

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 23.11.2017

Appeal No. 447 of 2015

1. Kalpbut Real Estate Limited
B-5, Hotel Aatithya Palace Complex,
2013, Junction Road,
Sonkh Adda,
Mathura 281 001
2. Bhanu Pratap Singh
88-Poonam Vihar,
Lajpat Nagar,
Mathura UP
3. Mrs. Guddi Devi
88-Poonam Vihar,
Lajpat Nagar,
Mathura UP
4. Krishna Pal Singh
H. No. 8, Kailash Nagar,
Near Amarnath School,
Mathura UP
5. Mr. Rajendra Singh Thakur
Village Jachonda,
District Mathura,
Mathura UP
6. Mr. Parvesh Kumar Singh
Village Bankota,
District Badaun,
Badaun UP
7. Mr. Natthu Singh
10/2, Veterinary College
Mathura-281 001
8. Mr. Raksha Pal Singh
130/21 Gopal Nagar,
Govind Nagar,
Mathura UP

9. Mr. Pooran Prakash
Vill. Mehmampur,
Block- Goverdhan Dist. Mathura ...Appellants

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai - 400 051 ...Respondent

Mr. Mayur Khandeparkar, Advocate with Mr. KRCV Seshachalam and
Mr. Pankaj Uttaradhi, Advocates i/b M/s Vishesha Law Services for
Appellants.

Mr. Shyam Mehta, Senior Advocate with Mihir Mody and Mr. Nirav
Parmar, Advocates i/b K. Ashar & Co for the Respondent.

Appeal No. 448 of 2015

1. Smt. Rajeshwari Senegar
H.N. 190 Chhatikara
Mathura Uttar Pradesh

2. Devindra Pal Singh
1/36 Surendra Nagar
Aligarh, Uttar Pradesh 202 137 ...Appellants

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai - 400 051 ...Respondent

Mr. Ashok Gupta, Advocate for Appellants.

Mr. Shyam Mehta, Senior Advocate with Mihir Mody and Mr. Nirav
Parmar, Advocates i/b K. Ashar & Co for the Respondent.

CORAM: Justice J.P. Devadhar, Presiding Officer
Jog Singh, Member
Dr. C.K.G. Nair, Member

Per: Justice J.P. Devadhar (Oral)

1. These two appeals are filed by the appellants to challenge the order passed by the Whole Time Member (“WTM” for short) of the Securities and Exchange Board of India (“SEBI” for short) on July 03, 2015. By the said order the appellants are inter alia directed to abstain from collecting any money from the investors under the schemes which are indentified by SEBI as Collective Investment Schemes (“CIS”) and restrained from accessing the securities market for a period of four years. Moreover, the appellants are also directed to wind up the schemes indentified as CIS and refund the money collected with 15% interest per annum.

2. Counsel for the appellants submit that without prejudice to the contention of the appellants that the schemes floated by the appellant no. 1 company do not constitute CIS, the appellant no. 1 company has refunded ₹ 12.64 crore out of the amount ₹ 15.64 crore collected and that the appellant no. 1 company is ready and willing to refund the balance amount in time bound manner. It is further submitted that the interest directed to be paid is unjustified in the facts of present case.

3. Counsel for SEBI states that the refunds allegedly made by the appellants are yet to be verified by SEBI.

4. Since appellants are willing to comply with the impugned order by refunding the entire amount collected, without going in to the merits of the argument as to whether the schemes floated by the appellant no. 1

constituted CIS or not, we dispose of the appeal by permitting the appellants to make a representation to SEBI within a period of eight weeks from today setting in detail the name and the quantum of amount already refunded and the mode and the manner in which the balance amount would be refunded. Appellants in the representation shall also set out their grievances relating to the interest liability.

5. If the appellants make a representation within a period of eight weeks from today, then, SEBI shall consider the said representation and pass appropriate order thereon. If the appellants fail to make representation within a period of eight weeks from today, then SEBI is at liberty to implement the impugned order.

6. Appellants shall furnish list of their assets to SEBI within a period of eight weeks from today. Appellants shall also furnish any other information/ documents that may be demanded by SEBI.

7. Both the appeals are disposed of in the aforesaid terms with no order as to costs.

Sd/-
Justice J.P. Devadhar
Presiding Officer

Sd/-
Jog Singh
Member

Sd/-
Dr. C.K.G. Nair
Member