**RRD/RD-3/RO/Order No. 007/2025**

**BEFORE THE RECOVERY OFFICER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**Certificate No. 0436 of 2014**

**Defaulter: M/s Four Season Farms Limited**

**Mr. Jitendra Hiralal Mehtra and Mr. Pravinchandra Hiralal Mehtra……Applicants**

**ORDER UNDER RULE 11 OF THE SECOND SCHEDULE TO THE INCOME-TAX ACT, 1961 READ WITH SECTION 28A OF THE SEBI ACT, 1992 IN THE MATTER OF FOUR SEASON FARMS LIMITED.**

## BACKGROUND:

1. Securities and Exchange Board of India (SEBI) vide order dated February 13, 2002 directed M/s Four Season Farms Limited (hereinafter referred to as 'Defaulter') to refund Rs.15.20 crore collected in violation of SEBI (Collective Investment Schemes) Regulations, 1999 together with assured returns, interest, cost, etc. to the investors.

2. Since the Defaulter failed to refund the monies so collected, as directed by SEBI, recovery proceedings were initiated by SEBI against the Defaulter under Recovery Certificate No. 436 of 2014 dated September 19, 2014. A Notice of Demand dated September 19, 2014 was issued to the Defaulter directing them to make the payment of the aforementioned amount within 15 days and vide Notices of Attachment dated September 19, 2014, the bank/demat accounts and mutual fund folios of the defaulter were attached.

3. In spite of the said notices, the Defaulter failed to pay the entire dues and the amount available in the bank/demat accounts of the Defaulter was insufficient to pay the entire dues, as detailed in the Recovery Certificate No. 436 of 2014. Therefore, the Recovery Officer, SEBI vide Prohibitory order dated November 21, 2014 under section 28A of SEBI Act, 1992 read with Rule 16 and 48 of the Second Schedule of the Income-tax Act, 1961, prohibited the Defaulter from disposing, transferring, alienating or charging in respect of:

    a. *"all the immovable properties held by the Defaulter including the following:*

i. *17 flats in Vasundhara Building, situated at Plot No. 620 (Pt), Bengali Compound, behind Minaxi Tower, Gokuldham, Goregaon (East), Mumbai – 400063*
ii. *252.06 acres of agricultural land at Taluka: Mahad and Mangaon with approx. 500 cashew trees and 40,000 teakwood trees.*
iii. *Prawns Hatchery Plant at Village: Kothrude, Taluka: Mahad District: Raigad*

b. *All other movable properties held by the Defaulter."*

4. Further, the abovementioned Prohibitory Order dated November 21, 2014 also directed the Defaulter to furnish the following:

   a. *"complete details of all the movable and immovable properties held by the defaulter and charges, if any thereon in the format prescribed in the Annexure, duly certified by the Board of Directors within one week from the date of this order.*

   b. *copies of all the title deeds, valuation reports of all the properties held by it within two weeks from the date of this order.*

   c. *list of all schemes floated by the defaulter along with brochure/ scheme information document for each of the schemes and details of all activities undertaken under each of the schemes within two weeks from the date of this order.*

   d. *complete list of all investors along with address, telephone number, bank details, details of investments, the amounts due in each of the schemes etc., both in electronic and physical form within one month from the date of this order."*

5. At this point of time, the Defaulter challenged the said recovery proceedings initiated by SEBI in Appeal No. 62 of 2015 before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as 'the Hon'ble SAT'). In appeal, the Defaulter contended that the amount collected from the investors have already been refunded pursuant to the proceedings initiated under the Maharashtra Protection of Interests of Depositors (in Financial Establishments) Act, 1999 (MPID Act).

6. Accordingly, the Hon'ble SAT vide order dated August 4, 2016 disposed of Appeal No. 62 of 2015, and observed as under:

   *"If the amount is already refunded, the proper course for the appellant is to satisfy the Recovery Officer with facts and figures and by furnishing*

*requisite particulars called for and not to challenge the order passed by the Recovery Officer by filing an appeal before the Tribunal.*

*In these circumstances, the counsel for the appellant seeks to withdraw the appeal and seeks four weeks' time to furnish requisite particulars called for by the Recovery Officer.*

*Accordingly, the appeal is allowed to be withdrawn and the appellant is granted four weeks' time to furnish the particulars as per the list set out in the impugned order dated November 21, 2014."*

7. However, the Defaulter failed to furnish any of the details of repayment to the investors or the information directed to be submitted by the Recovery Officer (in the order dated November 21, 2014) within four weeks' time as directed by the Hon'ble SAT, i.e. by September 6, 2016. Subsequently, the Defaulter vide letters dated September 7 and September 26, 2016, informed SEBI that there are no investors whose claims remain unsettled and requested for extension of time till October 4, 2016 for complying with the Hon'ble SAT's order as the records are in the custody of the Hon'ble MPID Court/ Economic Offences Wing (EOW). Since sufficient time has already been given to the Defaulter, the Recovery Officer, SEBI vide letters dated September 14, 2016 and October 4, 2016, directed the Defaulter to submit the information regarding repayment made to the investors and other details as per the directions of SEBI and the Hon'ble SAT.

8. Vide letter dated October 5, 2016 the Defaulter submitted six volumes of photocopies of documents claimed to be pertaining to repayments made to the investors. After analysing the said documents and submissions of the Defaulters, Recovery Officer, SEBI passed an order on November 22, 2016 holding that it would not be possible to conclude that the Defaulter has repaid the entire money to the investors. Accordingly, the claim of the Defaulter that it had repaid entire dues to all the investors was rejected.

9. The Recovery Officer, SEBI, thereafter proceeded to dispose-off the attached assets and in this regard, Notice of Sale for e-auction of 17 flats in Vasundhara Co-Op. Housing Society Limited, Vatika Road, Off Film City Road, Gokuldham, Goregaon (East), Mumbai – 400063 was issued by SEBI on August 10, 2018, *inter alia*, against the properties of the Defaulter and the same was published in Times of India, Lokmat and Dainik Jagran.

10. Against the said Notice of Sale for e-auction, Cello Infrastructure Limited had filed Writ Petition No. 1951 of 2019 before the Hon'ble High Court of Bombay on September 6, 2018 seeking to direct SEBI to abstain from auctioning certain flats. Vide order dated September 12, 2018, the Hon'ble High Court of Bombay

granted an interim order and directed that, the auction scheduled to be held on the said date be proceeded with however, SEBI shall not take any decision with regard to finalization of the auction. It may be noted that no bids were received in the above mentioned e-auction and therefore, the auction could not be finalized. Subsequently, an Interim Application No. 40552 of 2022 was filed before the Hon'ble High Court of Bombay by Vasundhara Co-Op Housing Society Limited challenging the attachment of said flats by SEBI.

11. The Hon'ble High Court of Bombay vide order dated October 17, 2023 disposed of the said Interim Application along with the Writ Petition No, 1951 of 2019, and observed as under:

> *"2. We have heard learned counsel for the parties, as also having perused the record, we are of the opinion that of the petition in regard to the prayers as made, need not proceed for adjudication any further, suffice it to observe, that in the event, the SEBI has any future plans to auction the property, a 14 days' notice of such auction shall be issued to the petitioners, so as to enable the petitioners to assert any challenge to the same, if the petitioners so desire.*
>
> *3. ...the interveners are free to assert their rights, if any, in regard to the said property in a manner known to law and / or in defending any action, if any resorted by the SEBI against the interveners."*

12. In compliance of the above-said order, vide letter dated May 14, 2025, a 14 days' notice was given to the petitioners as well as the Intervenors in Writ Petition No. 1951 of 2019 wherein a list of flats to be auctioned was provided. Vide the said letter, the Petitioners and Intervenors in the aforesaid Writ Petition were given 14 days' time to assert any challenge to the proposed auction and the attachment of properties.

**WRITTEN SUBMISSIONS AND PERSONAL HEARING:**

13. Pursuant to the above notice, the Applicants, through their authorized representative, Mr. Bipin Janardan Sane (hereinafter referred to as **"AR"**) vide letter dated July 30, 2025, submitted the following in respect of Flat No. 204, Vasundhara Co-Op. Housing Society Limited, Goregaon (East), Mumbai – 400063 ("hereinafter referred to as **"Flat No. 204"**).

14. The AR of the applicants, vide letter dated July 30, 2025, made the following submissions:

a. The applicants are the owners and purchasers of Flat No. 204 which was purchased by them from developer M/s Harishree Enterprises (hereinafter referred to as **“the developer”**) by executing registered sale agreement.

b. Flat No. 204 was attached by Syndicate Bank Limited whereupon the applicants approached the Debts Recovery Tribunal and got Flat No. 204 released.

c. The applicants have purchased Flat No. 204 from the developer by paying the entire consideration amount to the developer. In this regard, the AR has submitted the following:

   i. The copy of registered agreement for sale dated May 11, 2001 between the developer and the applicants, and;
   ii. Copy of Order dated November 12, 2009 passed by the Recovery Officer, Debts Recovery Tribunal - III, Mumbai (hereinafter referred to as **“DRT-III”**) in Recovery Proceeding No. 57 of 2003 in the matter of *Syndicate Bank Ltd. v. Four Seasons Farms Ltd and Ors*.

d. In view of the above, the AR vide the letter dated July 30, 2025 has prayed for removal of Flat No. 204 from the list of flats to be auctioned and remove the same from attachment.

15. Considering the above written submissions of the Applicant, vide letter dated August 12, 2025, an opportunity of Personal Hearing on August 22, 2025 before the Recovery Officer, SEBI, was granted to the Applicants. In response to the above letter, the AR appeared for hearing before the Recovery Officer, SEBI on August 22, 2025.

16. In the said hearing, the AR reiterated their submissions made vide letter dated July 30, 2025 and made the following submissions:

a. The applicants purchased Flat No. 204 from the developer by executing an agreement for sale dated May 11, 2001.

b. The defaulter in this instant matter was also a defaulter of the Bank and therefore, the Bank filed an affidavit dated September 08, 2003 before the DRT-III, Mumbai for recovery of dues against the defaulter. Based on the said affidavit of the Bank, Flat No. 204 was *inter alia* attached by the Recovery Officer DRT-III, Mumbai in Recovery Proceeding No. 57 of 2003 vide order dated September 10, 2003.

c. The applicant filed an application before the Recovery Officer, DRT-III claiming to be the true owners of Flat No. 204. Upon examination of submissions of the applicant, the Recovery Officer, DRT-III released Flat No. 204 from attachment vide order dated November 12, 2009 under Recovery Proceeding No. 57 of 2003 in the matter of *Syndicate Bank Ltd. v. Four Seasons Farms Limited and Ors.*

d. In view of the aforesaid, the AR submitted that, the applicants are true owners of Flat No. 204 and not the defaulters. Therefore, Flat No. 204 is liable to be released from attachment and deleted from the list of flats to be auctioned.

e. The AR further produced the originals of the documents submitted vide letter dated July 30, 2025. The copies submitted were verified against the originals produced by the AR;

**<u>CONSIDERATION OF ISSUES:</u>**

17. I have carefully perused the documents available on record, the order dated October 17, 2023 passed by the Hon'ble High Court of Bombay, the Order dated November 12, 2003 passed by the the Recovery Officer, DRT-III in Recovery Proceeding No. 57 of 2003 and the oral and written submissions and the documents submitted therein by the AR. After examining the above, the issues for consideration in the instant matter is:

    a. Whether the Applicant in the present matter is the owner of the disputed property i.e. Flat No. 204?

    b. If the answer to the above is in the affirmative, whether the attachment issued by the Recovery Officer, SEBI vide Prohibitory Order dated November 21, 2014 in respect of Flat No. 204 is to be released or not?

18. Upon a perusal of the documents submitted by the Applicant, it is noted that the disputed property has been purchased by the Applicants on May 11, 2001. The said purchase was effected through execution of Agreement for Sale dated May 11, 2001 between the developer and the applicants.

19. From the records, it is noted that the said Agreement for Sale dated May 11, 2001 was in lieu of a valid consideration paid to the developer. The Applicant paid a total consideration of Rs. 9,48,750/- (Rupees Nine Lakh Forty-Eight Thousand Seven Hundred and Fifty only) for Flat No. 204, in fulfilment of para 2 of the Agreement for Sale dated May 11, 2001. The same is corroborated by the 'Second Schedule' of the said Agreement for Sale dated May 11, 2001

wherein a Receipt of Rs. 9,48,750/- is acknowledged by the developer. The said receipt is appended to the Agreement for Sale dated May 11, 2001.

20. It is also noted that SEBI has passed an order against the Defaulter directing them to refund the investors along with assured returns at actuals on February 13, 2002. As noted and detailed above, the Applicant has purchased Flat No. 204 before the said Order of SEBI was passed. It is also noted that Flat No. 204 was purchased by the Applicants from the developer, who is one of the partners of the Defaulter and the developer is not the defaulter in the instant proceedings. Since the said purchase was made prior to passing of the order dated February 13, 2002 by SEBI, I find merit in the submissions of the Applicants that the disputed property belongs to them and not the Defaulter.

21. It is also noted that vide order dated November 12, 2009, the Recovery Officer, DRT-III released Flat No. 204 from attachment. As per the said order, Flat No. 204 was attached in execution of Recovery Proceeding No. 57 of 2003 for recovery of dues. Further, the Recovery Officer, DRT-III at para 3 (b) of the said order has noted that *"the intervenors are the owners of the property and have purchased the same in May 2001".* It is noted that one of the applicants i.e. Mr. Jitendra Hiralal Mehtra is the one of the intervenors in the above-mentioned Recovery Proceeding No. 57 of 2003 claiming to be the owners of Flat No. 204. Finally, the Recovery Officer, DRT-III has *inter alia* released Flat No. 204 from attachment by passing the following order:

> *"a. The attachment levied on Flat Nos. 101, 201 and 204, situated at Vasundhara Enclave, Film City Road, Gokhul Dham, Goregaon (East), Mumbai – 400063 is hereby raised. The seals on these flats must be opened."*

22. In view of the aforesaid, I find that the Applicant is the *bona fide* owner of the Flat No. 204 and therefore, I hold the issue (a) under consideration in the affirmative.

23. Now, since the answer to the issue (a) is in the affirmative, it might be pertinent to refer to the judgement of the Hon'ble Supreme Court in the matter of ***Tax Recovery Officer II, Sadar v. Gangadhar Vishwanath Ranade [AIR 1999 SC 427]*** wherein the Hon'ble Court, while deciding on the issue of applications under Rule 11 of the Second Schedule to the Income Tax Act, 1961, held as follows:

> *"12. …if we examine Rule 11(4) of the Second Schedule to the Income-tax Act, it is clear that the Tax Recovery Officer is required to examine whether the possession of the third party is of a claimant in his own right*

*or in trust for the assessee or on account of the assessee. <u>If he comes to a conclusion that the transferee is in possession in his or her own right, he will have to raise the attachment [emphasis added].</u>"*

24. From the consideration of issue (a) in preceding paragraphs, it has been established that the applicants are in possession of Flat No. 204 in their own right. Therefore, with regards to issue (b), I am of the view that the attachment dated November 21, 2014 issued by the Recovery Officer, SEBI on Flat No. 204, which stands in the name of the applicants, is liable to be released.

**<u>ORDER:</u>**

25. In view of the above, for the reasons as stated in the preceding paragraphs, I hereby order release of the Flat No. 204, Vasundhara Co-Op Housing Society, Goregaon (East), Mumbai – 400063, from attachment made vide prohibitory order dated November 21, 2014 issued by Recovery Officer, SEBI. The applicants letter dated July 30, 2025 is accordingly disposed of.

26. A copy of this Order is to be served on the applicants.

Date: November 10, 2025
Place: Mumbai

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**Deepu Anandan**
**Deputy General Manager & Recovery Officer**