



IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 11701 OF 2003
16/12/03

Securities and Exchange Board of India, a
statutory body established under the
provisions of Securities and Exchange
Board of India Act, 1992, having its Head
office at Mittal Court, B - Wing, 224
Nariman Point, Mumbai 400 021
represented by its Asst. General Manager,
Rajesh Bhanot.

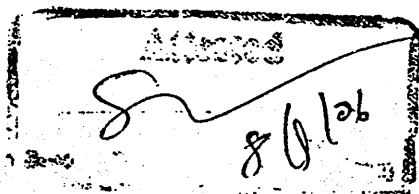
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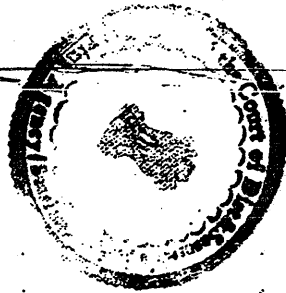
...Complainant

VERSUS.

1. Capital Forestry Ltd. Company
Incorporated Under the Companies
Act, 1956, having its Regd. Office at
353-C, J & K, Pocket, Dilshad
Garden, New Delhi-95.
2. Shri Maninder Singh, s/o Shri Kirpal
Singh, Director of Accused No.1, R/o:
353-C, J & K Pocket Dilshad Garden,
New Delhi-95.
3. Shri Manmohan Singh S/o Shri
Gurcharan Singh, Director of accused
No.1, R/o: 199, Gali No.2, Shyam
Park, Sahibabad, Distt. Ghaziabad
(U.P.)

[P.O.]





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18/11/8
18/11/8



4. Mrs. Paramjeet Kaur W/o Shri
Manmohan Singh; Director of accused
No.1, R/o: 199, Gali No.2, Shyam
Park, Sahibabad, Distt, Ghaziabad
(U.P.)

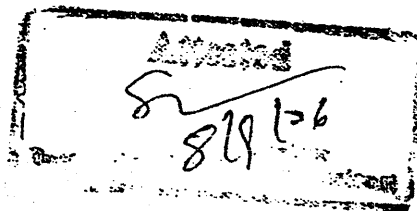
5. Shri Sawinder Singh Sondh S/o G.S.
Sondh, Director of the Accused No.1,
R/o: 353-C, J & K Pocket, Dilshad
Garden, New Delhi-95.

[P.O.]

.....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:



18.8.06

Present: Sh. Sachit Sethia, counsel for the SEBI.

Counsel Sh. Ravinder Tyagi for the accused Manmohan sing

18.8.06 and Paramjeet Kaur who are present on bail also for A-1.

Vide separate orders of even date the accused company and its Directors Sh. Manmohan Singh and Paramjeet Kaur are sentenced to a fine of Rs.3,000/- each. In the event of default in the payment of this fine, the accused Manmohan Singh and accused Paramjeet Kaur shall undergo simple imprisonment for two months. On payment of fine the personal bonds and surety bonds of the accused shall stand cancelled and the surety be stand discharged.

File be consigned to the records.

Announced in the Open Court.

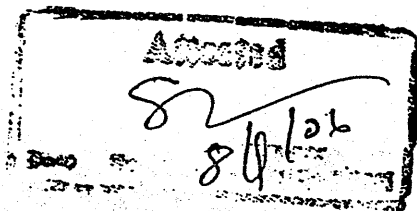
Dated: 18.8.2006.

(ASHA MENON)

Addl. Sessions Judge:
Delhi.

The file be consigned to the records to be revived on apprehension of proclaimed offenders Manminder Singh & Swinder Singh Sandh. Correction is made in earlier order accordingly.

Ashamena
18.8.06





IN THE COURT OF ADDITIONAL CHIEF METROPOLITAN

MAGISTRATE, DELHI

CC NO: 11701 OF 2003
16/12/03

Securities and Exchange Board of India, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Head office at Mittal Court, B - Wing, 224 Nariman Point, Mumbai 400 021 represented by its Asst. General Manager, Rakesh Bhanot.

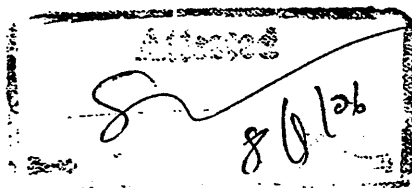
...Complainant.

VERSUS.

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2. Shri Maninder Singh, s/o Shri Kirpal Singh, Director of Accused No.1, R/o: 353-C, J & K Pocket Dilshad Garden, New Delhi-95.
3. Shri Manmohan Singh S/o Shri Gurcharan Singh, Director of accused No.1, R/o: 199, Gali No.2, Shyam Park, Sahibabad, Distt. Ghaziabad

(U.P.)

[P.O.]





4. Mrs. Paramjeet Kaur W/o Shri
Manmohan Singh, Director of accused
No.1, R/o: 199, Gali No.2, Shyam
Park, Sahibabad, Distt. Ghaziabad
(U.P.)

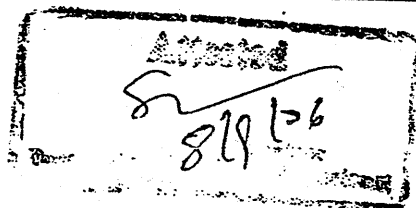
5. Shri Sawinder Singh Sondh S/o G.S.
Sondh, Director of the Accused No.1;
R/o: 353-C, J & K Pocket, Dilshad
Garden, New Delhi-95.

[P.O.]

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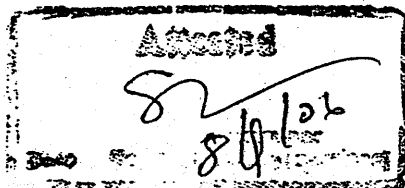
File be consigned to the records.

Announced in the Open Court.
Dated: 18.8.2006.

J. Shalke
(ASHA MENON)
Addl. Sessions Judge:
Delhi.

The file be consigned to the records to be revived on apprehension of proclaimed offenders Manmohan Singh & Swinder Singh Soudh. Correction is made in earlier order accordingly.

J. Shalke
As J.B. 8/06.



IN THE COURT OF MS. ASHA MENON: ASJ: DELHI.

CC NO.92/2005

SECURITIES & 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 400 021 represented by its Asstt. General Manager, Rakesh Bhanot.

VS.

1. Capital Forestry Ltd. Company incorporated under the Companies Act, 1956, having its Regd Office at 353-C, J & K Pocket, Dilshad Garden, New Delhi-95.
2. Sh. Maninder Singh, S/o Sh. Kirpal Singh, Director of accused no.1, R/o 353-C, J & K Pocket Dilshad Garden, New Delhi-95. (Proclaimed Offender)
3. Sh. Manmohan Singh S/o Sh. Gurcharan Singh, Director of accused no.1, R/o 199, Gali no.2, Shyam Park, Sahibabad, Distt. Ghaziabad (U.P.)
4. Mrs. Paramjeet Kaur W/o Sh. Manmohan Singh, Director of accused no.1, R/o 199, Gali no.2, Shyam Park, Sahibabad, Distt. Ghaziabad (U.P.)
5. Sh. Sawinder Singh Sondh S/o Sh. G.S. Sondh, Director of the accused no.1, R/o: 353-C, J&K Pocket, Dilshad Garden, New Delhi-95. (Proclaimed Offender)

Accused

JUDGMENT:

BACKGROUND FACTS:

1. The complaint has been filed by the Securities and Exchange Board of India (hereinafter referred to as the SEBI) through its Assistant General Manager Sh. Rakesh Bhanot against Capital Forestry Limited and against its Directors Sh. Maninder

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Singh. Sh. Manmohan Singh. Mrs. Paramjeet Kaur and Sh. Sawinder Singh. The accused Maninder Singh and accused Sawinder Singh have been declared Proclaimed Offenders.

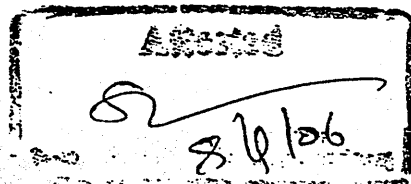
2. The complaint has been preferred under the Securities and Exchange Board of India Act, 1992 and the rules made thereunder.

The case as set out in the complaint is that the Government of India after detailed consultations with the regulatory bodies decided that an appropriate regulatory frame work for regulating entities which issued instruments such as Agro Bonds and Plantation Bonds etc., was requires to be created. Thereafter, the Government notified in November 1997, through a press release, that such schemes relating to issue of Agro Bonds etc., would be treated as Collective Investment Scheme governed by the SEBI Act 1992.

3. The aim of these regulations were to ensure investor protection and to promote legitimate investment activities. The regulations were notified in 1999 as the SEBI (Collective Investment Scheme) Regulation 1999.

4. The entities involving any Collective Investment Scheme were required, vide the press release dated 26.11.97, 18.12.97 to file information with the SEBI giving the detail of the Company, its Scheme and nature of Investment. In response the accused in this case i.e. Capital Forestry Limited informed that they had collected more than Rs.2.1 lacs from their Schemes. It also informed who

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the Directors were.

5. It has been stated in the complaint that after the regulations came into force, the SEBI issued letters dated 15.12.99 and 29.12.99 and also issued public notices dated 10.2.99 informing the accused company of the notification and the regulations and directing it to send information memorandum to all investors detailing the state of affairs of the Schemes, the amount repayable to each investor and the manner in which such amount was determined. This information was to be sent by 28.2.2000. Subsequently, the last date for furnishing details was extended upto 31st March, 2000.

ALLEGATIONS IN THE COMPLAINT

6. According to the complainant, the accused No. 1 failed to apply for registration and also failed to submit the repayment report nor did it furnish details for winding up the schemes. Therefore, on December, 7th, 2000, orders were issued by SEBI u/s 11 B of the SEBI Act 1992, to the accused company to refund the money collected to the investors within one month and submit the report of repayment and winding up to the SEBI. According to the complainant since there was no compliance of this order, the accused company and its Directors had violated the Regulations No. 68(1) and (2) 73 and 74 R/W Regulation 5 (1) of the SEBI (Collective Investment Scheme) Regulation 1999 and had also

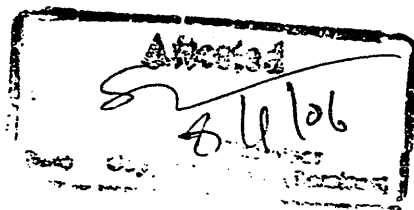
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violated Section 11 B and 12 (1) B of the SEBI 1992 which were all violation punishable U/s 24 (1) of the SEBI 1992 R/W Section 27 of the said Act.

7. Vice orders dated 16.12.2003 the accused were summoned for trial. The notice of allegations under Section 251 Cr.P.C was served on accused on 21.4.2006 and they pleaded not guilty. The complainant examined Sh. Rakesh Bhanot. AGM as CW-1. The statements of the accused were recorded u/s 313 Cr.P.C. No evidence was led in defence.

EVIDENCE

8. CW-1 Sh. Rakesh Bhanot has deposed to the Government of India press release dated 18.11.97 directing that bonds which were in the nature of Plantation Bonds and Agro bonds issued by the Companies would be considered as Collective Investment Scheme as stipulated under Section 11 of the SEBI Act, 1992. He deposed that thereafter, the SEBI issued press release dated 26.11.97 and the public notice dated 18.12.97 directing the Companies which were running Collective Investment Scheme (CIS) to file information with SEBI regarding their schemes such as details of fund mobilized, names of Directors/Promoters etc in case they were desirous of obtaining benefits under Section 12(1) (B) of SEBI Act. He deposed that pursuant to this the Company filed information vide letter dated 14.1.98 which is Ext.CW1/1 also



intimating that it had mobilized Rs.2.14.910/- under its five Schemes. The witness deposed that the letter also contained names of the Directors viz Sh. Maninder Singh (PO), Sh. Manmohan Singh, Smt. Paramjit Kaur and Sh. Swinder Singh Sordh (PO). Vide a second letter dated 27.2.99 Ext.CW1/2 the accused company forwarded the Memorandum and Articles of the Company.

9. The witness Sh. Rakesh Bhanot further deposed that the SEBI (CIS) Regulations, 1999 were notified on 15.10.99. He deposed that notification of regulations had been intimated to the Company vide public notice dated 20.10.99 and specific letter dated 21.10.99 was sent by registered post. He deposed that the letter did not return undelivered to the SEBI. The witness deposed that in terms of the regulations the Company was required to apply for registration or wind up its scheme in terms of Regulations 73 and 74 and was further required to circulate information memorandum to its Investors and to repay and wind up its schemes and submit the winding up and repayment report with the SEBI within five and half months. The witness deposed that these were communicated to the Company vide letters dated 10.12.99 and 29.12.99 and both these letters were also not returned undelivered to the SEBI. The witness stated that the requirements were also communicated vide public notice dated 10.12.99.

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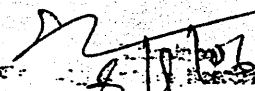
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10. The witness further deposed that as the Company neither applied for registration nor intimated regarding the winding up of its scheme, show cause dated 12.5.2000 was issued which was returned to the SEBI undelivered to the accused with remarks "left".

The witness stated that SEBI had intimated the format for the winding up and repayment report in which companies were required

to furnish information regarding winding up of the schemes vide letter dated 31.7.2000 which was also returned undelivered to the SEBI. On account of the failure of the company to comply with the regulatory provisions of the regulations, the company was directed by the Chairman, SEBI vide order dated 7.12.2000 to repay the Investors as per the original terms of offer within one month of the said order. The witness stated that this order was communicated to the company vide letter dated 18.12.2000 which was returned as undelivered to the SEBI. The contents of the order were also published in Hindustan Times on 19.12.99 and in the public notice dated 14.1.2000 the name of this company was shown at serial no.89. The witness brought on record various exhibits including the returned envelopes and the copy of the publication in the newspaper.

11. In cross-examination CW1 Sh. Rakesh Bhanot deposed that he did not have any postal receipts of the communications sent to the accused by the SEBI. He denied the suggestion that he has

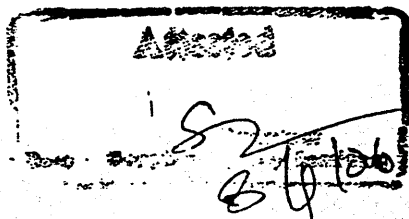
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placed on record manipulated documents. He stated that he is not aware whether any resolution had been passed before the authority was conferred on him or not. He admitted that he had not placed any such resolution on the record. He affirmed that the database of the complaint are maintained by the SEBI. He admitted that there is no complaint against the accused as per their records. He stated that he did not make any verification from the ROC regarding the Board of Directors of the accused company. He stated that since winding up and repayment report had not been submitted, he could not say whether the repayments had been made to the investors.

CONTENTIONS

12. Sh. Mann for the SEBI has argued that the accused had willfully violated the regulations of the SEBI. It is contended that the regulations had come into force only to protect investors and in the present instance the accused having collected about Rs.2,14,910/- under its various Schemes had failed to comply with the directions of the SEBI whereby they were required to return the deposits to investors alongwith interest as per original offer. It was submitted that the accused have failed to submit the winding up and repayment report to the SEBI as they were obligated under the regulations. Hence it is submitted that the accused are liable for punishment.

13. Sh. Ravinder Tyagi counsel on behalf of accused.



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submitted that the SEBI had failed to prove the case against the accused. It has been submitted that the SEBI had not made any verification from the Registrar of Companies and there was nothing on the record to show that the accused were incharge of the functioning of the company. It is also submitted that there was no

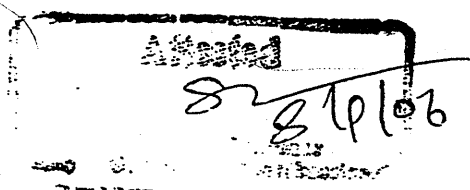
investor complaint against the accused. It has also been submitted that the SEBI has failed to produce the postal receipt in respect of the communications allegedly sent to the company and therefore, so called correspondence was only manipulations. It was submitted that the accused no.2 and 3 were not liable for compliance with the directions of the SEBI, especially when they had no knowledge of the regulations and when they were not at all involved in the affairs of the company. Hence it has been prayed that accused no.2 and 3 be acquitted.

FINDINGS.

14. I have carefully considered the records and submissions made on behalf of the SEBI and the accused.

15. From the evidence certain facts seem admitted. The Government had notified in 1997 that companies which were running Collective Investment Schemes were required to file information with SEBI regarding their schemes along with details of

amounts mobilized, the names of Directors/Promoters etc., in case they were desirous of obtaining benefit of Section 12 (1) B of the


Attended
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SEBI Act 1992. Section 12 of the SEBI 1992 requires the registration of Stock Broker, Sub Broker, Share Transfer Agents etc., and Section 12 (1) B relates to the requirements of registration certificate from the Board by any person who was sponsoring or carrying on venture , capital funds or Collective Investment Scheme including mutual funds. Section 12 (1) B of the SEBI 1992 reads as under:

"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 obtain 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 scheme operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act 1995, for which no certificate or 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"

17. Even as per regulation 3 of the SEBI (Collective Investment Scheme) Regulations, there is complete bar on any

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person other than a Collective Investment Management Company which has obtained a certificate carrying on or sponsoring or launching a CIS.

18. It is thus, amply clear that under the SEBI Act 1992 no person could carry on a Collective Investment Scheme without the certificate of registration granted by the Board. The proviso permitted such person who was already carrying on Collective Investment Scheme before the commencing of the Securities Law (Amendment) Act 1995 to do so till such time regulations were made u/s 30 (d)(2) of the Act. Thus the proviso entitled a person to continue the Collective Investment Scheme without registration only till the promulgation of the regulations in this case that date is 15.10.99.

16. Turning to the present case it may be noticed that the accused company had submitted their letter dated 14.1.98 in response to the "notification" dated 19.11.97. The Government of India had issued a press release dated 18.11.97 and it is in response to that, that the accused company submitted its detail vide Ext.CW1/1. That itself satisfies the first requirement that the accused were involved in the Collective Investment Schemes dealing with Agro and Plantation Bonds. As regards the role of the accused it may be mentioned here that the company itself had intimated vide Ext.CW1/1 that the directors were the accused

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Maninder Singh (PO), Manmohan Singh, Smt. Paramjeet Kaur and Sh. Surender Singh (PO). The letter while specifically describing the accused Pramjeet Kaur as being incharge of the administration of the company does not specifically describe the accused Manmohan Singh as a non-functioning director. In the circumstances, there is no material placed on the record by the accused to show that they fall within the exclusion provided for under Section 27 of the SEBI Act, 1992. The onus is on the accused to prove that they were not involved in nor were incharge of the affairs of the company. When the SEBI has placed the letter of the accused describing themselves as directors the SEBI has discharged the onus placed on it to prove their liability. Thereafter, it fell on the accused to show that they were neither incharge of the company's affairs nor were working directors. In the absence of such evidence produced by the accused it has to be concluded that the accused named in the complaint are liable for the affairs of the company/accused no.1.

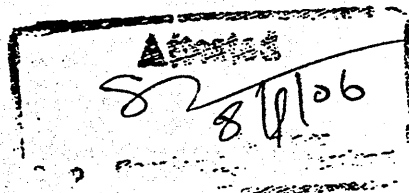
17. As regards knowledge of the requirements under the SEBI Act and the regulations of 1999 it must be observed that when the accused vide their compliance certificate enclosed with Ext.CW1/1 had undertaken to comply with further directions of CIS as may be issued by the SEBI from time to time, they had bound themselves to keep themselves informed of such directions. The letters sent to

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the accused were sent to the address furnished by the accused themselves in Ext.CW1/1. The letter Ext.CW1/2 dated 27.2.99 was sent by the accused to the SEBI in order to explain the use of words "amount collected" as having been collected prior to 18.12.97 in response to the SEBI's own response. This indicates that the letters sent by the SEBI had in fact been received by the accused at the given address and yet they are now trying to extricate themselves on the plea that the postal receipts have not been placed on the record by the SEBI.

13. Be that as it may, the SEBI has placed on record the returned envelope Ext.CW1/7 containing the letter of the SEBI dated 12.5.2000 addressed to the company which returned with the remark "left". The subsequent letters of 31st July, 2000 containing the format of the WRR and the letter dated 18.12.2000 containing the directions of the SEBI Chairman brought on record as Ext.CW1/9-12 were also returned to the SEBI as unclaimed.

19. When the accused were aware of their obligations under the SEBI regulations they ought to have informed the SEBI of any change in their address which they have failed to do. Moreover, the SEBI had issued a public notice in the newspapers on 14th January, 2001 which would have been again sufficient to inform the accused of their legal obligations. The name of the company was also mentioned at serial no.89 in the public notice dated 14.1.2001.





The evidence on the record, therefore, belies the claim of the accused that they did not know about the requirements under the regulations. Rather, from the evidence on record, the contrary is made out that despite knowledge of the obligations under the SEBI Act, 1992 and the SEBI regulations, 1999 the accused willfully failed to comply with the requirements and neither applied for registration nor submitted the winding up and repayment report as directed by the SEBI, Chairman within the stipulated time.

CONCLUSION

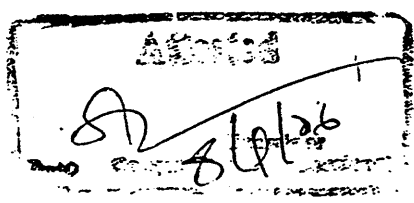
20. In the circumstances, it has to be concluded that the complainant has fully proved its case against the accused. The accused Capital Forestry Limited, Manmohan Singh and Paramjeet Kour are, therefore, found guilty of violating Regulation 5 (1) r/w Regulation 68(1) 68(2) 73 and 74 of the SEBI (Collective Investment Scheme) Regulation 1999 R/W Section 11B and 12 (1) B of the SEBI Act 1992 punishable u/s 24(1) R/W Section 27 of the SEBI Act 1992.

The accused are entitled to be heard on sentence.

Announced in the Open Court.
Dated: 17.8.06

Asha Menon
(ASHA MENON)
Addl. Sessions Judge:
Delhi.

*Copies given to the court
in open court at 18/8/06
18.8.06 Paramjeet Kour*



IN THE COURT OF MS ASHA MENON: ASJ: DELHI.
 CC NO. 142/05
 SEBI VS. CAPITAL FORESTRY LTD & OTHERS



ORDER ON SENTENCE

I have heard Sh. Sachit Sethia, proxy counsel for SEBI and Counsel Sh. Ravinder Tyagi for the accused on quantum of sentence.

Learned Counsel for accused submits that a lenient view may be taken, in view of the fact that there are no investor complaints against the accused company.

Keeping in mind all the facts and circumstances of this case, I am of the view that imposing of a fine of Rs.3,000/- each on the accused company and its Directors Sh. Manmohan Singh and Paramjeet Kaur would meet the ends of justice. In the event of default in the payment of this fine, the accused Manmohan Singh and accused Paramjeet Kaur shall undergo simple imprisonment for two months. On payment of fine the personal bonds and surety bonds of the accused shall stand cancelled and the sureties will stand discharged.

File be consigned to the records.

Announced in the Open Court.
 Dated: 18.8.2006.

Asha Menon
 (ASHA MENON)
 Addl. Sessions Judge: Delhi.

copy given to the convict
 in open court at for
 on 18/8/06

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Paramjeet Kaur

