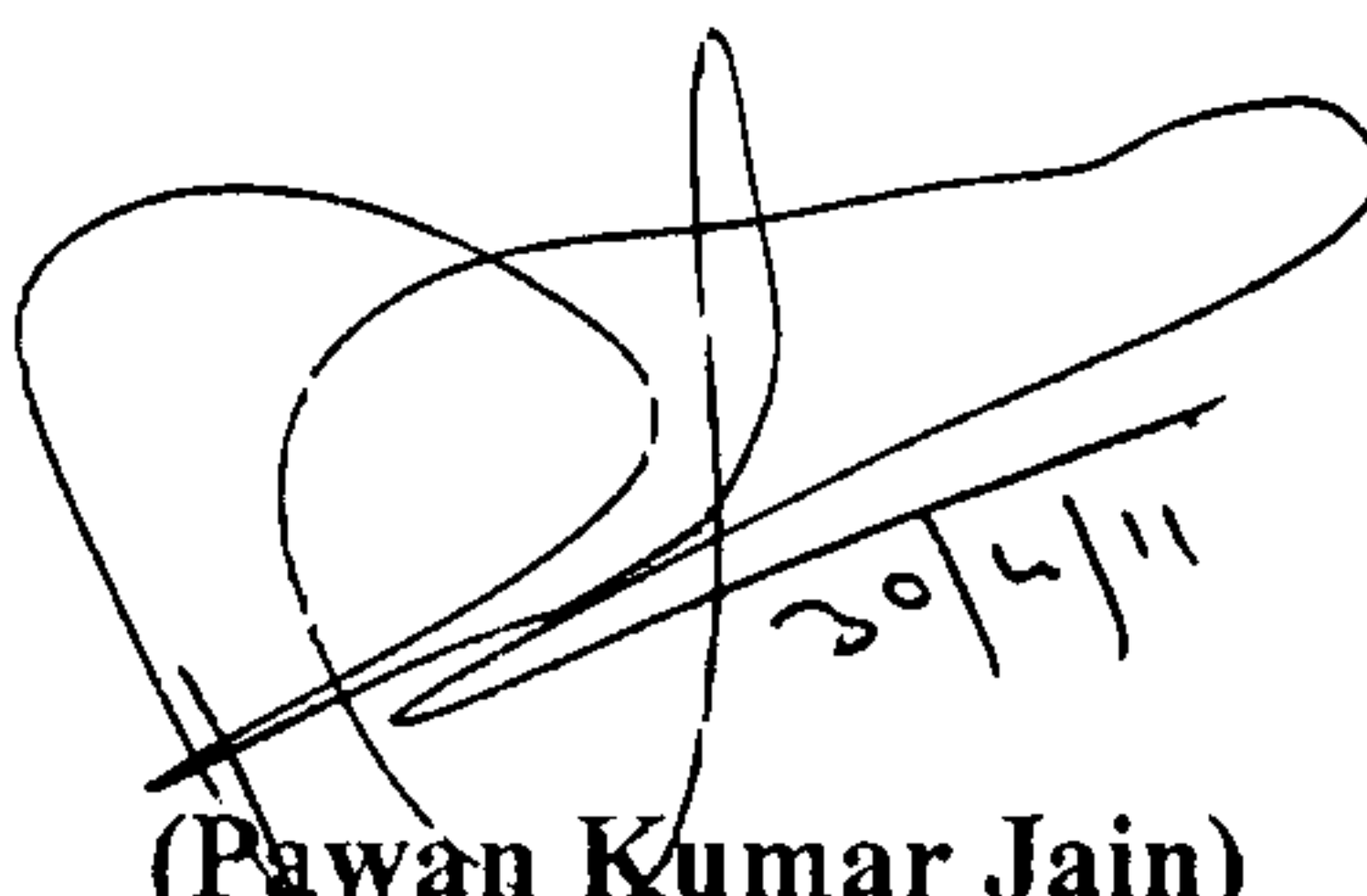




SEBI Vs. Wullar Agro Plantations Ltd.

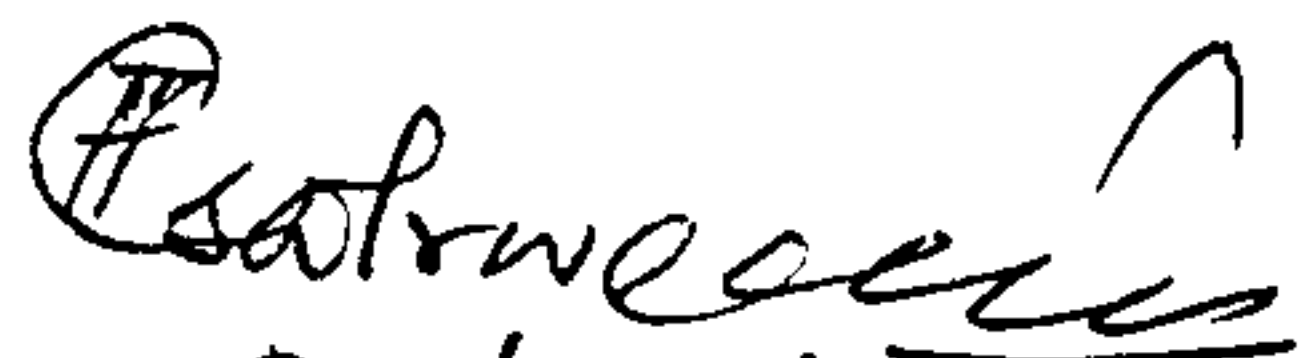
opinion that complainant succeeds to establish that company accused violated the Section 12(1B) of the SEBI Act as well as Regulations 5, 68 & 73 of the SEBI (Collective Investment Scheme) Regulations 1999 and A2, A4, A5 and A6 being the directors of A1 were in charge of and responsible to, the conduct of business of A1 accused company, accordingly, I hold them guilty for the offence punishable under section 24 (1) read with section 27 of the SEBI Act.


Announced in the open Court
on this 30th day of April, 2011

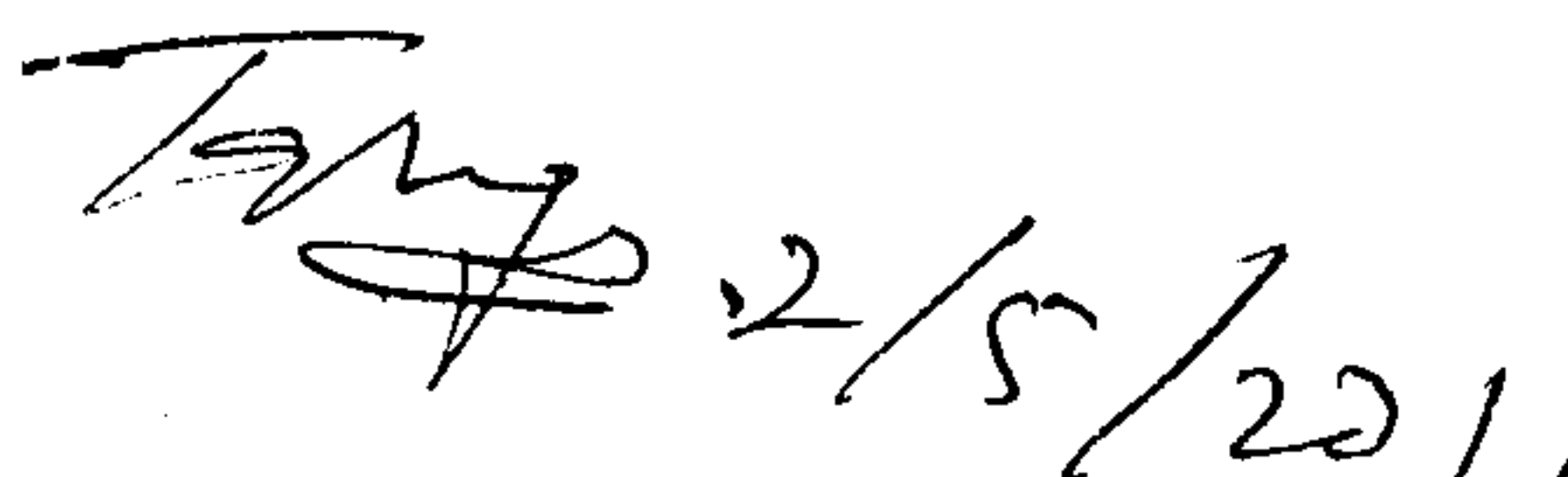


(Pawan Kumar Jain)
Additional Sessions Judge-01
Central/THC, Delhi

Copy given to the convicts
in open court at for
on 21.5.11

21.5.11


02/05/2011


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SC No. 50/10

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SC No.50/10

Item no.

Present: Sh. Ashish Aggarwal Advocate, Counsel for complainant

Accused no.1 is Company and also represented by Accused no.2.

Accused no.3 is PO.

Sh. Vinod Trisal, Advocate, Counsel for all accused persons. (convicts)

Arguments heard on the point of Sentence.

Vide separate order, a fine of Rs. 25,000/- is imposed upon each convict persons i.e. A1, A2, A4, A5 & A6 in default of two months Simple Imprisonment for the offence punishable under Section 24 (1) of the SEBI Act. Fine is deposited by all the convict persons. Receipt be issued to them.

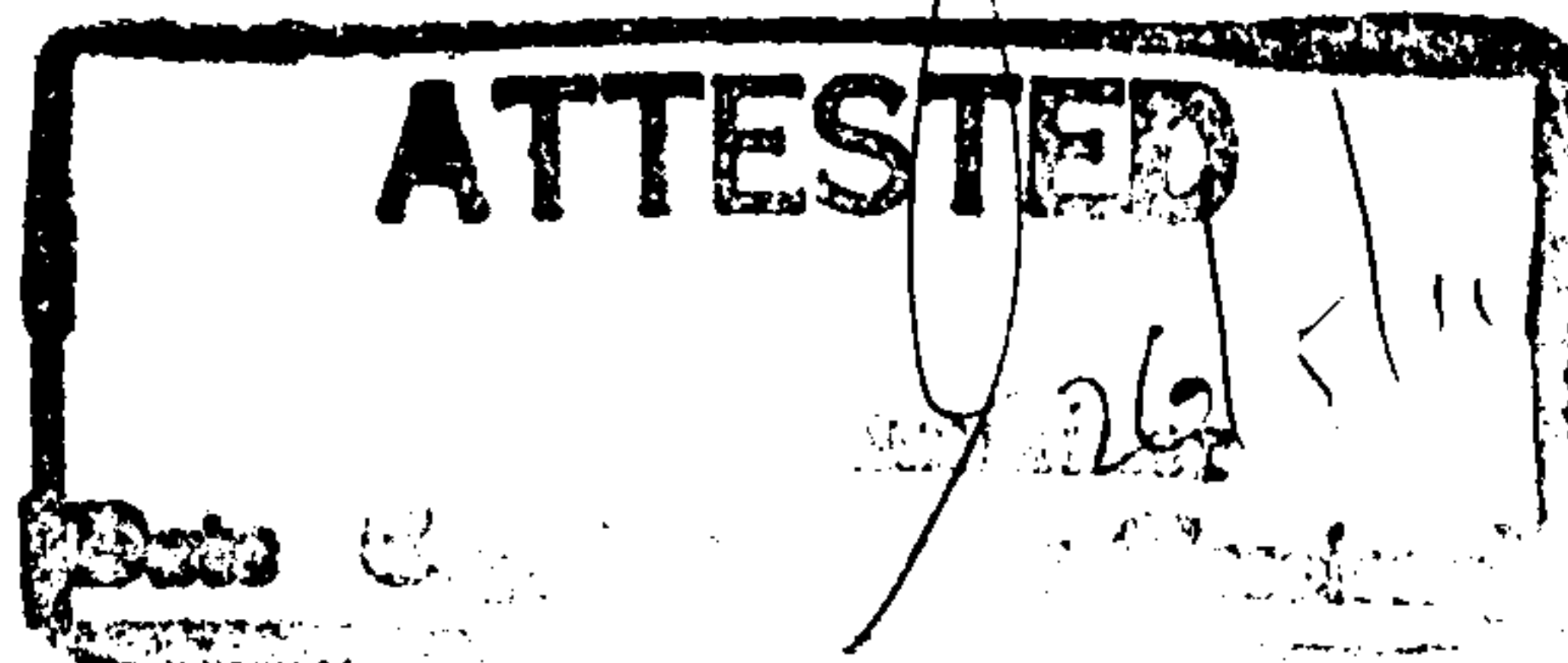
Copy of judgement alongwith order on the point of Sentence be given to the convicts free of cost.

File be consigned to record room.

(Pawan Kumar Jain)
ASJ-01/Central, THC
Delhi/2.5.2011

Rs. 25000/- (Rs. Twenty five thousand only) deposited by each convict vide Receipt No 495775, 495776, 495777, 495778 dt. 02/05/11.

(Pawan)





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

Complaint Case No. 50/10
ID No: 02401R5191722004

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 New Delhi, represented by its Legal Officer/Manager/Asst. General Manager Mr. Versha Aggarwal.

Versus

1. WULLAR AGRO PLANTATIONS LTD.

K. P. Road, Anantnag,
Jammu & Kashmir.

.....Accused no.1

2. Mohd. Maqbool Mir

s/o AB. Gani Mir,
R/o Kathpora, Yaripora,
Anantnag, Jammu & Kashmr.

.....Accused no.2

3. Zahoor Ahmed Mir,

s/o Ab. Gani Mir,
R/o Kathpora, Yaripora,
Anantnag, Jammu & Kashmir.

.....Accused no.3

SC No. 50/10

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4. **Farooq Ahamed Salroo,**
s/o Mr. Gh. Mohd. Salroo,
R/o Bijehbara, Anantnag,
Anantnag, Jammu & Kashmr.

.....Accused no.4

5. **Mushtaq Ahmed Malik**
s/o Mr. Gh. Mohd. Malik
R/o Halmethpura, Kupwara,
Jammu & Kashmr.

.....Accused no.5

6. **Mr. Tariq Maghroob**
s/o Dr. G.M. Marghoob,
R/o Umer Colony, Lal Bazar,
Srinagar, Jammu & Kashmr.

.....Accused no.6

**Present: Sh. Ashish Aggarwal Advocate, Counsel for
complainant**

**Sh. Vinod Trisal, Advocate, Counsel for all accused
persons except accused no.3 (A3).**

ORDER ON THE POINT OF SENTENCE:

1. Vide judgment dated 30.04.2011, all accused persons except accused no.3 Zahoor Ahmed Mir have been found guilty for the offence punishable under Section 24 (1) of the SEBI Act.





2. Counsel for the convict persons requests for a lenient view on the ground that convict persons have been facing trial since 2004 and convict persons had not mobilized any fund in the CIS, which company accused launched in the year 1997. On the other hand, Counsel for the complainant argued for substantial punishment.

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. Though complainant alleged in the complaint that convict persons had raised crores of rupees in CIS, yet complainant during the trial failed to adduce any evidence about the quantum of the fund generated by the A1 from the general public. Convict persons took the plea since beginning that since the CRISIL had graded CIS as 'Grade-V', which indicated high uncertainty of the return and due to that reasons, no investor came forward to invest in the Scheme. In other words, complainant failed to produce any concrete evidence on record to establish that company convict (A1) had actually generated any fund from the CIS launched by the





convict persons.

5. Admittedly in the present case, provision of Section 24(1) of SEBI prior to the amendment is applicable. Considering all these facts, I am of the view that ends of justice will be met if Convict persons are burdened with heavy fine. Accordingly, I impose a fine of Rs.25,000/- each upon convict persons i.e. A1, A2, A4, A5 & A6 in default of two 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. Surities stand discharged.

7. Copy of judgement 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 2nd day of May, 2011

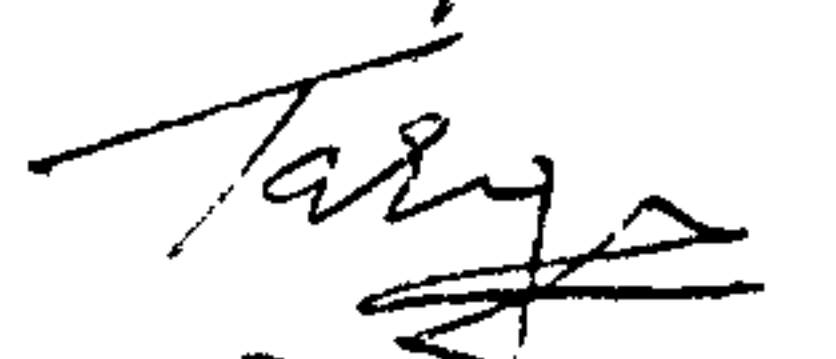

(Pawan Kumar Jain)
Additional Sessions Judge-01
Central/THC, Delhi


*Copy given to the convicts
in open court at for
on 2/5/11.*

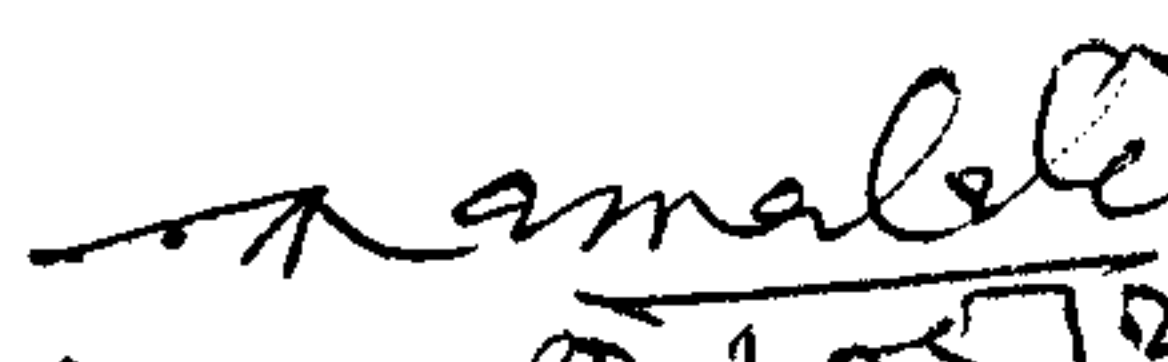
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