

X/13
25.4.2022

SEBI/41/2018

No. of Order	Date	Order with signature to the Judge	Office Note as to action Taken on order (if any) and Date
		- 2 - <u>Contd. Order No.26 dated 07.04.2022</u> At this stage Ld. Public Prosecutor representing the SEBI files an adjournment petition prays for time for submitting further report from SEBI against the petition dt. 21.12.2021 Prayer is allowed. To 22.04.2022 for report from SEBI. Dictated and Corrected by me Judge, WB-592 5th Special Court, Calcutta <u>Order No: 27 dated 22/4/2022</u> Today is fixed for appearance and filing of report by SEBI. Ld. P.P. for SEBI is present. Accused no: 2 - Pradip Kumar Bera is present by filing baizra. Other accuseds are not present since there has been inadvertence in not fixing their date of appearance. At this stage Pradip K. Bera (accd. no:2) files a petition praying for permission to plead guilty to the offences alleged by the SEBI authorities. This day SEBI has filed a report alongwith a bunch of xerox documents against the prayer of the accused no: 2's intention to plead guilty. Another written objection dtd: 7/4/22 was filed by the SEBI authorities of which SEBI authorities have pleaded to be considered while considering the plea of guilty of the petitioner no: 2 (accused no: 2 herein). The petitioner's petition and prayer is taken up for hearing and orders. Accused no: 2 Pradip Kumar Bera submits before the Court that he has already paid	

29/04/22

1) Date of application for certified copy 25-04-2022

2) Date fixed for notifying the requisite stamp.....

3) Date of delivery of the requisite stamps.....

4) Date on which the copy was ready for delivery.....

5) Date of making over the copy of the applicant..... 29-04-2022

6) Cost of copy..... *Free of cost*

7) Number of xerox sheets used..... *07 (Seven Xerox sheets)*

[Signature]
Branch Clerk 29/04/22



X/113
25-4-2022

ORDER SHEET FOR JUDGES' RECORDES

DISTRICT (CALCUTTA)

IN THE COURT OF CALCUTTA FIFTH SPECIAL COURT

Special Case No. (SEBI/41/2018)

SEBI versus Golden Heaven Agro Project India, 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. Order 27 27/4/22		an amount of Rs 11,87,600/- (eleven lakhs eighty seven thousand and six hundred rupees) only, to the 33 investors/complainants out of a total of 53 complainants during the year 2014 to 2018 and 2019 prior and after filing of the instant proceedings, by selling his father's land and also by taking loan. It is his further submission that the SEBI authorities have already frozen the bank account of the accused no.1 - Company as well as the personal accounts of the accused no.2. Not only that, the PAN CARD of the accused no.2 has been "blocked" by the SEBI authorities. Under such circumstances it was not possible for the petitioner to make payment through banking channels. Presently, he is in great mental agony and it is not being possible for him to continue with the proceedings which have not yet commenced. His livelihood is being hampered and hence he intends to plead guilty of the offences as alleged by the SEBI authorities. The SEBI authorities have filed two written objections to the prayer of the accused no.2. Taking both the objections together and upon perusal and consideration thereof, I find that these petitions contain a gist of the contents of the original	Contd... <i>[Signature]</i> 29/04/22



No. of Order	Date		Office Note as to action Taken on order (if any) and Date
X/13 25-4-2022		petition of complaint. In addition, there are a bunch of xerox copies of documents annexed to the written objection filed today. Upon perusal thereof and on consideration of the Id. P.P. for SEBI, I find that these are xerox copies of the original certificates of Redeemable Preference Share Certificate of the investors from whom money was collected. It is admitted by the Prosecution that the names of 33 investors (as being claimed by accused no. 2 and list given to that effect) are mentioned therein. Record reveals that list of the persons who have received different amounts have already been sent to SEBI. Names and addresses of these investors are clearly mentioned in the said list. This is also supported by the documents furnished by SEBI this day before the Court. It is surprising as to why SEBI could not verify this list to come to a conclusive decision as to whether at all, any payments, as stated by accused no. 2 has been made or not. SEBI has submitted in Court that no infrastructure is there into them to undergo such verification. This explanation appears to be a ridiculous one considering that SEBI is an organisation to protect the interests of investors. As such, the objection of the SEBI authorities cannot be entertained herein. So far, as the matter of pleading guilty by an accused is concerned, neither the Court nor the Prosecution can stand in the way of the intention of the petitioner. The accused no. 2 has stated that he has already paid an amount of Rs 11,87,600/- to 33 investors — list of such investors have been furnished before this Court.	29/04/22



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

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<u>-contd-</u> <u>Order-27</u> <u>22/4/22</u>		The said contention has also been substantiated by SEBI. Thus, accused no: 2 prays that his plea of guilt may be accepted and a lenient view may be taken in awarding punishment. This is a case u/s 67/68/SSA/621 of the Companies Act, 1956 r.w. S- 436/439 of Companies Act, 2013 r.w. S-607 of General clauses Act, 1897 and S- 24(D)/26B/27 of Sebi Act. Legally speaking, the charge u/s 67/SSA of Companies Act 1956 r.w. S- 436/439 of Companies Act, 2013 r.w. S-6 of the General clauses Act do not contemplate any punishment. S- 58 of companies Act, 1956 provides for "imprisonment which may extend to 5 years or with fine which may extend to ten thousand rupees, or with both". S-27 of the SEBI Act has come naturally as being the joint liability to the company but any further deliberations on this point is not welcome at this stage since the accused no: 2 intends to plead guilty to the offence. S- 24(D) of SEBI goes as follows: - "without prejudice to any award or penalty by the adjudicating officer (or the Board) under this	

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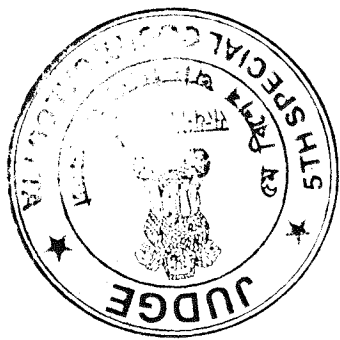
29/04/22



No. of Order	Date		Office Note as to action Taken on order (if any) and Date
		Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years or with fine, which may extend to twenty five crore rupees, or with both." In this case the provision of S-68 of the Companies Act, 1956 and S-24(1) SEBI Act applies. The accused no. 2 Pradip Kumar Bera pleads guilty to the charges brought and alleged against him. I have cautioned him repeatedly and made him aware of the highest punishment which could be awarded to him, ~~if~~ by the law. In spite of it, Pradip Kumar Bera intends to plead guilty and submit that he is doing so out of his free will and volition. Thus, the plea of guilt by Pradip Kumar Bera is accepted by the Court. Pradip Kumar Bera is taken into custody. The convict Pradip Kumar Bera is found to have already paid an amount of Rupees eleven Lakhs eighty seven thousand and six hundred only to 33 investors. He, being a layman may not have had the knowledge to approach SEBI authorities to de-freeze his bank accounts so that payments could be made through banking channels. Considering all aspects, I feel that when the convict has already paid such an amount as above and which has been substantiated by SEBI authorities, it would be prudent to take a lenient attitude towards the convict and award punishment to that effect.	

[Signature]
29/04/22

X/13
25-4-2022



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

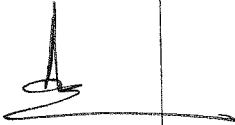
ORDER SHEET FOR JUDGES' RECORDES
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Sl. No. of Order	Date	Order with signature to the Judge	Office Note as to action Taken on order (if any) and Date
- contd - Order - 27 22/4/22 Original fine slip (F867034) Received by me Pradip Kumar Bera. 22/04/22		Thus, the convict Pradip Kumar Bera on pleading guilty is directed to pay an amount of Rs 50,000/- only (fifty thousand only) as fine to be deposited at government Exchequer. The convict ~~will~~ is also sentenced to T.R.C and shall be released on payment of fine. if he shall have to suffer S.I. for two years. As this Court does not maintain any Fine Register, the fine amount is to be kept deposited with Cashier - C.M.M. Court - Kolkata. Let a copy of this order be sent to D.C.M.M. Kolkata. A. Judge 5th Spl Court Kolkata Later order dt: 22/4/22 The fine amount of Rs 50,000/- has been deposited as per order of the Court. It is reported that the same has been deposited in government Exchequer at the head of fine maintained in the said office.	Contd... 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
		- 2 - The fine slip is provided before me accordingly. Let these be kept with the record for future reference and necessity. (Own fine slip no: F-867034) (CMM Court fine slip receipt No:- Q 151413). Thus, payment of whole amount of fine has been deposited. Convict Pradeep Kumar Bera be released after completion of TRC and set at liberty. It is now 5-30 P.M. Convict Pradeep Bera be released and set at liberty. Surety of his bail bond stands discharged from his liability.  Judge 5th Spl Court Kolkata  29/04/22	

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