

**BEFORE THE RECOVERY OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA, KOLKATA**

Recovery Certificate No. 596 of 2015
(In the matter of Ramel Industries Limited)

M/s. Dolphin Suppliers Private Limited
14/2/A, Nagendra Nath Road
South DumDum (m), North 24 Parganas
DumDum, West Bengal- 700022

..... Bidder

**Order under Section 28A of the Securities and Exchange Board of India Act, 1992
r.w Rule 14, 56, 57 and 58 of Second Schedule to the Income Tax Act, 1961.**

1. Recovery proceedings have been initiated in Recovery Certificate No. 596 of 2015 dated March 13, 2015 and 679 of 2015 dated June 5, 2015 drawn against Ramel Industries Ltd. & Ors. [hereinafter referred to as "Defaulter(s)"] for failure to pay a sum of Rs. 60,86,00,000/- and Rs. 1,30,31,90,451/-, respectively, along with further interest, all costs, charges and expenses etc., on account of a direction of Securities and Exchange Board of India (hereinafter referred to as "SEBI") to refund money to the investors.
2. SEBI has in exercise of powers conferred u/s. 28A of SEBI Act, 1992 read with provisions of Income Tax Act, 1961 issued E-Auction Sale Notice dated January 28, 2022 for sale of 13 properties including the following property owned by Defaulter and held in the names of the Defaulter, which were attached by SEBI in the recovery proceedings against it.

Property Details:

S. No.	Description of the property	Reserve price (In Rs.)	EMD (In Rs.)
5 (as per notice of sale)	Agricultural Land (28 Properties) admeasuring 1252.5 decimal situated at P.S. Chakdaha, Tehsil- Kalyani, Dist.- Nadia, appertaining to Mouza- Alaipur	1,65,06,634/-	16,50,663/-

3. As per the existing arrangement, SEBI entrusted the valuation and e-auction process to Quikr Realty Pvt. Ltd ("Agency") and the Agency has engaged C1 India ("E-auction Service Provider"). The aforesaid E-Auction Sale Notice was published



by SEBI in the Newspapers, viz., The Statesmen, Sanmarg and Bartaman Patrika on January 28, 2022 wherein a reference has been made to the detailed sale notice, along with Conditions of Tender-cum-eAuction, Bid Form, Declaration Form, General Guidelines to Bidders and Technical Terms & Conditions of Online Auction Sale [collectively referred as "Notice of Sale"] issued by SEBI and made available on the websites of SEBI and the Agency.

4. M/s. Dolphin Suppliers Pvt. Ltd ("Bidder"/ "Dolphin") submitted their bid along with Earnest Money Deposit (EMD) of 10% of the reserve price and the declarations of having read and accepted the terms and conditions of Notice of Sale in respect of the aforesaid one property, on January 28, 2022 for the e-auction scheduled on February 24, 2022. After conclusion of e-auction on February 24, 2022, the Bidder was declared as "Highest Bidder" with a price bid of Rs. 4,64,06,634/- (excluding 1% poundage) and was informed through Agency about the payment of 25% (including EMD) Rs. 99,50,995/-, immediately on receiving intimation, and remaining 75% of their bid amount, i.e. Rs. 3,52,69,041/- within 15 days from the date of e-auction. Bidder paid i.e. 25% of bid amount (including EMD amount) i.e. Rs. 99,51,000/- on February 26, 2022.
5. For balance 75% of bid amount, a reminder was sent by the Agency to Bidder for making payment by March 5, 2022 as per timelines. Bidder vide email dated March 7, 2022 submitted as under:

"I, Priyajit Saha director of Dolphin Suppliers Pvt. Ltd. As the highest bidder of the Auction Property of Ramel Industry S.No 5 as the total amount of the property stands at 4,68,70,700/- including the poundage fee. As per the nobs I have already paid 25% of the total amount and the rest had to be paid by 10th of March 2022. I have a humble request to make as it is the financial year ending I would like to request to extend the time of full payment to 1 month (10th of April). In between I will pay more 25% off the total amount by 10th of March and the rest within a months time I will clear the rest 50% of the amount.

So, I would kindly request you to please accept my request and extend the time for a month."

6. In response to Bidder's above email, SEBI vide email dated March 09, 2022 informed as under:

"With regard to your email, please refer to the terms and conditions of the notice of sale dated January 28, 2022 in the matter of properties of Ramel Industries Ltd. Please note that by participating in the auction, bidders agree to abide by all terms and conditions laid out by SEBI with regard to the auction, including all timelines laid out for payment.



As per clauses 10, 11(a) and 16(b) of Annexure II of notice of sale dated January 28, 2022, default of payment of bid amounts within the stipulated time shall render automatic cancellation of sale to successful bidder without any notice and forfeit of EMD and other deposits.

Your bid form also includes your consent to the following terms- I/We also agree that after my/our offer given in my/our bid for purchase of the assets is accepted by the agency and I/We fail to accept or act upon the terms and conditions of the sale or am/are not able to complete the transaction within the time limit specified for any reason whatsoever and/or fail to fulfil any/all the terms and conditions of the bid and offer letter, the EMD and any other monies paid by me/us along with the bid and thereafter, are liable to be forfeited, without notice to me/us. (Point 4 of declaration form)

In view of the above, **if your payments are not received by SEBI within the timelines mentioned in the email dated February 24, 2022 sent by Quikr Realty Ltd, Recovery Officer reserves the right to cancel your bid in terms of Point 16 (b) of Annexure II of notice of sale dated January 28, 2022 as published on SEBI website and consider the next highest bid received for the property at S No 5"**

7. Bidder again informed to SEBI vide email dated March 10, 2022 as under:

"I, PRIYAJIT SAHA director of DOLPHIN SUPPLIERS PVT. LTD would like to bring in notice that I was supposed to make the payment of the rest 75% of the amount by today as i was the highest bidder of the S.No 5 of Ramel Industry in the auction. My rest 75% amount was ready to transfer but unfortunately I would not transfer the amount as i got COVID-19 positive. As I am into isolation process so I couldn't do the bank transaction. Do consider the situation and I will transfer the rest amount within next 8 days time without fail.

So, please it's an humble request from my side as i do not want to be a defaulter of the said property. I am very well aware of the terms and conditions of the auction as i have already purchased an property earlier from SEBI."

8. Bidder, vide email dated March 11, 2022, was again made aware of terms and conditions for making payments and was required to comply the same. The said email read as under:

"You may please refer to our email dated March 9, 2022. It is reiterated that no extension of timeline will be given for any reason whatsoever, as stated clearly in the terms and conditions applicable to all bidders who participate in the auction. As per clauses 10, 11(a) and 16(b) of Annexure II of notice of sale dated January 28, 2022, default of payment of bid amounts within the stipulated time shall render automatic cancellation of sale to successful bidder without any notice and forfeit of EMD and other deposits. You are required to make payment within the timelines."

9. Since, the Bidder failed to make remaining 75% of bid amount as per the timelines mentioned above, his bid was cancelled by the Recovery Officer (RO) and forfeited amount was deposited with SEBI in terms of clauses 10, 11(a) and 16(b) of General guidelines to bidders of the notice of sale.

10. Aggrieved by the decision of forfeiting 25% of bid amount by the RO, the Bidder filed a W.P.A No. 5994 of 2022 before the Hon'ble Calcutta High Court (hereinafter



referred as "Hon'ble Court") in the month of March 2022. The same was dismissed by Hon'ble Court vide its order dated April 4, 2022 directing as under:

"This Court does not see any bona fides in the petitioner's submission or the relief claimed since it is impossible to believe that the petitioner was prevented from putting in the balance 75% due to COVID and the performing director's isolation."

11. Subsequently, Bidder filed an appeal before Hon'ble Court against the above mentioned order dated April 4, 2022. The said appeal was dismissed by the Hon'ble Court vide its order dated June 29, 2022 due to non-appearance of the party i.e. Bidder. Latter on vide order dated December 12, 2024 the appeal was restored (MAT No. 632 of 2022). The Hon'ble Court heard the submissions of both parties on several dates. After hearing of both the parties, Hon'ble Court vide its order dated March 27, 2025 directed as under:

"34. In course of hearing of the instant appeal, the appellants never endeavored to challenge the finding of learned Single Judge whereby learned Single Judge disbelieved the case of the appellant to the effect that he was prevented by the intervention of COVID-19 in making payment of the balance consideration money within time specified in the contract. We, therefore, have no justification to interfere with such finding of learned Single Judge. Accordingly, we uphold the same."

"35. We, however, set aside the impugned judgment and order so far as it relates to the rejection of the prayer of the appellant for return of EMD. The respondent shall proceed to determine the nature and extent of forfeiture of the EMD amount afresh. In doing so, the respondent shall provide sufficient opportunity of being heard to the appellant. The respondent is at liberty to hear any other parties and consult any document as it deems necessary. The respondent shall take a decision in this regard within 8 weeks from date and communicate its decision to the party it heard forthwith thereafter"

Opportunity of hearing

12. In terms of the aforesaid directions of Hon'ble Court, the Bidder was provided an opportunity of Personal Hearing on April 02, 2025 vide Hearing Notice dated March 28, 2025 which was sent via email to its email id dolphinsuppliers@ymail.com (Bidder made various communications through this email id during auction period). However, the Bidder did not appear for the Personal Hearing nor submitted its reply or any request for adjournment of hearing. Another opportunity of Personal Hearing was provided to the Bidder on April 07, 2025 vide Hearing Notice dated April 02, 2025 sent to its email id. However, the Bidder neither appeared for the Personal Hearing nor submitted its reply nor requested for any adjournment of hearing. In order to comply with the aforesaid directions of the Hon'ble Court and



in order to comply with the principles of natural justice, another opportunity of Personal Hearing was granted to the Bidder on April 21, 2025 vide Hearing Notice dated April 09, 2025 which was sent via SPAD to the address provided in the bid form and through email. The hearing notice could not be delivered to the Bidder address and as per the website of Indian Posts, status is shown as *Item on hold due to door locked*. However, the email forwarding the hearing notice got delivered and delivery report of the email is on record. However, the Bidder neither appeared for hearing nor filed any submissions nor requested for any adjournment of hearing. As a last opportunity of hearing, another hearing was provided to the Bidder on May 26, 2025 vide Hearing Notice dated May 21, 2025 and May 23, 2025 sent to its email id. In response to hearing notice, the bidder through its representative informed via email dated May 25, 2025 that they will be present for personal hearing.

13. Mr. Priyajit Saha, director of Dolphin Suppliers and Hemant Tiwari, representative on behalf of Dolphin Suppliers) attended the hearing on May 26, 2025. During the hearing, Mr. Priyajit Saha stated that the earlier emails sent by Recovery Cell-ERO providing an opportunity of hearing on April 2, April 7 and April 21, 2025 were received by Mr. Priyajit Saha. However, the said emails were not seen at that point of time. All the emails were seen only when the communication was received for fourth opportunity of hearing (for May 26, 2025) provided by the Recovery Officer. Mr. Priyajit Saha along with his representative reiterated to consider the observations made by the Hon'ble Calcutta High Court in its order dated March 27, 2025 and requested that the loss caused to SEBI due to default by Mr. Priyajit Saha for the property in question, may be deducted from the deposit with SEBI and the remaining amount be refunded.
14. Recovery Officer instructed Mr. Priyajit Saha and his advocate to provide supporting documents like Bank Statements having sufficient credit balance on March 10, 2022 towards the claim by Mr. Priyajit Saha, that "*My rest 75% amount was ready to transfer but unfortunately I would not transfer the amount as I got COVID-19 positive*" (as informed by Mr. Priyajit Saha vide email dated March 10, 2022) within 15 days.



15. In response, the representative of Dolphin submitted relevant Bank account statement and FD receipt via email dated June 13, 2025. As per the bank account statements, the account balance as on March 10, 2022 was Rs. 1.78 Crores and the as per FD receipts the account had principal amount of Rs. 75 Lakhs. Further, the representative via email dated June 13, 2025 also submitted that Dolphin had cash amount of Rs. 20 Lakhs.

Consideration of Issues:

16. As directed by Hon'ble High Court, I am re-considering the extent of forfeiture of the EMD amount afresh. I have considered the submission of the Bidder before the Hon'ble High Court and the cases cited from both sides. As per the record, I note that after conclusion of e-auction on February 24, 2022, the Bidder was declared as "Highest Bidder" with a price bid of Rs. 4,64,06,634 and the same was immediately informed to the Bidder. Once this information reached the Bidder, the invitation to offer, becomes a legally binding contract between the two parties. I also note that Para 16 of General guidelines to bidders of Tender-cum-E-auction reads as under:-

11. Default of Payment:

(a) Default of payment of bid amounts within the stipulated time shall render automatic cancellation of sale without any notice.

(b) The EMD, after defraying the expenses of sale, etc., shall be forfeited, at the discretion of SEBI, either in full or part.

17. Similarly, Rule 58 of the Income tax Rules, also confers discretion regarding forfeiture of the deposit in case of a default of payment. Rule 58 of the Second Schedule of the Income Tax Act, 1961 read as follows:

Procedure in default of payment.

58. In default of payment within the period mentioned in the preceding rule, the deposit may, **if the Tax Recovery Officer thinks fit**, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.



18. Thus SEBI had a discretion to forfeit any amount in case of Default of Payment. The Hon'ble Supreme Court through its series of Judgements, including the landmark case of Kailash Nath Associates vs. DDA & ors. [(2015) SCC 136] has settled that the discretion to be exercised for forfeiture of earnest money must be reasonable. In order to ascertain the yardstick of "Equanimity" I have taken guidance of the following cases: - *MBL Infrastructure Ltd. VS. Rites Ltd & ors* [AIR 2020 CALCUTTA 155]; *Shree Coal Enterprises India Pvt. Ltd. v. Coal India Limited* [(2018) 05 CAL CK 0052]; *Kailash Nath Associates vs. Delhi Development Authority and Anr.* [(2015) SCC 136]; *Security Engineers Private Limited Vs Electro Medical & Allied Industries Limited* [(2024) SCC OnLine Cal 111]; *M/s Gemini Foundation vs. V. B. Giri and Ors.* [(1999)1MLJ193, (1998)]; *Pishorilal Sethi & Anr Vs Tax Recovery Officer & Ors* [(1990) SCC OnLine All 870]; *Manilal Mohanlal Shah v. Sardar Sayed Ahmed Sayed Mahmad* [(1954) 1 Supreme Court Cases 724]; *Raghunath Lenka Vs Karunakar Rout and Others* [AIR 1957 Ori 257]; *Authorized Officer, Central Bank of India Vs Shanmugavelu* [(2024) 6 Supreme Court Cases 641].
19. The essential element in all the above mentioned cases suggest that Reasonable compensation for Default of payment should be as per Section 73 and 74 of Indian Contract Act, 1872 and Order XXI, Rule 86 of Civil Procedure code, 1908. The relevant provisions are reproduced below:-

CHAPTER VI OF THE CONSEQUENCES OF BREACH OF CONTRACT

73. Compensation for loss or damage caused by breach of contract.—When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it. Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.

Compensation for failure to discharge obligation resembling those created by contract.—When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default, as if such person had contracted to discharge it and had broken his contract.

Explanation.—In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account.



74. Compensation for breach of contract where penalty stipulated for.— 1[When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, or if the contract contains any other stipulation by way of penalty, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named or, as the case may be, the penalty stipulated for

Explanation.—A stipulation for increased interest from the date of default may be a stipulation by way of penalty.]

Exception.—When any person enters into any bail-bond, recognizance or other instrument of the same nature, or, under the provisions of any law, or under the orders of the 2 [Central Government] or of any 3 [State Government], gives any bond for the performance of any public duty or act in which the public are interested, he shall be liable, upon breach of the condition of any such instrument, to pay the whole sum mentioned therein.

Explanation.—A person who enters into a contract with Government does not necessarily thereby undertake any public duty, or promise to do an act in which the public are interested.

Order XXI Rule 86 of the Code of Civil Procedure (CPC)

86. Procedure in default of payment.—In default of payment within the period mentioned in the last preceding rule, the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

20. Therefore, after considering the fact and circumstances of this case and various Judgements quoted above along with Section 73 and 74 of India contract Act, 1872, Order 21, Rule 86 of CPC, I am of the view that Reasonable compensation in the present case would suffice if the actual expenses incurred by SEBI is defrayed from the Bidder. From the records, I note that in the subsequent auction dated April 21, 2022, the property was sold at a price i.e. Rs. 4,63,06,634/-. Therefore, the actual expenses incurred by SEBI for the 1st auction of this property comes as under table:

S. No.	Description	Amount (Rs.)
1.	Difference of price in resale from 1st auction to 2nd auction	1,00,000
2.	Brokerage charges	6,29,738
3.	Auction platform charges	4,720
4.	Advertisement expenses	24,622
5.	Total	7,59,080



ORDER

21. In view of the above, the claim made by the Dolphin Suppliers Pvt. Ltd. to refund the Money Deposited in respect of properties at Chakdaha is hereby allowed after defraying the cost of Rs. 7,59,080 incurred by SEBI as mentioned at para 20 above. Accordingly, an amount of Rs. 1,08,42,583 (Rupees One Crore Eight Lakhs Forty Two Thousand Five Hundred Eighty Three only) shall be remitted back to Dolphin Suppliers Pvt. Ltd..

Place: Kolkata

Date: June 19, 2025



Mitrajeet Dey .
Deputy General Manager

Recovery Officer

मित्रजीत दे / Mitrajeet Dey
वसूली अधिकारी एवं उप महाप्रबंधक
Recovery Officer & Dy. General Manager
भारतीय प्रतिभूति और विनिमय बोर्ड
Securities and Exchange Board of India
कोलकाता / Kolkata