BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
[ADJUDICATION ORDER NO. RA/DPS/ 128-134 /2017]

UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING OFFICER) RULES, 1995.

Adjudication Order in respect of:-

1. **M/s Beetal Livestocks & Farm Pvt. Ltd.** having address at Plot No. 63, Udyog Vihar, Phase IV, Gurgaon, Haryana – 122001 and M-57, Madhya Marg, Gurgaon, Haryana 122001.

2. **Shri Nizzamuddin Sabbir** (DIN 03035394) having address at S/o Sabbir Ahmed, R/o 165-A, Hauz Rani, New Delhi – 110034.

3. **Shri Abdul Slam** (DIN 03048245) (PAN – CXEPS9337R) having address at S/o Darbar Khan, R/o H. No. 122, Hans Enclave, Vill. Naharpur Roopa, Th. Gurgaon, India – 122001.

4. **Shri Manish Girdhari** (DIN 03059548) having address at S/o Girdhari Lal, H. No. 352/3, Ward No. 29, Arjun Nagar, Gurgaon TheGurgaon, Haryana – 122001.

5. **Shri Raju Jhunni** (DIN 03050094) having address at S/o Jhunni Lal, J-29, PME, J BLK, Prabhu Market, Lodhi Colony, Delhi – 110003 and B-218, Ground Floor, Lajpat Nagar-I, New Delhi – 110024.

6. **Shri Sarif Khan** (DIN 03045258) having address at S/o Islam Khan, 38/20 Katadhar, Idagah, Agra – 282002 and B-218, Ground Floor, Lajpat Nagar-I, New Delhi – 110024.

7. **Shri Bharat Kumar** (DIN 03080755) having address at S/o Yudhishter Kumar, House No. 1026, Sector – 38, Gurgaon, Haryana – 122002.

In the matter of M/s. Beetal Livestocks and Farm Pvt. Ltd.

FACTS OF THE CASE

1. The Securities and Exchange Board of India (hereinafter referred to as 'SEBI') issued a common Show cause Notice dated May 10, 2012 to M/s Beetal Livestocks & Farm Private Limited, Shri Nizzamuddin Sabbir, Shri Abdul Slam**,** Shri Manish Girdhari**,** Shri Raju Jhunni**,** Shri Sarif Khan**,** and Shri Bharat Kumar (hereinafter referred to as **'the Noticee No. 1 to 7** respectively or all may be referred to as "**the Noticees**" collectively**'**) separately calling them to show cause as to why appropriate actions including actions under the provisions of Section 11B of the SEBI Act, 1992 read with Regulation 65 of the CIS Regulations should not be taken against the Noticees. The Noticees failed to file their reply to the SCN's, despite being duly served on them or even after the public notice to this effect was published in the newspaper. In view of these facts and circumstances the matter was decided on the basis of the material available on record, SEBI passed an Order dated June 25, 2014 against the Noticees (The Noticee No. 1 (being a company), Noticee No. 2 – 7 (Directors) of the Noticee No. 1 / M/s Beetal Livestocks & Farm Private Limited) restraining and debarring the Noticees from accessing the securities market and further prohibiting them from buying, selling or dealing in securities market till all its collective investment schemes are wound up and all monies mobilized through them are refunded to the investors. Also, various other directions were issued in the Order dated June 25, 2014 including the initiation of the adjudication proceeding.

APPOINTMENT OF ADJUDICATING OFFICER

2. SEBI had vide order dated May 14, 2015 appointed the undersigned as Adjudicating Officer under Section 15D(a) of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **'SEBI Act'**) to inquire into and adjudge the violation of section 12(1B) read with Section 11AA of the SEBI Act and regulation 3 and 4 of the SEBI (Collective Investment Scheme) Regulations, 1999, (hereinafter referred to as '**the CIS Regulations'**) alleged to have been committed by the Noticees.

SHOW CAUSE NOTICE, REPLY AND HEARING

3. A common Show Cause Notice No. EAO/RA/DPS/22418/2015 dated August 10, 2015 (hereinafter referred to as **'SCN'**) was issued against the Noticees under rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against them under sections 15D(a) of the SEBI Act for the aforesaid alleged violations.

4. The allegations levelled against the Noticees in the SCN are mentioned hereunder;

5. It was observed that Beetal was running a scheme / arrangement of Goat Care and as per the Beetal's website the scheme had four plans, detail of which are given below:

Plan 1

Plan	Min. Invst. ₹ 6000 (Value of 1 goat)	1% Profit per month for 6 years (72 months)	Get the ₹ 6000 (Value of 1 Goat) Return after 3 years (36 months)	Get the same amount of final payment (Value of 1 Goat) after 6 year (72 months)	Total Receipts	Net Profit
Profits	₹ 6,000	₹ 4,321	₹ 6,000	₹ 6,000	₹ 16,320	₹ 10,320

Plan 2

Plan	Min. Invst. ₹ 6000 (Value of 1 goat)	2% Profit per month for 6 years (72 months)	Get the (Value of 1 Goat) Return after 4 years (48 months)	Total Receipts	Net Profit
Profits	₹ 6,000	₹ 8,640	₹ 6,000	₹ 14,640	₹ 8,640

Plan 3

Plan	Min. Invst. ₹ 6000 (Value of 1 goat)	1.5% Profit per month for 5 years (60 months)	Get the (Value of 1 Goat) Return after 2.5 years (30 months)	Total Receipts	Net Profit
Profits	₹ 6,000	₹ 5,400	₹ 6,000	₹ 11,400	₹ 5,400

Plan 4

Plan	Min. Invst. ₹ 6000 (Value of 1 goat)	2.5% Profit per month for 10 years (120 months)	Total Receipts	Net Profit
Profits	₹ 6,000	₹ 18,000	₹ 18,000	₹ 12,000

6. It is also observed that Noticees through various advertisements in newspaper, Noticees were inviting general public to invest in the scheme by offering guaranteed return of 1% to 2% per month on a minimum investment of ₹ 6,000. Further, Noticees website displayed that "we use your precious money in Goat Farming … our Group gives monthly return by providing Goat care services."

7. It is observed that the Noticees offered return in lump sum and recurring basis and assures returns through bank guarantee. Further it is observed that the Noticees is responsible for all expenses towards maintenance for the goats, their insurance, feed etc and controls over the rearing of the goat.

8. It is observed that as per the Goat Care Agreement, Noticees had sole right over the goats reproduced, proceeds of goat milk sold & proceeds of stool of the goat and any other revenue derived by Noticees from this activity. Noticees had right to effect sale through wholesale market or through some marketing agents etc in local market or exports and such price as it deems fit and reasonable depending upon the circumstances prevalent at that time and the investor would not raise any objection to the same.

9. It is also noted that Noticees are not having registration with the SEBI as mandated under section 12(1B) of the SEBI Act and regulation 3 of the CIS regulations.

10. In view of the above, Noticee No. 1 to Noticee No. 7 are engaged in the fund mobilising activity from public through investment contracts by floating/sponsoring/ launching *collective investment schemes* without obtaining certificate of registration from SEBI. Allegedly, such acts of Noticee is in violation of section 12(1B) read with section 11AA of the SEBI Act and regulation 3 and 4 of the CIS Regulations and the aforesaid Regulations are reproduced as under;

Section 12(1B)

12(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 a certificate of registration from the Board in accordance with the regulations.....

Section 11AA

(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) shall be a collective investment scheme.

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

(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely 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."

CIS Regulations

No person other than Collective Investment Management Company to launch scheme.

3. No person other than a Collective Investment Management Company which has obtained a certificate under these regulations shall carry on or sponsor or launch a collective investment scheme.

Application for grant of certificate.

4. Any person proposing to carry any activity as a Collective Investment Management Company on or after the commencement of these regulations shall make an application to the Board for the grant of registration in Form A.

11. The aforesaid alleged violations, if established, make the Noticees liable for monetary penalty under section 15D(a) of the SEBI Act, which reads as follows:

Penalty for certain defaults in case of mutual funds.

15D. *If any person, who is—*

(a) *required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual funds, without obtaining such certificate of registration, he shall be liable to a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less;*

12. The SCN was issued through Regd. Post AD (RPAD) to all the seven Noticee(s) as well as Northern Regional Office of SEBI (hereinafter referred as SEBI) on August 11, 2015 was asked to served / affix the hearing notice (HN) at the last known address of the Noticees.

13. SCN issued to Abdul Slam / Noticee No. 3 was delivered through RPAD and Noticee No. 3 vide undated letter replied to the said SCN. The key submissions/ reply of the Noticee No. 3 are being mentioned below:-

a) *I Shri Abdul Slam, S/o Darbar Khan, residing at H. No. 122, Hans Enclave, Vill. Naharpur Roopa, Thasil Gurgaon, India – 122001. I received the letter on August 22, 2015, in that I have been alleged that I have been running the wrong doing company - M/s Beetal. I have written one reply to letter dated 29/04/2013 on 16/10/2014 already.*

b) *I am less educated person and I am a farmer. In 2010 Shri Manish Girdhari and Shri Bharat Kumar came for buying goats and I have arranged goats for them from one of my relatives. This way we came to know each other. After wards I told them to apply PAN card for me and one of my relatives. They took ID card of mine and my relative and also took signature in one paper.*

c) *I don't know the M/s Beetal company or the person who is running the company. I think those people have taken my ID card and signature and they have wrongly included me in the company. In fact I don't have any relation with that company.*

d) *Therefore I request you to catch the fraud people who are running the company and penalize them.*

14. Five SCN's were returned undelivered by the Postal Department with remarks as mentioned in the below table;

Noticee No.	**Name of Noticees**	**SCN Delivery status**
1	Beetal Livestocks & Farm Pvt. Ltd.	SCN Returned with Remark – Left
2	Shri Nizzamuddin Sabbir	SCN Returned with Remark – Incomplete Address
3	Shri Abdul Slam	SCN Delivered
5	Shri Raju Jhunni	SCN Returned with Remark – No such person / Left
6	Shri Sarif Khan	SCN Returned with Remark – No such person
7	Shri Bharat Kumar	SCN Returned with Remark – Incomplete Address

15. With regard to SCN issued to Noticee No. 4, *neither Postal AD received nor returned undelivered. Attempts were made to trace delivery, if any, however the same was not fruitful.* Also, the said SCN has been uploaded at SEBI website in the head of "*Rulings/Orders - Unserved Summons/Notices*".

16. During the period of instant proceeding, the Hon'ble Supreme Court of India vide judgment dated November 26, 2015 in the case of *SEBI vs. Roofit Industries Ltd*. held that Adjudicating Officer has no discretion in deciding quantum of penalty under Chapter VI A (except in u/s 15F (a) and 15HB of the SEBI Act). The issue involved in *Roofit* case was differently interpreted in case of *Sidharth Chaturvedi* (decided on March 14, 2016) and accordingly, the legal issue / matter was pending for Larger Bench of Hon'ble Supreme Court of India. Meantime, as per "The Finance Act 2017" (Notified for Part VIII of Chapters VI came into effect from April 26, 2017) following has been *inter - alia* clarified in respect of adjudication under SEBI Act-

    147. In section 15J of the principal Act, the following Explanation shall be inserted, namely:-
    "Explanation- For the removal of the doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under section 15A to 15E and clauses (b) and (c) of section 15F, 15G, 15H and 15HA shall be and shall always be deemed to have been exercised under the provisions of this section."

17. Consequent to the clarity brought into the Finance Act, 2017, SCN was also communicated to Noticee No. 1, 5 and 6 through email dated June 13, 2017 was duly digitally signed by the undersigned. Noticee No. 1 / M/s Beetal at the e-mail ID: casantosh_jha@yahoo.com - as available from website of Ministry of Corporate Affairs (MCA) under head of Company Master Data and info@indiagoatFarming.com – as per the email id mentioned in the Noticee No. 1 letter head, Noticee No. 5 / Shri Raju Jhunni at the e-mail ID: sk9811141515@yahoo.com – as per Form 32 submitted to Registrar of Companies (ROC) and to Noticee No. 6 / Shri Sarif Khan at the e-mail ID: sudhirneelam303@rediffmail.com – as per Form 32 submitted to ROC was duly digitally signed by the undersigned.

18. SCN was also communicated to Noticee No. 4 / Shri Manish on June 13, 2017 at the address, "*S.G. Securitiy Private Limited, Shop No. 78, 1st Floor, Sector 14, Gurgaon HR – 122001 IN*". However it was also returned undelivered with remark, *"Left/ insufficient address".* SCN was also communicated to Noticee No. 4 through email dated June 13, 2017 at the e-mail ID: Reenanehru@Gmail.Com - as available from website of Ministry of Corporate Affairs (MCA) under head of Company Master Data - *S.G. Securitiy Private Limited* was duly digitally signed by the undersigned.

19. SCN was once again communicated to Noticee No. 2 / Shri Nizzamuddin on June 13, 2017 at the address, "*S/o Sabbir Ahmed, R/o 165-A, Hauz Rani, New Delhi – 110034*". However it was also returned undelivered with remark, *"Door Locked-Intimation served / unclaimed".*

20. SEBI informed that the SCNs issued to Noticee No. 1, 5 to 7 was affixed at the last known address and SCNs issued to Noticee No. 2 to 4 affixture could not be done at the last known address, as after several enquiries with local public the address seems to be incomplete and not traceable. The details of affixture of SCNs issued to Noticee No. 1, 5 to 7 is given below:-

    a) SCN issued to Noticee No. 1 was affixed at the address, *"M/s Beetal Livestocks & Farm Pvt. Ltd, Plot No. 63, Udyog Vihar, Phase IV, Gurgaon, Haryana – 122001*" on July 8, 2017.
    b) SCN issued to Noticee No. 5 was affixed at the address, "Shri Raju Jhunni, B-218, Ground Floor, Lajpat Nagar-I, New Delhi – 110024." on July 9, 2017.
    c) SCN issued to Noticee No. 6 was affixed at the address, "Shri Sarif Khan, B-218, Ground Floor, Lajpat Nagar-I, New Delhi – 110024." on July 9, 2017.
    d) SCN issued to Noticee No. 7 was affixed at the address, "Shri Bharat Kumar, S/o Yudhishter Kumar, House No. 1026, Sector – 38, Gurgaon, Haryana – 122002." on July 8, 2017.

21. In order to conduct an inquiry in terms of rule 4(3) of the Adjudication Rules, the Noticee No. 1, 5 to 7 were granted an opportunity of personal hearing on August 2, 2017 vide notice dated July 13, 2017 through Speed Post Acknowledgement Due (SPAD) as well as SEBI on July 13, 2017 was asked to served / affix the hearing notice (HN) at the last known address of the Noticee(s). HN was also communicated to Noticee No. 1, 5 and 6 through email dated July 13, 2017 was duly digitally signed by the undersigned. Noticee No. 1 at the e-mail ID: casantosh_jha@yahoo.com and info@indiagoatFarming.com, to Noticee No. 5 at the e-mail ID: sk9811141515@yahoo.com and to Noticee No. 6 at the e-mail ID: sudhirneelam303@rediffmail.com, was duly digitally signed by the undersigned.

a) Hearing Notice issued to Noticee No. 1, 5, 6 and 7 returned undelivered with the remarks as mentioned in the below table;

Noticee No.	Name of Noticees	HN Returned with Remarks
1	M/s Beetal Livestocks & Farm Pvt. Ltd.	Refused to take
5	Shri Raju Jhunni	No such person
6	Shri Sarif Khan	No such person
7	Shri Bharat Kumar	Incomplete address

b) SEBI informed that the HNs issued to Noticee No. 1, 5 and 6 was affixed at the last known address and HN issued to Noticee No. 7 affixture could not be done at the last known address, as the present occupant did not allowed to affix the hearing notice. HN issued to Noticee No. 1 was affixed at the address, *"M/s Beetal Livestocks & Farm Pvt. Ltd, Plot No. 63, Udyog Vihar, Phase IV, Gurgaon, Haryana – 122001"* on July 19, 2017, HN issued to Noticee No. 5 was affixed at the address, "Shri Raju Jhunni, B-218, Ground Floor, Lajpat Nagar-I, New Delhi – 110024." on July 18, 2017 and HN issued to Noticee No. 6 was affixed at the address, "Shri Sarif Khan, B-218, Ground Floor, Lajpat Nagar-I, New Delhi – 110024." on July 18, 2017. The said notice was also uploaded at SEBI website in the head of "*Rulings/Orders - Unserved Summons/Notices*".

22. As the SCN issued to Noticee No. 2, 3 and 4 could not be delivered / affixed at the last known address. Further efforts were taken in order to serve the SCN issued to Noticee No. 2 to 4, in addition to what has been prescribed in the aforesaid Adjudication Rules for the service of notices; and accordingly, opportunity of hearing was provided to the Noticees (who were unserved) through newspaper advertisement on July 20, 2017 in one of the leading national newspaper "Times of India - Delhi", and in vernacular language newspaper "Dainik Bhaskar – Delhi editions" in Hindi at Delhi and "Times of India - Chandigarh", advising the Noticees to appear on August 2, 2017 for hearing.

23. In the aforesaid newspaper publication, it was also clearly indicated that the Noticees or their authorized representative may collect the copy of notices from the Adjudicating Officer and reply, if any, may be filed at least four days prior to the date of hearing.

However, none of the Noticees neither collected the said notices nor appeared for the scheduled hearing on August 2, 2017.

24. From the above efforts taken to serve the SCN / HN, (including the efforts made to serve the notices through newspaper publication), I am of the view that sufficient opportunities were provided to the Noticees to submit their reply, except for Noticee No. 3 and to appear for the hearing. Hence, I am proceeding against the Noticees on the basis of available records/evidences/reply of some of the Noticees.

CONSIDERATION OF ISSUES AND FINDINGS

25. The issues that arises for consideration in the present case are :

a) Whether the Noticees has violated the provisions of section 12(1B) read with Section 11AA of the SEBI Act and regulation 3 and 4 of the CIS Regulations?

b) If yes, then, whether the same is the violation attracting monetary penalty under section 15D(a) of the SEBI Act?

c) If yes, then, what would be the monetary penalty that can be imposed upon the Noticees taking into consideration the factors mentioned in section 15J of the SEBI Act read with rule 5(3) of the Adjudication Rules?

26. Before moving forward, it is pertinent to refer to the relevant provisions of the SEBI Act, 1992 and SEBI (CIS) Regulations, 1999 which read as under;

Section 11AA of the SEBI Act, 1992:

(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) shall be a collective investment scheme.
(2) Any scheme or arrangement made or offered by any company under which, -

i) *the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely 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."

Section 12(1B) of the SEBI Act, 1992:

12(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 a certificate of registration from the Board in accordance with the regulations.....

CIS Regulations

No person other than Collective Investment Management Company to launch scheme.
3. No person other than a Collective Investment Management Company which has obtained a certificate under these regulations shall carry on or sponsor or launch a collective investment scheme.

Application for grant of certificate.
4. Any person proposing to carry any activity as a Collective Investment Management Company on or after the commencement of these regulations shall make an application to the Board for the grant of registration in Form A.

27. As observed in pre paras that despite service of SCNs and hearing notices through by SPAD / affixture at the last known address of the Noticee(s) / newspaper publication / digitally signed email (Noticee No. 1, 5 and 6), the Noticee No. 1, 2, 4 to 7 neither submitted any reply towards the SCNs nor appeared for hearing under inquiry. It is well settled position of law as well as held by the Hon'ble Securities Appellate Tribunal (**SAT**) in the matter of *Classic Credit Ltd. v/s SEBI [2007] 76 SCL 51 (SAT - MUM) inter-alia* held that – *"the appellants did not file any reply to the second show-cause notice. This being so, it has to be presumed that the charges alleged against them in the show-cause notice were admitted by them".*

28. The Hon'ble SAT also made such proposition in case of *Sanjay Kumar Tayal & Ors. Vs. SEBI (in appeal No. 68/2013) decided on February 11, 2014 viz. "……………….., appellants have neither filed reply to show cause notices issued to them nor availed opportunity of personal hearing offered to them in the adjudication proceedings and, therefore, appellants are presumed to have admitted charges levelled against them in the show cause notices".*

29. Therefore, I rely upon the material available on record, I note that through various advertisements in newspaper, Beetal was inviting general public to invest in the scheme by offering guaranteed return of 1% to 2% per month on a minimum investment of ₹ 6,000. I note from Beetal's website displayed that "*we use your precious money in Goat*

Farming … our Group gives monthly return by providing Goat care services." Thus, it is clear that the contribution or payments received from investors were pooled and had to be utilised by Beetal for the schemes/arrangements of Beetal. I, therefore, find that the schemes/arrangements of the Beetal satisfy the first condition stipulated in section 11AA(2)(i) of the SEBI Act.

30. Under the schemes/arrangements of Beetal, the investors made contribution/payment with a view to receive profits, income and return promised to them. I note from the material available on record, the return offered by Beetal is payable in lump sum and recurring basis as well. Beetal had also promised to assure returns through bank guarantee. The average return offered by Beetal is about 23% to 31% (% has been calculated on the yield to maturity basis), depending on the plan. Thus, its schemes/arrangements satisfy the second condition in section 11AA(2)(ii) also.

31. Beetal was responsible for all expenses towards maintenance for the goats, their insurance, feed etc. Beetal had control over the rearing of the goat. Further, Beetal was responsible for the management of the scheme. Therefore, the schemes/agreement satisfied the third condition stipulated in the section 11AA(2)(iii).

32. I note from the Goat Care Agreement that Beetal had sole right over the goats reproduced, proceeds of goat milk sold & proceeds of stool of the goat and any other revenue derived by Beetal from this activity. Beetal had right to effect sale through wholesale market or through some marketing agents etc in local market or exports and such price as it deems fit and reasonable depending upon the circumstances prevalent at that time and the investor would not raise any objection to the same. Investors did not take part in managing and utilization of the contribution or investment forming part of schemes of Beetal at any stage under the scheme. I, therefore, find that the schemes offered by Beetal satisfied even fourth condition stipulated in the section 11AA(2)(iv).

33. In view of the above analysis and examination, I find that the schemes /plans of the Beetal satisfy all four conditions of section 11AA of the SEBI Act. I, therefore, find that the Beetal is engaged in the fund mobilising activity from public through investment

contracts by floating/sponsoring/ launching collective investment schemes as defined in section 11AA of the SEBI Act.

34. I note that in terms of section 12(1B) of the SEBI Act, no "person" shall sponsor or cause to be sponsored or cause to be carried on a *collective investment scheme* unless he obtains a certificate of registration from the Board in accordance with the regulations. Regulation 3 of the CIS Regulations provides that no person other than a Collective Investment Management Company which has obtained a certificate under the said regulations shall carry on or sponsor or launch a *collective investment scheme*. Therefore, a person can launch or sponsor or cause to sponsor a *collective investment scheme* only if it is registered with SEBI as a Collective Investment Management Company. Since Beetal has launched *collective investment schemes* without obtaining certificate of registration from SEBI, it has contravened provisions of section 12(1B) of the SEBI Act and regulation 3 of the CIS Regulations.

35. Noticee No. 3 has submitted in its reply to SCN that Noticee No. 4 and Noticee No. 7 have illegally used his identity card and documents. However, neither the Noticee No. 3 has given any evidence in support of his contention nor has he taken any legal action against Noticee No. 4 and Noticee No. 7 for alleged illegal use of his identity card and documents. I, therefore, find that mere an allegation on others does not abdicate Noticee No. 3 from his liability/responsibility as a director of Noticee No. 1.

36. Since, it is established that the Noticees were carrying on collective investment scheme without obtaining a certificate of registration from the Board in accordance with regulation. Hence, I am of the view that the Noticees had violated section 12(1B) read with Section 11AA of the SEBI Act and regulation 3 and 4 of the CIS Regulations and also keeping in view the facts and circumstance / undisputed fact, I am of the view that a monetary penalty needs to be imposed upon them under sections 15D(a) of the SEBI Act, which read as under.

Penalty for certain defaults in case of mutual funds.

15D- If any person, who is—

(a) required under this Act or any rules or regulations made thereunder to obtain a certificate of registration from the Board for sponsoring or carrying on any collective investment scheme, including mutual funds, sponsors or carries on any collective investment scheme, including mutual

funds, without obtaining such certificate of registration, he shall be liable to a penalty of one lakh rupees for each day during which he sponsors or carries on any such collective investment scheme including mutual funds, or one crore rupees, whichever is less.

37. I have taken into account the factors stipulated in section 15J of SEBI Act read with rule 5(2) of the Adjudication Rules, which reads as under;

15J - Factors to be taken into account by the adjudicating officer

While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-

(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(b) the amount of loss caused to an investor or group of investors as a result of the default;

(c) the repetitive nature of the default."

38. The available records neither indicates specific quantum of any unfair gain made by the Noticees nor the specific loss caused to the investors. I find it pertinent to mention here that registration is with the objective of protecting the interests of the investors, as it casts accountability and responsibility upon the registered Collective Investment Management Company to comply with all regulatory requirements applicable to the conduct of its business activity, so as to promote the best interests of clients and the integrity of the market. I consider that the act of the Noticees of carrying on *collective investment schemes* without seeking registration from SEBI was in itself in reckless disregard to the regulatory requirement in place, resulting in their unjust enrichment. Non-winding up / not refunding of the money collected with returns which were due to the investors as per the terms of offer by the Noticee No. 1 to 7, is certainly causing loss to the investors and is unlawful gain to the Company/Noticee(s). Further, not heeding towards the directions issued under SEBI order dated June 25, 2014 is certainly a serious irregularity affecting the interest of numerous investors at large. I cannot ignore the gravity of this matter as Noticee has launched *collective investment schemes* without obtaining certificate of registration from SEBI and did not wind up its existing collective investment schemes and refund the money even after lapse of 3 years from

the date of directions vide Order dated June 25, 2014 which certainly warrants the maximum penalty as stipulated in section 15D(a) of the SEBI Act to commensurate the violations committed.

ORDER

39. After taking into consideration all the aforesaid facts / circumstances of the case, I hereby impose a penalty of `1,00,00,000/- (Rupees One Crore only) under section 15D(a) of the SEBI Act, upon Noticee No. 1 to 7 (namely – M/s Beetal Livestocks & Farm Private Limited, Shri Nizzamuddin Sabbir, Shri Abdul Slam, Shri Manish Girdhari, Shri Raju Jhunni, Shri Sarif Khan, and Shri Bharat Kumar). The said penalty of `1,00,00,000/- (Rupees One Crore only) shall be paid by them jointly and / or severally. I am of the view that the said penalty would commensurate with the violations committed by them.

40. The Noticee No. 1 to 7 shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of Demand Draft in favour of "SEBI – Penalties Remittable to Government of India", payable at Mumbai, or through e-payment facility into Bank Account the details of which are given below;

Account No. for remittance of penalties levied by Adjudication Officer	
Bank Name	State Bank of India
Branch	Bandra-Kurla Complex
RTGS Code	SBIN0004380
Beneficiary Name	SEBI – Penalties Remittable To Government of India
Beneficiary A/c No.	31465271959

41. The Noticee shall forward said Demand Draft or the details / confirmation of penalty so paid through e-payment to the Chief General Manager of Enforcement Department of SEBI. The Format for forwarding details / confirmations of e-payments shall be made in the following tabulated form as provided in SEBI Circular No. SEBI/HO/GSD/T&A/CIR/P/2017/42 dated May 16, 2017 and details of such payment shall be intimated at e-mail ID - tad@sebi.gov.in

Date	Department of SEBI	Name of Intermediary/ Other Entities	Type of Intermediary	SEBI Registration Number (if any	PAN	Amount (in Rs.)	Purpose of Payment (including the period for which payment was made e.g. quarterly, annually	Bank name and Account number from which payment is remitted	UTR No

42. In terms of rule 6 of the Adjudication Rules, copies of this order are sent to the Noticees and also to the SEBI.

DATE: AUGUST 9, 2017 **RACHNA ANAND**

PLACE: MUMBAI **ADJUDICATING OFFICER**