

IN THE COURT OF CHIEF METROPOLITAN MAGISTRATE, TIS
HAZARI COURTS, DELHI.

CC NO: 1512103-2003

SECURITIES AND EXCHANGE BOARD
OF INDIA, (a statutory body established
under the provisions of Securities and
Exchange Board of India Act, 1992),
Having its Regional Office at Rajendra
Place, New Delhi represented by its Asst.
General Manager, Mr. JYOTI JINDGAR.

...COMPLAINANT

VERSUS

1. M/s. Morni Forest India Ltd.,
Having its Registered Office at
SCO 158, Ekta Market,
Circular Road, Sector 45-C,
(Burali), Chandigarh.

Also at:

H.No. 3814, Mauli Jagaran Complex,
Chandigarh.
(as informed by ROC, Punjab,
HP, Chandigarh.

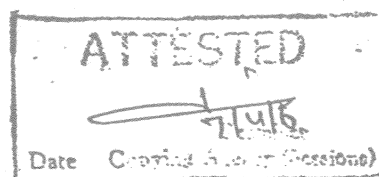
2. Shri Mukund Lal, (Director).
S/o Shri Amrit Lal,
H.No. 1456, Mauli Jagran Complex,
Chandigarh.

3. Shri Ramesh Kohli, (Director).
S/o Shri Dharam Pal,
H.No. 3283, Sector 45-D,
Chandigarh.

4. Shri Hari Dayal, (Director).
S/o Late Shri Paras Ram,
H.No. 3281, Sector 45-D,
Chandigarh.

5. Shri Samarjit Singh, (Director),
S/o Shri Ram Singh,
H.No. 1370, Rajiv Colony,
Sector 17, Panchkula.

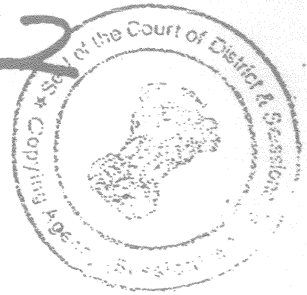
6. Shri Uday Raj Singh, (Director.)
S/o Shri Mewa Lal Singh,
H.No. 1817, Mauli Jagran Complex,
Chandigarh.



7. Shri Shyam Raj Singh, Director.
H.No. 1376, Rajiv Colony,
Sector 17, Panchkula.

8. Shri Inderpal, Director.
H.NO. 152/1, Village Attawa,
Sector 42-B, Chandigarh.

on bail



.....ACCUSED
**COMPLAINT UNDER SECTION 200 OF THE CODE OF CRIMINAL
PROCEDURE, 1973 READ WITH SEC. 24 (1) & 27 OF
SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992**



1.4.06.

Pr: All accused on
bail (also for A1)
with counsel.



Vide separate orders,
A4 Haidayat is acquitted.
The p/b & s/b of this
accused are cancelled
& his surety is discharged.
All other accused are convicted.
Be put up for hearing on
sentence on 3.4.06.

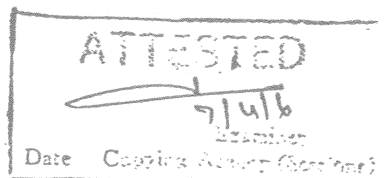
AN
ASJ

3.4.06.

Pr: Accused. Mukund Lal,
Ramesh Kohli, Samrajit Singh,
Uday Raj Singh, Shamraj
Singh & Inderpal on bail.
Heard on sentence. Vide
separate orders, the accused
have been sentenced to a
fine of Rs 3000 each. Jail
which they shall undergo
SI for 1 month. P/b & s/bs cancelled.
Sureties discharged. File be
consigned to records.

Amount on open
court on 3.4.06

Ashat Kumar
ASJ



IN THE COURT OF MS. ASHA MENON: ADDL. SESSIONS
JUDGE: DELHI.

CC NO.66/2005

SECURITIES & EXCHANGE BOARD OF INDIA, a statutory body
established under the provisions of Securities and Exchange Board of
India Act, 1992, having its Regional Office at Rajendra Place, New
Delhi represented by its Asst. General Manager, Miss Jyoti Jindgar.

... Complainant

VS.

1. M/s Morni Forests India Ltd.,
Having its Registered Office at
SCO 158, Ekta Market,
Circular Road, Sector 45-C,
(Burali), Chandigarh.
Also at:
H.No.3814, Mauli Jagaran Complex,
Chandigarh,
(as informed by ROC, Punjab, HP, Chandigarh)
2. Sh. Mukund Lal (Director),
S/o Sh. Amrit Lal,
H.No.1456, Mauli Jagran Complex,
Chandigarh.
3. Sh. Ramesh Kohli, (Director),
S/o Sh. Dharam Pal,
H.No.3283, Sector 45-D,
Chandigarh.
4. Sh. Hari Dayal, (Director),
S/o Late Sh. Paras Ram,
H.No.3281, Sector 45-D,
Chandigarh.
5. Sh. Samarjit Singh (Director)
S/o Sh. Ram Singh,
H.No.1370, Rajiv Colony,
Sector 17, Punchkula.
6. Sh. Uday Raj Singh (Director),
S/o Sh. Mewa Lal Singh,
H.No.1817, Mauli Jagran Complex
Chandigarh.

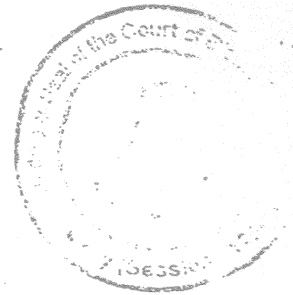
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7. Sh. Shyam Raj Singh (Director),
H.No.1376, Rajiv Colony,
Sector 17, Panchkula.

8. Sh. Inderpal (Director),
H.No.152/1, Village Attawa,
Sector 42B, Chandigarh.

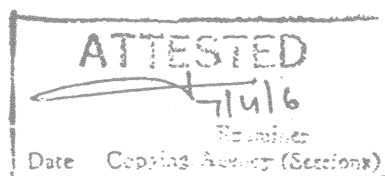


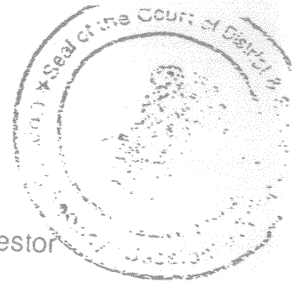
..... Accused

JUDGMENT:

BACKGROUND FACTS:

1. The complaint has been filed by the Securities and Exchange Board of India (hereinafter referred to as the SEBI) through Ms Jyoti Jindgar as Assistant General Manager, SEBI against Morni Forests India Ltd. and against its Directors Sh. Mukund Lal, Sh. Ramesh Kohli, Sh. Hari Dayal, Sh. Samarjit Singh, Sh. Uday Raj Singh, Sh. Shyam Raj Singh and Sh. Inderpal.
 2. The complaint has been preferred under the Securities and Exchange Board of India Act, 1992 and the rules made thereunder.
- Am* The case as set out in the complaint is that the Government of India after detailed consultations with the regulatory bodies decided that an appropriate regulatory frame work for regulating entities which issued instruments such as Agro Bonds and Plantation Bonds etc., was required to be created. Thereafter, the Government notified on November 1997, through a press release, that such schemes relating to issue of Agro Bonds etc., would be treated as Collective Investment Scheme governed by the SEBI Act 1992.





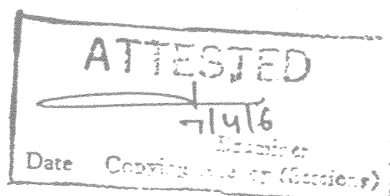
3. The aim of these regulations was to ensure investor protection and to promote legitimate investment activities. The regulations were notified in 1999 as the SEBI (Collective Investment Scheme) Regulation 1999.

4. The entities involved in any Collective Investment Scheme were required, vide the press release dated 26.11.97, 18.12.97 to file information with the SEBI giving the detail of the Company, its Scheme and nature of Investment etc. In response the accused in this case i.e. Morni Forests India Ltd. informed that they had collected Rs.35,000/- from the general public. It also informed who the Directors were.

5. It has been stated in the complaint that after the regulations came into force, the SEBI issued letters dated 15.12.99 and 29.12.99 and also issued public notices dated 10.12.99 informing the accused company of the notification and the regulations and directing it to send information memorandum to all Investors detailing the state of affairs of the Schemes, the amount repayable to each Investors and the manner in which such amount was determined. This information was to be sent by 28.2.2000. Subsequently, the last date for furnishing details was extended upto 31st March, 2000.

ALLEGATIONS IN THE COMPLAINT

6. According to the complainant, the accused No. 1 failed to



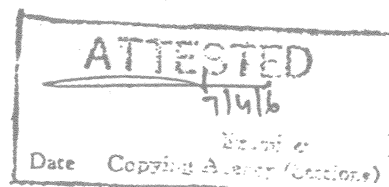


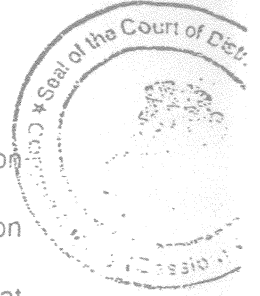
apply for registration and also failed to submit the repayment report nor did it furnish details for winding up the schemes. Therefore, on December 7th, 2000, orders were issued by SEBI u/s 11 B of the SEBI Act 1992, to the accused company to refund the money collected to the investors within one month and submit the report of repayment and winding up to the SEBI. According to the complainant since there was no compliance of this order, the accused company and its Directors had violated the Regulations No. 68(1) and (2) 73 and 74 R/W Regulation 5 (1) of the SEBI (Collective Investment Scheme) Regulation 1999 and had also violated Section 11 B and 12 (1) B of the SEBI 1992 which were all violation punishable U/s 24 (1) of the SEBI 1992 R/W Section 27 of the said Act.

7. Vide orders dated 15.12.2003 the accused were summoned for trial. The notice of allegations under Section 251 Cr.P.C was served on accused on 29.4.2005 and they pleaded not guilty. The complainant examined Ms. Jyoti Jindgar, DGM as CW-1 in support of the complaint. The statements of the accused were recorded u/s 313 Cr.P.C. The accused relied only on documents for their defence.

EVIDENCE

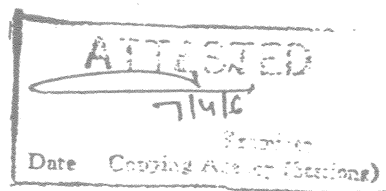
8. CW-1 Ms. Jyoti Jindgar has deposed that she was authorized vide Ext.CW1/1 to file the criminal proceedings. She

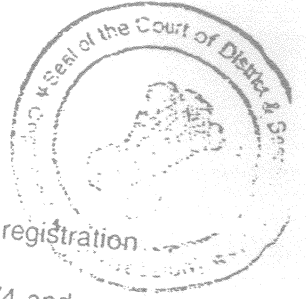




placed on record the directions issued by the SEBI under Section 11B of the SEBI Act, 1992 as Ext.CW1/2. She also brought on record copy of the press release dated 18.11.97 directing that companies issuing Agro Bonds and Plantation Bonds under their Schemes would be classified as Collective Investment Schemes as defined under the SEBI Act and that SEBI would frame regulations for regulating such companies and placed the same on record as Ext.CW1/3. She also deposed in respect of press release dated 26.11.97 and public notice dated 18.12.97 directing the companies running CIS to file information with SEBI regarding their Scheme in order to continue their operation till the notification of the regulations and to enable them to avail benefit of Section 12 (1B) of SEBI Act and brought the same on record as Ext.CW1/4 and 5. She deposed that in response to this the Company had vide letter dated 15.1.98 Ext.CW1/6 submitted information regarding its CIS furnishing the names of its Directors and information that Rs.35,000/- had been mobilized under four of its Collective Investment Schemes.

9. The SEBI (CIS) Regulations, 1999 were notified on 15.10.99. The same was intimated by the SEBI to all existing CISs by press release dated 20.10.99 and specifically to accused Morni Forests vide letter dated 21.10.99 which returned with the remarks "no such firm at this address". The witness deposed that in terms of





the regulations the Company was required to apply for registration or wind up its scheme in terms of Regulations 73 and 74 and was further required to circulate information memorandum to its Investors and to repay and wind up its scheme and submit the

winding up and repayment report with the SEBI within five and half months. The witness deposed that these were communicated to the Company vide letters dated 10.12.99 and 29.12.99. The witness deposed that these regulatory obligations were communicated and returned undelivered to the SEBI with the remarks "no such firm at this address". The witness stated that the requirements were also communicated vide public notice dated 10.12.99.

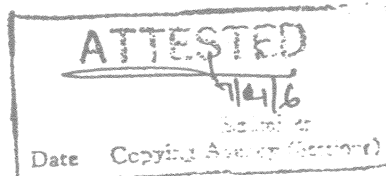
10. The witness further deposed that as the Company neither applied for registration nor intimated regarding the winding up of its scheme, show cause dated 12.5.2000 was issued which also returned to the SEBI undelivered to the accused with remarks "no such firm at this address". The witness stated that SEBI had forwarded the format of winding up and repayment report in which companies were required to furnish information regarding winding up of the schemes vide letter dated 31.7.2000 which was also returned undelivered to the SEBI with the remarks "no such firm at this address". On account of the failure of the company to comply with the regulatory provisions of the regulations, the company was directed by the Chairman, SEBI vide order dated 7.12.2000 to

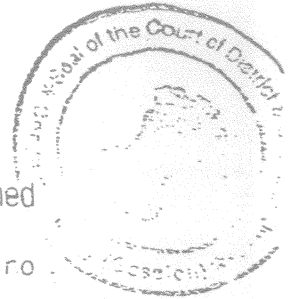
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replay the Investors as per the original terms of offer within one month of the said order. The witness stated that this order was communicated to the company vide letter dated 18.12.2000 which was returned as undelivered to the SEBI with the remarks "no such firm at this address". The contents of the order was also published in leading national newspapers specifically in the Hindustan Times on 19.12.99 and in the public notice dated 14.1.2000 the name of this company was shown at serial no.290. The witness brought on record various exhibits including the returned envelopes and the copies of the publication in the newspaper. The witness has brought on record all the returned envelopes.

- Am
11. In cross-examination CW1 admitted that Ext.CW1/1 did not specifically authorize her to deal with the instant complaint and she explained that she had been generally authorized to file such complaints. She further explained that all letters except dated 19.1.98 and 27.2.98 had been sent at the company's registered address and also at the address obtained from the ROC by the SEBI and all of them had returned undelivered. She further specified that same letter dated 4.5.98 had been sent specifically to each of the Directors and none of them returned back to the SEBI. She further stated that as all correspondence sent to the registered office of the Company started coming as undelivered, the latest address of the Company was obtained from the ROC and when



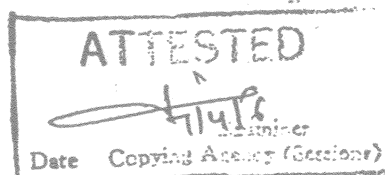


further correspondence had been sent at this address they returned undelivered. She further denied the defence suggestion that no public notice was issued in the newspaper. She further stated that complete records of all publications including of notice issued in the newspaper from time to time were maintained by the Accounts Department, though she had not produced any such record pertaining to the Accounts Department. She further stated that the names of the Directors had been provided by the Company itself. In further cross-examination she deposed that from the record it appeared that a letter had been received on 1.6.98 from Sh. Hari Dayal informing that he had resigned. No further details were provided. She further stated that it was only on 6.10.2005 that the company had informed SEBI regarding refund of Rs.35,000/- to investors and till the filing of the complaint no such information had been furnished by the accused to the SEBI.

12. The accused have examined five witnesses and have placed reliance on Ext.CW1/DA, Ext.DW1/A and the documents brought on record by DW2,3,4 and 5 in support of the contention of the defence that there had been only four investors and those four investors had been repaid the invested amount much prior to the filing of the complaint.

CONTENTIONS

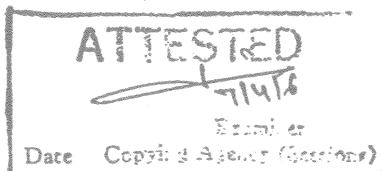
13. I have perused the written arguments submitted on behalf

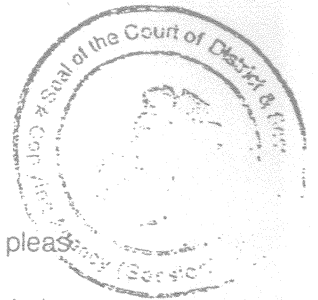




of the accused and the SEBI. It is submitted on behalf of the accused that the complaint has not been filed by a duly authorized person. It is also contended that the evidence did not prove that any of the accused had been in-charge of or was responsible to the company for the conduct of its business and that the alleged offence had been committed with the consent and connivance of the accused no.2 to 8. Hence, it is contended that the ingredients of Section 27(2) of the SEBI Act, 1992 were not fulfilled. It is further contended that the SEBI had miserably failed to discharge its onus to prove the alleged offence whereas the accused had established through the testimony of four defence witnesses that only Rs.35,000/- had been received towards investment and the same had been refunded to the investors.

14. The further contention is that the accused had not been notified about the requirements of the regulations by the SEBI as none of the letters had been received by the accused and further the publication in the newspaper was also not properly proved. It was submitted that the regulations did not cover the accused company in as much as the regulations had come into existence in 1999 whereas the CIS floated by the accused was in 1998 when they had collected Rs.35,000/-. It is submitted that in any case there was due compliance of the orders of the Chairman as the accused company had refunded the invested amount in the year



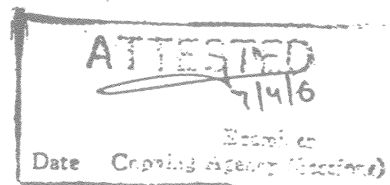


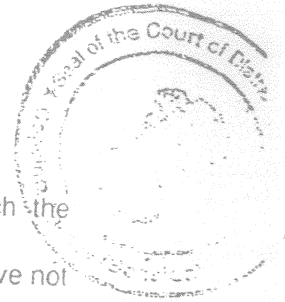
1998 itself.

15. The accused company have also taken two technical pleas. One relates to the territorial jurisdiction of this Court the claim being that since the company had been registered at Chandigarh and since the money had been recollected and refunded at Chandigarh, no offence had been committed within the jurisdiction of this Court. The plea of limitation has also been raised submitting that the complaint had been filed on 15.12.2003 more than a year after the commission of the alleged offence in 2000.

16. Finally, it has been submitted that accused Hari Dayal was not liable since he had resigned as Director of the company on 28.4.98 prior to the enforcement of the regulations of 1999. Thus the accused have prayed for the dismissal of the complaint and the acquittal of the accused.

17. In the written arguments submitted on behalf of the SEBI the basic contentions raised were that the case against the accused stood duly proved through the oral and documentary evidence brought on record by the SEBI, while the defence has not established its case. It is submitted in the written arguments that the arguments of the accused that they had not received any letters as the letters had not been sent individually to the Directors could not be accepted in as much as the SEBI had sent intimation through press release and public notices and moreover, it was the duty of

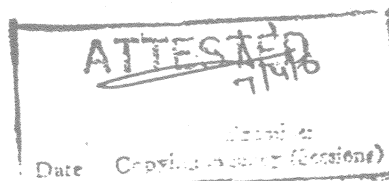


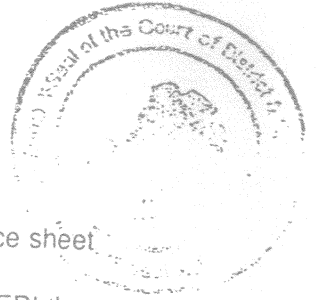


the accused to intimate to the SEBI the address to which the accused had shifted. It is submitted that since the accused have not denied the address and nor had they informed the SEBI about the change in address, they seem to have intentionally avoided the letters to continue to violate the provisions. It was submitted that the settled law is that notice to company was sufficient and notice to individual Directors was not necessary at all.

18. As regards the stand taken by the accused Hari Dayal, it is contended that the accused had not informed the SEBI about the resignation and so could not take advantage of the plea at this stage. Regarding limitation, it is contended that the offence was a continuing one till the actual compliance was effected.

19. Finally, it is submitted that the accused have set up a new defence by producing four illiterate persons as defence witnesses to prove deposit and refund of Rs.35,000/- and it is submitted that the evidence was far from satisfactory as it could not be believed that rickshaw pullers could have had such kind of money available to them to make investment in a Company in the year 1998. It is *AM* contended that since the defence witnesses did not produced Company's receipt or deposit receipt reflecting the rate of interest and the maturity amount, on the mere oral testimony of the witnesses, it could not be concluded that they had deposited money and had been returned their deposits by the accused. Neither the





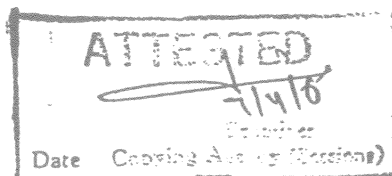
Company produced any Income Tax return or added balance sheet to reflect such transactions. Hence it is contended by the SEBI that the defence was an afterthought and an eye wash. Hence the SEBI prayed that the accused be punished for the violation of the offence.

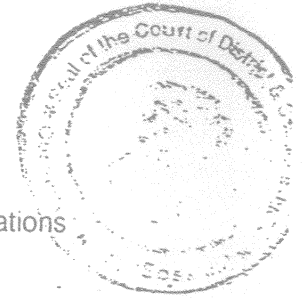
FINDINGS.

20. I have carefully considered the evidence on record and the contentions of both sides.

17. Even as per Regulation 3 of the SEBI (Collective Investment Scheme) Regulations, there is complete bar on any person other than a Collective Investment Management Company which has obtained a certificate carrying on or sponsoring or launching a CIS.

18. It is amply clear that under the SEBI Act 1992 no person could carry on a Collective Investment Scheme without the certificate of registration granted by the Board. The proviso permitted such person who was already carrying on Collective Investment Scheme before the commencing of the Securities Law (Amendment) Act 1995 to do so till such time regulations were made u/s 30 (d)(2) of the Act. Thus the proviso entitled a person to continue the collective investment scheme without registration only till the promulgation of the regulations. In this case the plea of the accused that since they had collected funds in the year 1998 and

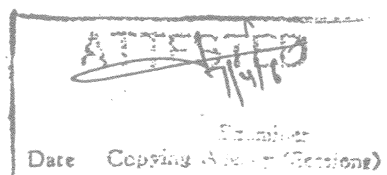


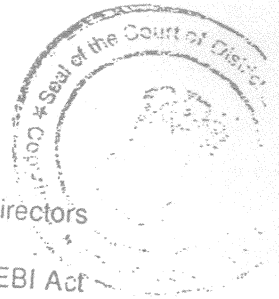


were therefore, excluded from the operation of the regulations which came into effect only in 1999 is therefore fallacious.

19. The press release dated 26.11.97 clearly discloses that regulations were being prepared to govern the conduct of CIS and the actions and information sought for from the existing CIS were a precursor to the regulations. Thus, the regulations which came into effect in 1999 governed all CISs which existed at the time of press release in November, 1997. Those already wound up had to inform the SEBI using the prescribed format. Those still existing had to apply for registration and if were not applying for registration(may be because of non-fulfillment of the criteria) were required to send the repayment scheme and winding up report, again in the prescribed format to the SEBI. All CIS companies were bound to follow the regulations even if they were not functioning at the time the Regulations came into force in 1999.

20. Ext.CW1/6 reveals that the company was involved in Plantation Schemes. The various documents annexed to the letter of the company Ext.CW1/6 reflect that the bonds floated by the accused no.1 related clearly to Collective Investment Scheme and Plantation Scheme. The accused themselves had notified the SEBI that they had collected funds amounting to Rs.35,000/- from their four Schemes. Therefore the accused no.1 was covered by the regulations of 1999.





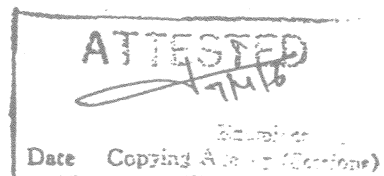
21. The accused had furnished the details of their Directors vide letter Ext.CW1/6. The proviso of Section 27(1) of the SEBI Act is very clear that it is the one who claims that he was not in-charge of the affairs of the Company who has to prove it. The onus is not on the SEBI to prove which of the Directors was actually running the affairs of the Company. The matter being an internal arrangement would be within the knowledge of the accused Directors and not of the SEBI, that is why the proviso states as under:

Offences by companies

(1).....

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

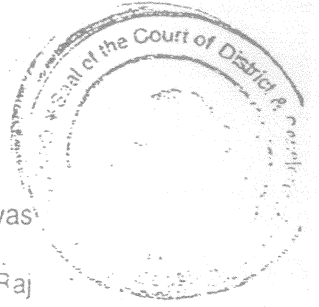
22. The plea taken that because the SEBI has not averred in the complaint or in the evidence that each Director by name was in-charge of the affairs of the Company will not be fatal to the complaint. None of the accused has denied that he had joined the company as a Director. They have merely sought to tone down



their participation and knowledge in the affairs of the Company without bringing on record any evidence to prove their claims. A glance on the stand taken while recording the statements of the accused would be enough to support this observation.

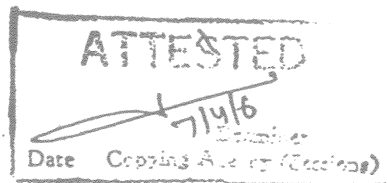
23. Accused Mukund Lal in his statement u/S 313 Cr.P.C has admitted that a company had been floated and he had been made Director but was not aware of the legal obligations of the Company. He further stated that the company was of accused Lal Singh and for 4-5 months everyone used to attend the office and later everyone went their way and became busy in their affairs. Accused Ramesh Kohli stated in his statement u/S 313 Cr.P.C that he had joined the company but had resigned and did not know anything about the affairs of the Company and had been told that his resignation would be communicated by the Company itself and he was told that the company was closed though he had received no communication from the Company and he went to Mohalli. Accused Har Dayal also admitted that he had joined the company and become a Director and claimed that he had resigned in 1998. Accused Samarjeet Singh stated that he had been approached by Lal Singh, Ved Parkash and two three others to join the Company while he was a mere rehriwala and he had been told that land was to be taken on lease to be used for growing vegetables. He claimed that he was not aware whether he was made a Director in the

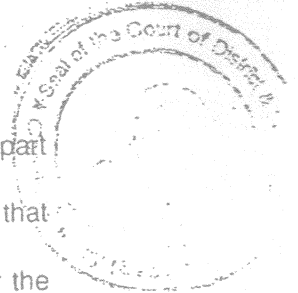
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Company and stated that he had never attended the office and was not involved in the affairs of the Company. The accused Uday Raj stated in his statement u/S. 313 Cr.P.C that accused Lal Singh inducted him into the company and he was a painter by profession and claimed that he had submitted his resignation to Lal Singh on 31.12.97. He claimed that he had nothing to do with the Company. Accused Shyam Raj claimed that he was made a Director in the Company by Lal Singh and used to frequently go to the company's office. Accused Inder Pal stated that he was running a paan shop and Lal Singh and Ved Parkash had approached him to start a business and had asked for his name and he had joined. The office was being organized and by the time the office came into being, Lal Singh and others left the company and thereafter, he too stopped attending the Company's office. Except for Hardayal, none has brought evidence to prove that they were not concerned with the company despite being its Directors.

24. Similarly, the plea that the complainant had failed to prove mensrea and consent and connivance of accused in the default is without force. The regulations came into existence requiring the company to submit certain details and to either get itself registered with the SEBI or wind up its operation and submit the repayment and winding up report to the SEBI. The company can act only through its Directors. If the company failed to comply with the

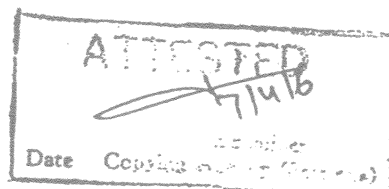




directions, the Directors are responsible for such failure. That apart the mensrea of the accused no.2 to 8 is reflected in the fact that despite the SEBI sending letters to them individually asking for the correct address of the Company not one of them replied furnishing the correct details of the Company. Had none of them any malafide intentions nothing would have prevented them from disclosing the true particulars of the company. The SEBI would not have been compelled to seek the assistance of the ROC to obtain the address of the company. Thus, this plea is also liable to be rejected.

25. It is only the accused Hari Dayal who has produced records through DW1 to show that he had resigned from the company w.e.f. 28.4.98. Since at that point of time the SEBI had not required any compliance it can be said that the accused Hari Dayal had not been in-charge of the affairs of the company at the relevant time when the regulations did come into effect and so had no liability to fulfill the SEBI regulations.

26. The plea of ignorance set up by the accused is also liable to be rejected. Though CW1 was asked about the language used in Chandigarh, it is a fact that Ex.CW1/6 was sent by the accused in response to a public notice in the newspaper. Ext.CW1/6 clearly records that the letter was in response to the public notice dated 18.12.1997. In other words the accused were familiar with the English language newspaper and notices published therein. Having



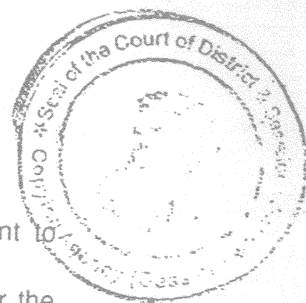
noticed the first press release, it is only logical that they would have been on the look out for the announcement in respect of the regulations referred to therein, as being under preparation.

27. As noticed above, the accused did not chose to inform the SEBI about the change of their address. Therefore, the fault lies with them if SEBI's communication did not reach them. Despite a request from the SEBI for details of the company, none of the accused no.2 to 8 chose to inform the SEBI of the changed address and the SEBI obtained the changed address from the ROC. Even at that address the communication sent by the SEBI were returned undelivered. There is nothing on the record to show that the second address was not in use of the accused. The accused themselves have not pleaded that either the first address furnished by them or the second address obtained by the SEBI from the ROC were not correct addresses.

28. Thus, when the public notice of November 25th, 1997 notified the public, including the accused that regulations were being prepared and required those who wished to take benefit of Section 12(1B) of the SEBI Act, 1992 to send details as required to the SEBI and when the press release also informed the general public, including the accused that Collective Investment Schemes were subject to the regulations of the SEBI, none of the accused, having once responded to this public notice vide Ext.CW1/6, can

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claim ignorance and thus seek excuse from compliance.

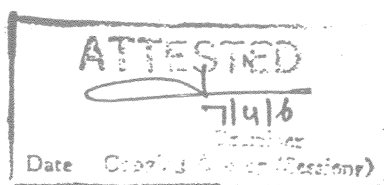


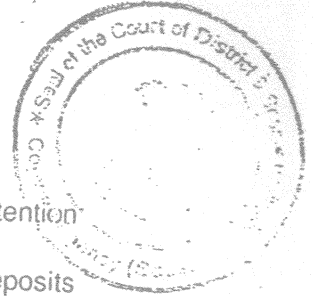
29. Regarding the jurisdiction of this Court, it is sufficient to note that this Court has been conferred with jurisdiction over the States constituting the Northern region under the SEBI Act. The authority vested in Ms Jyoti Jindgar to pursue this complaint cannot be case specific because she is also an employee of the SEBI holding the rank of a DGM. The authority has been vested by the Chairman under Section 19(3) of the SEBI Act, 1992. Thus there can be no doubt as to the authority of Ms Jyoti Jindgar to file this complaint and pursue the matter.

30. With regard to the question of limitation it may be mentioned that the accused had not complied with the requirements even till the filing of the complaint in 2003. In any case the fact that some procedural delay has occurred would be no reason to acquit the accused.

31. Finally the accused claimed that since they had repaid the investors in 1998 itself there was no occasion for violation of the terms of the orders of the Chairman SEBI since that had also directed repayment, which had already been effected by the accused Company. However, such a submission misses the point. The fact is that the accused had not complied with the regulations and orders of the SEBI since they failed to submit the repayment and winding up report in the prescribed format to the SEBI. The

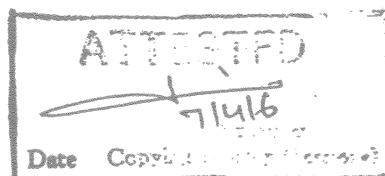
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violation has occurred there.

32. It must be noted that there is much force in the contention of the SEBI that the evidence brought on record regarding deposits made by DW2 to 5 and refund to them is far from satisfactory. The DWs have not been able to give convincing replies to the source of their investment considering their poor backgrounds. Added to that, no deposit receipts were apparently issued to them by the company. They are not aware of the interest rates. The accused have no authenticated document such as audited balance sheets to show receipts from these investors. The documents placed on record as copy of those submitted to SEBI in fact refers to the paid up capital of Rs.80,000 in the form of equity shares! The documents of the witnesses such as their affidavits and receipts are actually insufficient to conclude that such repayments had been effected.
33. However, even excepting their plea that in 1998 they had already refunded the amounts nothing prevented the accused from informing the SEBI accordingly after the regulations came into force and public notices in this respect were issued. The accused did not choose to comply with the requirements and they have to be held liable for the consequences which they have invited upon themselves. It is only during the pendency of this complaint that the accused has chosen to submit repayment and winding up report to the SEBI with auditor's report which they ought to have done by



2000 itself. Their failure resulted in the order dated 7.12.2000 being passed against them and the filing of the present complaint.

Payment cannot justify non-compliance.

34. Thus the SEBI has fully proved the case against the

accused that they have violated the regulations, 1999 read with SEBI's Act, 1992.

CONCLUSION

29. In the circumstances, it has to be concluded that all the accused, other than accused No. 4 Hardayal, had failed to submit the repayment report and winding up report in format to the SEBI though they were carrying on the business of Collective Investment Scheme and were fully aware of the fact that the SEBI was regulating the functioning of the Collective Investment Schemes. They have thus clearly violated the SEBI Regulations 1999 i.e., Regulation 68(1) (2) 73 and 74 and the Provisions of the SEBI Act 1992. They are found guilty accordingly and are liable for punishment under Section 24(1) R/W Section 27 of the SEBI Act.

The accused Hardayal is acquitted.

The accused are entitled to be heard on sentence.

Announced in the Open Court.

Dated: 1.4.06

Asha Menon -
(ASHA MENON)

Addl. Sessions Judge:
Delhi.

(1) *OK*

(2) *Ramendra Kumar*

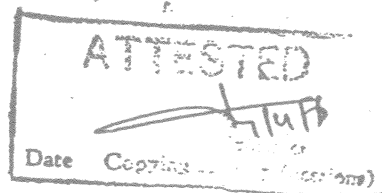
(3)

(5) *Arvind Kumar*

(6) *[Signature]*

(8) *[Signature]*

(5) *Uday Singh*
(7) *Indenlal*



*Copy given to the
accused persons
today 14.04.06
for their use.*

IN THE COURT OF MS ASHA MENON: ASJ: DELHI.

C.J. NO.66/05

SEBI VS.

M/s Morni Forests India Limited & OTHERS

ORDER ON SENTENCE

The accused have been heard on the point of sentence. The accused have claimed that the default has occurred only on account of ignorance. The accused claimed that they are not very literate and were ignorant persons and were prevailed upon by four others to join the company. They state that they are carrying out petty businesses from footpath and other small areas and it was on account of the assurance of Lal Singh and Others that they had nothing to bother about and that all work would be done by Lal Singh that they had signed the papers in respect of the Company. They have claimed that they did not know the legal consequences and it was only when the question of repayment arose that they learnt about the deposits received by the Company. They further state that they alone had contributed the money for repayment. Hence they have prayed for a lenient view.

In the present case keeping all the facts and circumstances in mind, I am of the considered view that the ends of justice would be met if the accused are sentenced to a fine of Rs.3,000/- each. In default of fine, they shall undergo SI for one month.

The personal bonds and surety bonds of the accused are cancelled. Sureties stand discharged. File be consigned to records.

*copy given to the
accused person
today at 3/4/06
for of court.*

(12) @

Announced in the Open Court.
Dated: 3/4/2006.

Ashal Menon
(ASHA MENON)
Addl. Sessions Judge:
Delhi.

(11) Ramcharan (111)

(14) 2/4/06

(15) Uday Singh (12) Indrakant

(6) (8) Gopal

Office of The District & Sessions Judge Delhi
Certified true copy
Date: _____
Authorised by _____
Indian Evidence Act 1976