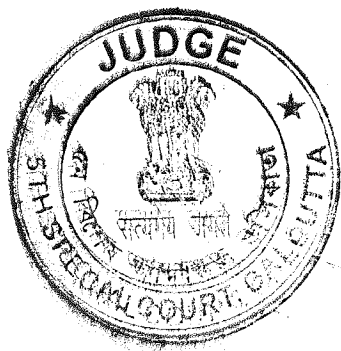


X/2
6.4.2022

No. of Order	Date	Order with signature to the Judge	Office Note as to action Taken on order (if any) and Date
		- 2 - <u>Order no.40 dt.05.04.2022</u> This day is fixed for appearance and report from SEBI. No such Report is received from SEBI. Accused nos.2 to 5 are present and files hazira. The accused have this day file a petition wherein they have expressed their intention to plead guilty to the charge has framed against them. Ld. Public Prosecutor representing the SEBI submits that in this case charge has been framed against this accused U/s. 56/60 r/w 2 (36) /73 of the Companies Act 1956 r/w Sec.465 of the Companies Act. 2013 and SEBI (Issue of a Capital and Disclosure Requirements) Regulations 2009 framed thereunder and which are punishable U/s. 24 (1) of the SEBI Act. 1992 corresponding to Companies Act.2013. The petition for pleading guilty is taken up for hearing and orders. In this case Ld. Public Prosecutor representing the SEBI submits that the amount of 7.6 lacs which the petitioners are willing to pay as penalty is not the correct amount, but as per calculation of SEBI, the amount comes to Rs. 19 lacs including 15% interest and the legal expenses. So the petitioner have to pay this amount and only then can plead guilty. It is the contention of the petitioner they are not in a position to pay 19 lakhs as stated by SEBI due to their poor financial condition hence they intends to plead guilty. However, they are willing to pay back Rs.7.6 lakhs which they have raised from the investors. Upon consideration of submission made by the parity I feel that the Court cannot stand in the way of the intention of the petitioners to plead guilty. This is a case arising out of complaint made by the SEBI authorities and all investigation is by the SEBI Authorities themselves. The liability as per the complaint is fixed on the petitioners by framing charge against them as has been stated before. In my considered view there needs to be no explanation given regarding Section 27 of the SEBI Act since the section itself does not speak of any penal provision and the company is already being represent by accused no. 3. Legally speaking the charge U/s. 27 of the SEBI Act has come naturally as being the joint liability of the company but further deliberation on this point is not necessary at this stage since the petitioner intend to plead guilty to the offence. The contention of the prosecution that the petitioner are required to pay 19 lakhs and the legal expenses cannot be considered now since this is the case where the petitions are pleading guilty and Section 27 does not provide for any penal provision. Likewise section 56/60 of the	

Contd.  22/4/22



2/2

6.4.2022

West Bengal Form No. 3890
H.C.Criminal Form No.(M) 20

Present : Smt. Sachita Sarkar
W.B.H.J.S.

Judge,
5th Special Court,
3, Bankshall Street, Kolkata.

ORDER SHEET FOR JUDGES' RECORDES
DISTRICT (CALCUTTA)
IN THE COURT OF CALCUTTA FIFTH SPECIAL COURT

Special Case No. 8 of 2016 New Case No.(SEBI/7/2017)

SEBI versus Orchid Cultivation, Ltd. & others.

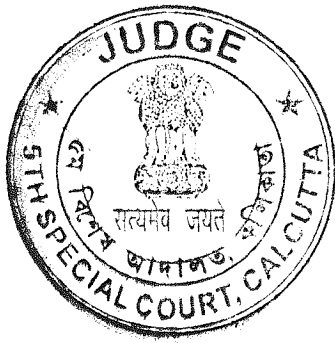
Sl. No. of Order	Date	Order with signature to the Judge	Office Note as to action Taken on order (if any) and Date
		<u>Contd.Order no. 40 dt.05.04.2022</u> Companies Act also do not speak of any penal provision but are offences which are punishable U/s. 24 (1) of SEBI Act which is to be applied here. As per relevant provisions of law the petitioners being the accused should be made aware of the highest quantum of punishment under which charge has been framed and the petitioners would face if found guilty. The charge as framed has been read over and explained to the accused in Bengali and also I have apprised them of the punishment should they plead guilty or if found guilty on trial repeatedly. I have also explained them the highest punishment that could be awarded to them by the Court. Despite repeated caution the accused have expressed their willingness to plead guilty. Thus the accused 2 to 5 have stated in open court in Bengali that they are guilty of the offence punishable U/s. 24 (1) of SEBI Act. by saying aloud in Bengali 'AMI NIRDOSH' respectively. Thus the plea of guilty by the accused is accepted by Court. Accused are found guilty of U/s, 56,60 read with Sec. 2(36), 73 of the Companies Act,1956, read with Sec .465 of the Companies Act.2013 and Sec.24 and 27 of SEBI Act.1992 and are convicted U/s.229 Cr.P.C. The convicts are taken into custody. In my considered view Statues and Acts are made to keep the society in peace and such economic nature of offences are not to be taken lightly even if the accused plead guilty. So considering all aspects I feel that it would be prudent to impose financial punishment to the convicts. Thus the convicts on pleading guilty are directed to pay an amount of Rs. 7.6 lakhs as sentence i/d they shall have to undergo simple imprisonment for two years each respectively. Out of the said amount Rs. 7 lakhs is to be paid to SEBI as compensation and Rs. 60	Contd.. <i>[Signature]</i> 22/4/22

- 1) Date of application for certified copy 6/4/22
- 2) Date fixed for notifying the requisition /
- 3) Date of delivery of the requisition /
- 4) Date on which the copy was ready for delivery /
- 5) Date of making over the copy to the applicant 22/4/22
- 6) Cost of copy Free of cost
- 7) Number of xerox sheets used 4 (four) Xerox sheets

S. Majhi
22/04/22



No. of Order	Date	Order with signature to the Judge	Office Note as to action Taken on order (if any) and Date
Received 5 APR 2022 5:00 P.M. Office of the Chief Metropolitan Magistrate, Calcutta Dictated and Corrected by me Rajiv K. Singh Jyotirmoy Bhattacharya Subir Kumar Paul		- 2 - <u>Contd. Order no.40 dt.05.04.2022</u> thousand to the Government Exchequer. In default of payment, the convicts are to suffer S.I for two years each. If fine is paid, convicts shall be released. The convict will be released on payment of fine in total i/d warrant of imprisonment is to be issued. It is further directed that as this court has no office to maintain judicial cash registrar so for convenience Ld. C.M.M., Kolkata is requested to direct is concerned department to keep the amount of Rs.7 lakh paid in favour of SEBI by the convict as compensatory. Let a copy of this order be sent to Ld. C.M.M., Kolkata for necessary action. Inform SEBI. Dictated and Corrected by me Judge R <u>Later Order dt.05.04.2022</u> The fine amount of Rs.7.6 lakhs has been deposited as per order of the Court. It is reported that Rs.7.6 lakhs has been kept in judicial cash maintaining by the office of Ld. C.M.M. Calcutta which includes the amount of Rs. 60,000/- which has been deposited in Government Exchequer at the head of fine maintain in the said office. The fine pay slip is provided before me accordingly. There are to be kept with the record for future reference. Accordingly payment of the whole amount of fine has been completed and thus the convicts Rajiv Kumar Singh, Jyotirmoy Bhattacharjee and Subir Kumar Paul are released and said at liberty at once. The sureties of their bail bond are also discharged from their liability. Dictated and Corrected by me Judge	and Cashier CMM Court Judge 5th Spl Court Kolkata 5th Spl Court Kolkata 22/4/22 Contd.



Judge,
5th Special Court,
3, Bankshall Street, Kolkata.

ORDER SHEET FOR JUDGES' RECORDS
DISTRICT (CALCUTTA)

IN THE COURT OF CALCUTTA FIFTH SPECIAL COURT

Special Case No. 8 of 2016 New Case No. (SEBI/7/2017)

SEBI versus Orchid Cultivation. Ltd. & others.

Sl. No. of Order	Date	Order with signature to the Judge	Office Note as to action Taken on order (if any) and Date
- contd - 5/4/22 1-40 P.M.		After passing of the above order, a report has been received from SEBI, as was called for. Perused and Considered the said report. It has been mentioned therein that an amount of about Rs 19 lakhs is to be paid by the accused which includes interest also. I have perused the ²petition report. In this context it needs to be mentioned that when an accused intends to plead guilty, there can be no conditions imposed on him by the complainant. The matter is strictly between the accused and the Court. The issue of payment of Rs 19 lakhs and interest would have been considered only if the accused had faced trial and had been found guilty. Thus, the contents of the report of SEBI cannot be entertained at this stage. The order of accepting the plea of guilty needs no interference.	
		Dictated and Corrected by me A Judge <i>[Signature]</i> 22/4/22 <i>[Signature]</i> Judge 5th Spl Court Kolkata	

