

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the Securities and Exchange Board of India (Collective Investment Scheme) Regulations, 1999

IN THE MATTER OF KBCL INDIA LIMITED

In respect of KBCL India Limited and its Directors, viz., Mr. Rakesh Kumar, Mr. Vishvnath Pratap Singh and Mr. Shashi Kant Mishra

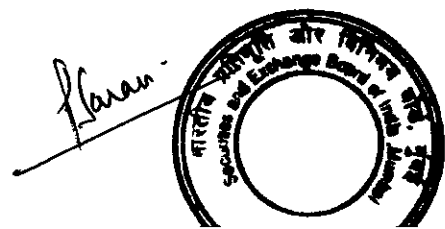
Date of Hearing: January 15, 2014

Appearances:

For Noticees: Mr. Rakesh Kumar, Director
Ms. Pinky Anand, Advocate
Mr. Devendra Garg, Chartered Accountant
Mr. Karan Mathur, Advocate
Ms. Natasha Sahrawat, Advocate

For SEBI: Mr. Narendra Rawat, Deputy General Manager
Ms. Nanu Kaur, Assistant General Manager
Mr. Pradeep Kumar, Assistant Legal Adviser

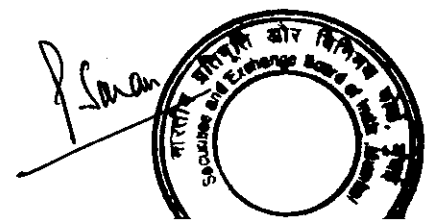
1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') on receipt of complaints came to know that KBCL India Limited (hereinafter referred to as 'KBCL'), a company with registered office at 25th Mile Stone, Mathura-Agra, Highway, Mathura, Uttar Pradesh, is collecting money from the public. In the meantime, SEBI also received the order dated July 13, 2012 of the Hon'ble High Court of Madhya Pradesh in the matter of Dharmvir Singh & Anrs. Vs. Union of India & Ors. [W.P. No. 3332/2010] wherein Central Bureau of Investigation (hereinafter referred to as 'CBI') had conducted preliminary investigation regarding the activities of KBCL, directing various authorities including SEBI to take appropriate action in accordance with law. SEBI in order to examine the activities of KBCL advised it to submit certain details/ documents including Memorandum and Article of Association, brochures pertaining to the schemes/ offers, application forms, sample copies of the registration letter/ certificates and allotment letter issued to the investors, sample agreements, scheme wise amount mobilized along with the number of investors under the schemes/ offers, annual returns/ audited financial statement, number



of plans/ schemes launched/ proposed, structure and terms and conditions of each such plan/ scheme, etc., in order to ascertain whether it was carrying on the activities of a 'Collective Investment Scheme' (hereinafter referred to as 'CIS').

2. KBCL vide its letters dated May 23, 2013 and June 24 2013 replied to the letters of SEBI and submitted the documents like Memorandum and Articles of Association, brochure having general terms and conditions of the sale of property/ flats/ plots, Application cum Agreement Form, list of directors, copy of sale deed made by KBCL in favour of customers, copies of last three years' balance sheets as submitted to ROC, Kanpur, copies of Income Tax Returns in respect of last three years, sample registration letter, sample letter of land/plot allotment. KBCL vide its letter also contended that it is engaged in the business of real estate/ sale/ purchase of property and not operating any CIS based scheme
3. On the basis of material available on record, SEBI *prima facie* found that KBCL, its directors namely Mr. Rakesh Kumar, Mr. Vishvnath Pratap Singh and Mr. Shashi Kant Mishra are engaged in 'fund mobilizing activity' from the public, by floating/ sponsoring/ launching CIS as defined in Section 11AA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as the 'SEBI Act') without obtaining a certificate of registration from SEBI for operating CIS as required under Section 12(1B) of the SEBI Act read with Regulation 3 of the SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as 'CIS Regulations').
4. Thereafter, SEBI vide an *ad interim ex-parte* order dated September 12, 2013 (hereinafter referred to as the '*interim* order') directed KBCL and its directors namely Mr. Rakesh Kumar, Mr. Vishvnath Pratap Singh and Mr. Shashi Kant Mishra as under:
" a. not to collect any more money from investors including under the existing schemes;
b. not to launch any new schemes;
c. not to dispose of any of the properties or alienate any of the assets of the schemes;
d. not to divert any funds raised from public at large which are kept in bank account(s) and/or in the custody of KBCL.

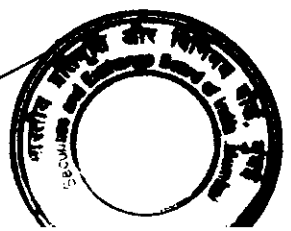
KBCL and its directors were advised to file their reply, if any, within fifteen (15) days from the date of receipt of the said *interim* order and also avail opportunities of personal hearing, if they so desire. The *interim* order further stated that the order shall be treated as a show cause notice by KBCL and its directors and they may show cause as to why appropriate



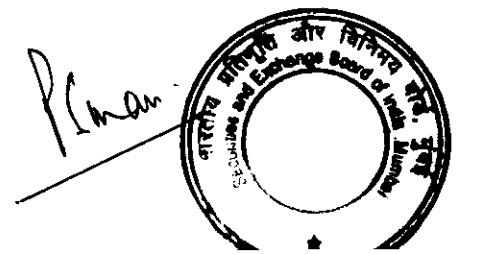
directions under the SEBI Act and CIS Regulations; including directions in terms of the Regulations 65 and 73 of the CIS Regulations should not be taken against them.

5. KBCL vide its letter dated November 13, 2013 submitted the reply to the *interim* order and requested for an opportunity of personal hearing. Accordingly, KBCL was afforded an opportunity of personal hearing on January 15, 2014, before me. On the date fixed for the personal hearing, Mr. Rakesh Kumar, Director, KBCL appeared before me along with Ms. Pinky Anand, Advocate; Mr. Devendra Garg, Chartered Accountant; Mr. Karan Mathur, Advocate and Ms. Natasha Sahrawat, Advocate and made submissions. During the course of hearing, KBCL and its directors were asked to submit the documents such as the application forms, registration certificates, installment receipts, allotment letters and respective sale deeds, regarding all the 49 customers/ clients whose sale deeds were claimed to have been registered. The representatives of KBCL and its directors were asked to choose any three dates in order to determine the number of customers, land agreed to be purchased by them, allotment of land made, amount collected from such customers, land owned by the company, funds returned to the customers, if any, to such customers, till such dates. The representatives chose July 01, 2008, July 01, 2010 and July 01, 2012. Accordingly, KBCL and its directors were asked to submit the desired information along with the supporting material. KBCL was also asked to submit the copies of the title deeds of such land banks in order to show that the lands so allotted were owned by KBCL. KBCL was also asked to clarify the details in the 'letter of land/ plot allotment' to one Mr. Mangal Sen (copy provided during the personal hearing) with respect to the units, measuring area (i.e. sq. feet/ yard), location of the land and also show that such lands were owned by KBCL. KBCL and its directors were granted four weeks' time to submit the details/ documents. KBCL vide its letter dated January 25, 2014 submitted the details.
6. The submissions made by KBCL, in brief are as under:
 - a. It is not in the business of CIS. The business of KBCL is akin to builder/ developer who brings in his land and invites applicants to buy flat or apartment. KBCL is duly registered as service tax payer for the purpose of real estate activities.
 - b. The total number of its customers varies depending on the stage of their documentation and the land. From a total of 4,92,357 customers of KBCL, 17,710 customers have been issued allotment letters, 50 customers have got registered sale deeds, 157 customers have got sale deeds notarised, 2,20,084 customers have been defaulters on account of non-payment of installments. Another 1,57,524 customers are not active and are in the category

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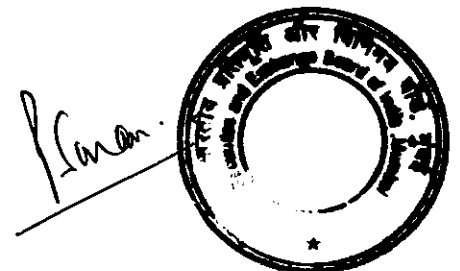


- of defaulters to whom the refund of the deposit amount is yet to be given. 26,406 customers have applied for cancellation of the plot/ property at the time of possession and their money have been returned. It has 70,426 on-going customers as on the date of reply.
- c. KBCL makes an attempt to provide affordable property to its customers by affordable payment options in the form of Multiple Installment Scheme and Single Installment Scheme/ Cash Down Payment plan; Time Linked Plan; Construction Linked Plan.
- d. KBCL has total land holding of 18,55,771 square yards, located in different places. The proposed customer/ applicant submits an 'application form cum agreement' in order to register himself as customer. A registration certificate is then issued to the customer incorporating the relevant details of the customer, the plot/ property size, the price (in case of installments, the amount of installment and tenure in which such installments have to be paid), etc. The customer is also provided with an installment receipt which contains the details of the property like its location/ place and area. KBCL has been completely transparent in its dealing, i.e., in allotment letters it clearly mentions the cost, which means the money paid by the customer, which gets utilized towards procuring the land/ plot, conveying it to the customers, developing the same, planting of required saplings, plant, trees, crops, etc., management fee and other ancillary and incidental expenses thereto.
- e. Thereafter, allotment letter is issued to the customer, containing information like area of land/ plot, plot number/ khasra/ ghat number along with information pertaining to the location of the land/ plot, i.e., the village, tehsil, district and state in which land/ plot is located. The property/ land allotted to the customer is developed in accordance with the term of the payment option as opted by such customer. Once all the pending dues are made in full by the customers and the terms as opted by the customer expires and the property is developed, KBCL proceeds to get the registration of land/ property in the name of such customer, subsequent to which possession is given to the customer and thereby the ownership is transferred in the name of the clients.
- f. Collection of payments, development of land and sale/ purchase of land is an ongoing and continuing process in real estate business. The buyer as per the plan offered pays in small installments, which cannot possibly cover the cost of construction of the property/ purchase of land. The cost is covered by KBCL from the income generated by the sale of previous properties/ lands/ plots.
- g. KBCL never requires any buyer to necessarily approach it at the end of the agreement term to sell their plot/ land so allotted. The service of sale of property offered by KBCL is an extra benefit/ additional service to its customers to aid them in selling their property, if for



some reason, the buyer wishes to sell the property. As KBCL has customers who are looking for purchase of property/ land, it is easier for KBCL to sell the same to such customers and it is also easier for the buyer since he does not have to wander to other people for the sale of his property.

- h. KBCL does not agree to any pre determined/ fixed price for the sale of a plot/ land of any buyer. The word/ phrase 'estimated realizable' is only an indicative price of the land at the time of the execution of sale deed and based on the appreciation of the price of the land in 10-15 years. The term 'assured realizable cost' as provided for in the registration certificate has now been changed to 'expected cost at the end of term' and the same informs the buyer the rate at which the buyers property/ plot/ land would appreciate at the end of the installment tenure.
- i. No customer of KBCL purchases land at its instance. The customers read the terms and conditions, choose their own land/ property that they wish to purchase and register themselves as a customer of KBCL. All transactions are well documented and recorded. The 'application form cum agreement' and the installment receipt identifies the number of plot/ property, area, etc. KBCL does not provide any uniform rate/ price for the land located at different parts of the country. It advises its employees through internal circular about the rate of the land as per the location.
- j. KBCL undertakes to develop the plot/land of the customer. The customer has every right to monitor and participate in the development/ management of his land/ plot and to make suggestions. The development/ demarcation etc. of the property has to be done in a planned manner and is always done by the company and not by the customer. If the customer for some reason does not like the demarcation or development of the property, such customer always has the option of leaving. In such case, the company can either buy back such property or the customer can sell his final rights in the same to some third party.
- k. KBCL refers to a piece of land/ area of land as a unit. Some customers prefer to buy one single large piece of land which would amount to one unit while others prefer to buy 2-3 small pieces of land in different locations which would amount to 2- 3 units. The activities of KBCL are not limited to just purchase and sale of agricultural land as its customers have varied needs of agricultural land, plots of land, built up houses/ flats, etc.
- l. In the event of any dispute with respect to the land raised by any party or if an order of a judicial fora forbidding the transfer/ development of such land/ property, then KBCL has the flexibility of allotting an alternate site/ land/ property to the buyer/ customer.



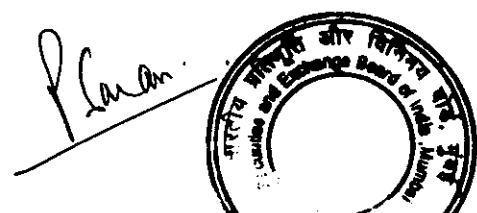
m. Hon'ble Supreme Court of India had set aside the order of the Hon'ble High Court of Madhya Pradesh at Jabalpur vide order dated December 11, 2012 and has remanded the matter back to Hon'ble High Court to consider the challenge of KBCL to constitutionality of the '*Madhya Pradesh Nikeshpakon ke Hiton ka Sanrankshan Adhiniyam, 2000*'.

7. I have considered the *interim* order, the oral and written submissions of KBCL, the documents furnished by KBCL and the material available on record. The main allegation as against KBCL is that the plans/ schemes operated by it are in the nature of CIS and that KBCL is offering these schemes without obtaining registration from SEBI in contravention of the provisions of Section 12(1B) of the SEBI Act, 1992 and Regulation 3 of the CIS Regulations read with Section 11AA of the SEBI Act, 1992. The directors of KBCL have also been alleged to be responsible for the illegal conduct of the business of KBCL. Before proceeding with the merits of the case, let me address the preliminary objection of KBCL that SEBI has relied upon a false complaint. Let me clarify that the present case is being examined on the basis of independent facts and documents. The issue that now arise for my consideration is: Whether KBCL is operating a CIS without obtaining registration from SEBI?

8. **Whether KBCL is operating a CIS without obtaining registration from SEBI?**

a. I note that KBCL in its reply has strenuously argued that it is not in the business of CIS. It has been submitted by KBCL that its business is akin to a builder/ developer. The documents required by KBCL from its customers, as noted from the submissions and also provided are 'application form cum agreement', registration certificate, installment receipt, allotment letter, sale deeds, etc. I note that the *interim* order has discussed in detail about the 'application form cum agreement', which was being executed between KBCL and its customers. KBCL has argued that on filing the 'application form cum agreement', the applicant gets himself registered with the company. Thereafter, a registration certificate is issued to the customer incorporating the particulars like name and address, the plot/ property size in which he is interested, the price to be paid, etc. It has been submitted that various payment options are offered to the customers in order to offer flexibility. It has also been said that the installment receipts issued by KBCL contains the details of the property such as its location/ place and area.

b. I have perused the copy of the application form which contains the details such as the name and father's name of the applicant, address, plan opted. I have also perused the copy



of the agreement which finds mention that the buyer expresses his desire of purchasing the plot of land/ constructed property and getting the same developed and maintained through KBCL. I note that both application form and agreement were pre-printed with blanks to be filled and speaks about the opted plan wherein the plan number, quantity of plot/ property, area, etc. are mentioned. The agreement *inter alia* contains the following terms and conditions:

"WHEREAS BUYER is desirous of purchasing ____ plot(s)(____ sq. Yds.) of land / constructed property and getting the same developed and maintained through KBCL India Limited and has and has applied for the same to KBCL India Limited by means of an application dated ____ which is the basis of this agreement;

WHEREAS KBCL India Limited has agreed to arrange for the sale of ____ plot(s)/ property (____ sq. yards/ sq. ft.) of land/ constructed property in favour of BUYER and to develop the same.

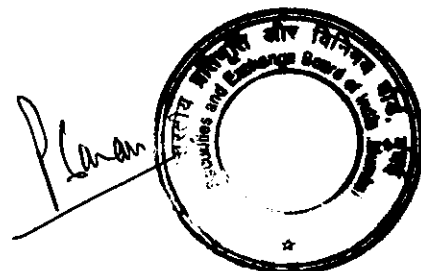
ALLOTMENT: *KBCL India Limited shall arrange for the aforesaid area of plot of land/ property for buyer, and shall issue an allotment letter conveying the details of the same, within a reasonable period in case of cash down payment plan, and within a reasonable period generally not exceeding 120 days after receipt of 75% of the consideration amount/ allotment, in case of multiple installment plan.*

DEVELOPMENT: *KBCL India Limited shall, in conformity and in accordance with the opted plan by buyer's plot/ property from the date of signing of this agreement, in consultation with..... All matters pertaining to development, including survey, demarcation, construction, clearing, cultivation, planting and raising of crops, trees, plants, saplings, etc., use of fertilizers and pesticides, irrigation, harvesting, and all other activities allied or incidental thereto, shall be finally decided by KBCL India Limited.*

NOTIFICATION OF COMPLETION OF DEVELOPMENT: *KBCL India Limited shall notify to Buyer 30 days before expiry of this agreement or registration that the development and maintenance arrangement under this agreement shall be expiring on ____ and that Buyer may carry out his final inspection, if he so deems/ chooses if the Buyer does not carry out such inspection, it shall be deemed that the buyer is satisfied with the development services rendered by KBCL India Limited,"*

A reading of the 'application form cum agreement' makes it clear that KBCL offers two plans i.e. 'cash down payment plan' and 'multiple installment plan'.

- c. A perusal of the copy of the registration certificate said to be issued on receipt of 'application form cum agreement', records the details/ particulars of the applicant, registration number, details of the plan/ scheme, term, plot/ property size, consideration amount, expected cost at the end of term, etc. I note that the registration certificate does not specify the exact location of the plot/ property. The relevant clause of the registration certificate as also noted in the *interim* order are:



"The land shall be allotted in the name of BUYER in the case of single installment schemes after receipt of full payment within a reasonable period generally not exceeding 365 days, in case of multiple installment scheme generally not exceeding 120 days after receipt of 50% of the consideration.

It has been agreed that the buyer shall give possession of the proposed plot to the company for development, cultivation, plantation, and for the marketing of the produce thereof during the tenure of the agreement.

Cost of plot(s) includes, the cost of land, development charges, other inputs saplings, plants, trees, crops, planting expenses, maintenance and other miscellaneous expenses.

To facilitate easy liquidity, the company provides to Buyer the marketing services for sale of developed plots. The buyer must notify to the Company to that effect at least 60 days before the expiry of period of agreement.The sale can be made only at the end of the term opted by the Buyer in accordance with the payment scheme "the estimated realizable value at the end of term" or at such prices as may be actually agreed to by the Company from time to time. The sale price of plot is composite price for land, standing crops, saplings.....All the relevant papers along with the duly completed application of buyer for sale of land ...must be submitted to the Head office of the Company through relevant Branch Officer.

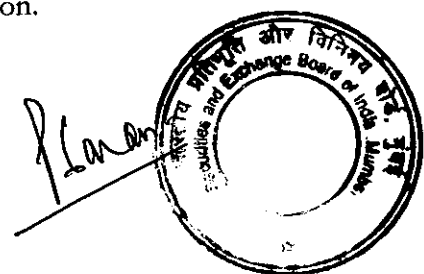
The company shall have the first charge on the land and produce for the outstanding dues such as development charges and other inputs, saplings, plants, crops, planting expenses, maintenance, service cost, management fees and other apportionable / allocable expenses.

The original deeds shall be kept in the safe custody on the trustee(s) appointed for the said purpose...

In case of any dispute, the decision of Chairman/ Managing Director of the company or any other person(s) nominated by him, shall be final and shall have legal binding on applicant/ buyer ..."

It is a submission of KBCL that it issues a 'letter of land/ plot allotment' which as per the 'application form cum agreement' is given to cases of 'cash down payment plan' within a reasonable period and in the case of 'multiple installment plan', within a reasonable period generally not exceeding 120 days after the receipt of 75% of the consideration amount. I note that this is clearly in contrast from the terms referred in the registration certificate relied upon in the *interim* order.

- d. The above facts indicate that KBCL has different 'plans' with respect to its transactions with its investors. KBCL has argued that the 'installment receipts' issued by it contains the details of the property such as its location/ place and area. However, a perusal of the copies of the installment receipts (those for the final installments paid by the investors) submitted by KBCL pursuant to the personal hearing shows that these do not contain any detail about the property allotted/ to be allotted to the customers. Having noted such discrepancy, it is inferred that KBCL is giving incorrect information.



- e. While proceeding further, I have perused the copies of the 'letter of allotment' issued by KBCL. The relevant part of the 'letter of land/ plot allotment' are as under:

*"... We are pleased to inform you that the land/ plot booked by you vide your application dated ...
... have been allotted to you by KBCL India Limited as per the details given below:*

... ..

... .. KBCL India Limited reserves the right to change the location of this allotment and allot you an alternate site at any other place. This allotment is however, subject to the removal of the defects which exist in the documents executed by you. You are required to IMMEDIATELY get in touch with the concerned Branch Manager/ Branch In charge to find out what these defects are, and remove them. In case you failure of to remove these defects, within 30 days receipt of this allotment letter this allotment would stand cancelled, and you alone shall be responsible for the consequential breach of the agreement between us in that regard.

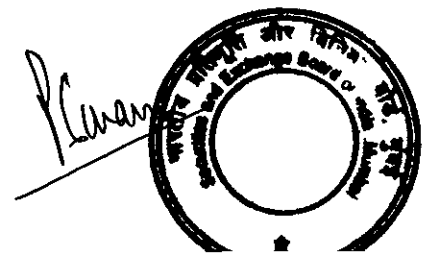
... ..

A sum of Rs. ... paid you to KBCL India Limited under single Installment No. has now been appropriated by KBCL India Limited towards the cost which are to be met in procuring the said land/ plot and conveying it to you, developing the same, planning the required saplings, plants, trees, crops etc. ..."

A reading of the above, makes it clear that KBCL while allotting the land reserves its right to change the location of the land. It further puts a condition that the allotment is subject to the removal of certain defects in the documents of the customers. I note that the 'letter of allotment' does not mention any defect, for the removal of which, the customer is advised to contact the branch manager/ branch within thirty days. It is also said that in case of failure to remove the defects, the allotment will be cancelled. A perusal of the letters of allotment submitted by KBCL pursuant to the personal hearing reveals that such letters of allotment were issued on October 20, 2011 and not on those dates claimed by KBCL in its letter dated January 25, 2014 as also brought out in table B below. This also leads to an inference that KBCL has giving incorrect information.

Further, an analysis of the details submitted by KBCL shows that it has allotted the land to the customers on payment of 63% of the consideration although the 'application form cum agreement' claims that the arrangement of allotment of land are made after receipt of 75% of the consideration amount in multiple installment plan. I also note the instances wherein KBCL had taken the full payment in the year 2007, however, the allotment was made on October 20, 2011. These facts suggests that KBCL is not acting on the terms as agreed with its investors.

- f. During the personal hearing, KBCL was asked to submit the copies of the application form, registration certificate, last installment receipt, allotment letter and registered sale deeds of 50 clients/ customers whose sale deeds were claimed to have been registered. The



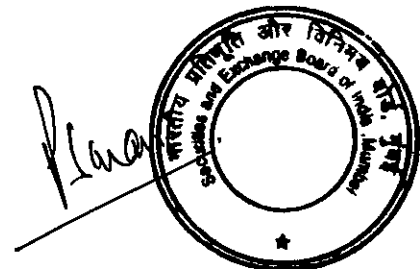
information with respect to the monies collected from the customers and the lands/ plots allotted, to such customers as on three dates i.e. July 01, 2008, July 01, 2010 and July 01, 2012 has also been submitted by KBCL. KBCL vide its letter dated January 25, 2014 has submitted the aforesaid details. I note that as per the submission of KBCL, it has a total land holding of 18,65,348.42 square yards as on September 12, 2013. The total land holding of KBCL, area of land allotted and the amount collected, as on the decided dates are as under:

TABLE - A

Date	Size of land bank (sq. yds.)	Area of land allotted to customers (sq. yds.)	Amount collected from such customers (₹)
01/07/2008	5,97,535.20	28,610	43,55,26,953
01/07/2010	16,34,962.77	5,47,934	85,08,46,010
01/07/2012	16,90,990.57	11,91,471	1,11,96,19,000

From the above, I note that KBCL has collected huge amounts from its large customers base. As per the admission of KBCL, it has registered sale deeds in respect of only 50 customers. I have seen the list of these 50 customers and note that the sale deeds in respect of 40 customers has been executed in the year 2013. At this stage, I refer to the findings of CBI in respect of KBCL as noted in the order of Hon'ble High Court of Madhya Pradesh in the matter of Dharamvir Singh and Anrs. Vs. Union of India & Ors. (as also noted in the *interim* order), wherein it has been noted as under:

- In the Single Installment plan it allots the land to the customer after a period of one year from the date of payment and in Multiple Installment Plan, the company allots it to the customer after the receiving of 50% of the full payment (without any default).
- After the allotment, the company registers the land in the name of the customer within 100 days of the completion of the tenure of the plan.
- Since the inception of the company in 2002, there have been a total of 3,97,532 customers with KBCL under different sale plans (3,87,410 under MIS plan and 10,122 in SIS Plan).
- Out of the total 3,97,532 customers of the company, 14,706 have been issued allotment letters for the allotment of land detailing the Khasra Number, Place etc. of such land allotted.
- During this period since inception in March 2002, the company has executed only one sale deed jointly with 6 customers totaling registry of land equivalent to 0.2530 hectares (2790 sq. yds. Approx i.e. 2551.176 mtrs.) at Khasra No. 129, Mouza Bhadaya, Tehsil & Distt. Mathura.
- Further, a total of 13,911 customers have been paid estimated value against their registration on completion of the maturity period.
- The company follows a 12 level structure of agents from the rank of sales representative to Executive Manager (C). A total of approximately 40 % of the amount which is received as sale deposits is given as commission to the all levels of hierarchy of agents of 12 levels in the first year which gets reduced to 10.20 % in the second year and 6.10 % in the third year onwards. The commission is distributed amongst all the 12 levels which goes on reducing from the first agent of the chain, to the topmost level of agent of hierarchy.

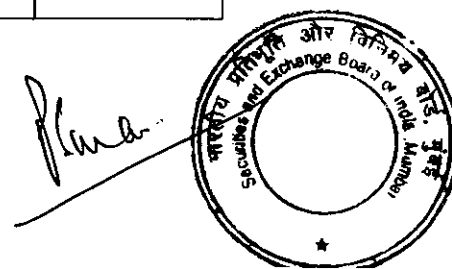


A reading of the above findings of CBI makes it clear that KBCL has altered certain terms and conditions cases such as conditions for allotment, etc. CBI has noted that KBCL since its inception in 2002, have 3,97,532 customers under different sale plans. However, the fact remains that KBCL has customers whose numbers run in lakhs. It is important to note that till the date of hearing and submission of the details as asked, KBCL had executed only 50 sale deeds which is very minimal compared to the total customer base or of the admitted number of ongoing customers i.e. 70,426. This raises serious concern about the business model of KBCL and its genuineness.

- g. KBCL has furnished the copies of documents (i.e. application form, registration certificate, installment receipt, allotment letter, ledger, sale deed) in respect of 50 customers pursuant to the personal hearing. The list of such customers is as under:

TABLE - B

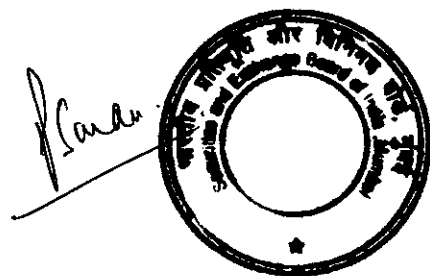
S. No.	Customer name	Date of application	Date of registration certificate	Date of allotment letter	Date of registration of sale deed
1	VIJAY PAL YOGI	27.01.2008	27.01.2008	20.09.2010*	05.03.2013
2	RAMESH CHANDRA SHARMA	25.02.2008	25.02.2008	22.09.2010*	05.03.2013
3	LAVANYA SHARMA	01.02.2008	01.02.2008	01.10.2010*	05.03.2013
4	LAXMAN SINGH GAHLAUT	21.02.2008	21.02.2008	24.11.2010*	05.03.2013
5	MADHU SUDAN MISHRA	25.02.2008	25.02.2008	29.11.2010*	05.03.2013
6	JAGDISH PRASAD SAINI	31.01.2008	31.01.2008	26.09.2010*	05.03.2013
7	KAILASH CHAND DAKSH	24.01.2008	24.01.2008	27.11.2010*	05.03.2013
8	HARIOM SOLANKI	24.01.2008	24.01.2008	24.12.2010*	05.03.2013
9	TARA CHAND SHARMA	29.01.2010	29.01.2010	28.02.2012*	05.03.2013
10	TRILOK SINGH	24.01.2010	24.01.2010	27.3.2012*	05.03.2013
11	HITENDRA KUMAR SHARMA	17.08.2007	17.08.2007	23.12.2008*	05.03.2013
12	DEEP SINGH	14.08.2007	14.08.2007	27.12.2008*	05.03.2013
13	RAMESH CHANDRA PANDEY	24.12.2007	24.12.2007	24.09.2010*	14.03.2013
14	KUM. SARITA SHARMA	21.12.2007	21.12.2007	29.10.2010*	14.03.2013
15	SANJAY SHARMA	27.06.2007	27.06.2007	27.10.2008*	14.03.2013
16	SUMIT KUMAR SINGH	03.07.2007	03.07.2007	13.10.2008*	14.03.2013
17	MUKESH KUMAR MAURYA	28.12.2009	28.12.2009	25.02.2012*	14.03.2013
18	AMAR KUMAR MAURYA	27.08.2007	27.08.2007	21.12.2008*	14.03.2013
19	SMT. SHASHIBALA SHARMA	25.12.2007	25.12.2007	27.09.2010*	14.03.2013
20	SHARIF MOHD.	25.11.2007	25.11.2007	13.10.2010*	14.03.2013
21	KISHOR KUMAR	25.08.2007	25.08.2007	15.12.2008*	14.03.2013
22	SMT. MAMTA SHARMA	25.02.2010	25.02.2010	28.03.2012*	14.03.2013
23	BANWARI LAL	27.01.2010	27.01.2010	26.02.2012*	14.03.2013
24	RAVI KANT PARASHAR	27.12.2009	27.12.2009	21.02.2012*	14.03.2013
25	DINESH SINGH JADAUN	17.06.2007	17.06.2007	15.12.2008*	11.03.2013
26	MANOJ KUMAR GUPTA	14.07.2007	14.07.2007	12.11.2008*	11.03.2013
27	RAM NARESH	26.11.2009	26.11.2009	28.12.2011*	14.03.2013
28	KRISHANA MURARI SINGHAL	26.02.2008	26.02.2008	13.12.2010*	11.03.2013
29	RAVI KUMAR BANSAL	27.08.2007	27.08.2007	25.11.2008*	11.03.2013
30	KAUSHIK KUMAR	27.06.2007	27.06.2007	24.12.2008*	11.03.2013
31	SMT. MADHU RANI	27.06.2007	27.06.2007	27.12.2011*	11.03.2013
32	BRIJESH KUMAR	31.01.2010	31.01.2010	04.04.2012*	14.03.2013
33	KRISHANA	21.08.2008	21.08.2008	16.03.2011*	19.09.2013
34	RAJ NARAYAN	21.08.2008	21.08.2008	16.03.2011*	19.09.2013
35	MUKESH	25.08.2008	25.08.2008	27.03.2011*	19.09.2013
36	JEET KUMAR	27.12.2007	27.12.2007	05.03.2009*	19.09.2013
37	RADHEYSHYAM	28.08.2008	28.08.2008	27.06.2011*	19.09.2013
38	MANOJ	24.08.2008	24.08.2008	21.05.2011*	19.09.2013
39	RAMESH	25.11.2007	25.11.2007	28.03.2009*	19.09.2013
40	RANDHIR SINGH RANA	25.08.2008	25.08.2008	25.07.2011*	19.09.2013
41	RAJU SAINI	14.05.2006	14.05.2006	12.12.2008*	02.07.2011
42	BAL KISHAN CHATURVEDI	24.05.2006	24.05.2006	27.12.2008*	02.07.2011
43	SUNIL KUMAR	26.05.2006	26.05.2006	14.12.2008*	02.07.2011
44	DIWAKAR SHASTRI	22.06.2006	22.06.2006	15.03.2009*	02.07.2011
45	SHIV KUMAR JAIN	25.05.2008	25.05.2008	25.08.2010*	02.07.2011
46	RAMVIR SHARMA	18.06.2008	18.06.2008	18.09.2010*	02.07.2011
47	AMRIT KHANDELWAL	17.11.2006	17.11.2006	Bulk sale	
48	PIYUSH ADLAKHA	14.02.2007	14.02.2007	Bulk sale	
49	YOGESH CHAUDHARY	18.10.2007	18.10.2007	Bulk sale	
50	VINOD BIHARI MAHESHWARI	15.09.2007	15.09.2007	Bulk sale	



** Dates are not matching with the physical copies attached vide letter dated January 25, 2014*

A perusal of the registration certificates of such customers reveals that KBCL in respect to certain customers gives 'expected cost at the end of term' whereas for others it gives 'assured realisable cost at end of term'. I note from the letter of land/ plot allotment and the sale deeds that KBCL has allotted the same plot of land to several customers. For detailed examination, I have selected the documents of two customers of KBCL i.e. of Mr. Lavanya Sharma (person at serial no. 3 in table above) and Mr. Tara Chand Sharma (person at serial no. 9 in table above), both of these had opted for 'multiple installment plan'. My observation on the documents of these customers are as under:

- As per the application form, Lavanya and Tara Chand became customers of KBCL on February 01, 2008 and January 29, 2010 respectively. However, both were allotted land on October 20, 2011.
- The location of the land, the plot number, the khasra/gat number of the land so allotted to these two are same. The customers get undivided interest in a large tract of land as seen from the sale deeds. Mr. Laxman Singh Gahlaut (person at serial no. 4 in table above) and Mr. Trilok Singh (person at serial no. 10 in table above) are two other persons who have been allotted land on the same plot of land as noted from the copies of the respective sale deeds. The sale deeds do not demarcate the area so transferred by KBCL to persons namely Lavanya, Tara Chand, Laxman Singh Gahlaut and Trilok Singh.
- A detailed analysis of the sale deeds of Lavanya and Tara Chand reveals that one Mr. Manish Sharma (authorised representative of KBCL) has signed the sale deeds on behalf of KBCL. The reason for sale of land as read from the sale deeds are requirement of money for family use and good price for the property. The sale deed do not state as to when the said persons become customer of KBCL or which plan of KBCL they had opted for purchase of land.
- From the copy of the ledger of KBCL, it is noted that Lavanya had deposited ₹4,80,000 and Tara Chand had deposited ₹3,60,000 with KBCL. However, the consideration as noted in the respective sale deed is only ₹1,40,000. KBCL has given no justification for the same.
- The sale deeds also find mention that KBCL in its meeting dated February 26, 2013 has passed a resolution authorising Manish Sharma for selling and transferring the subject land.



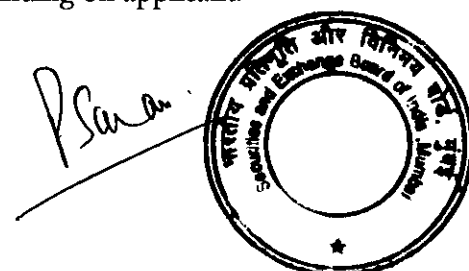
- The sale deeds do not mention about any development work carried out by KBCL on the land.
- From the executed sale deeds, it is also seen that KBCL has executed joint deeds in favour of a number of investors in the land.

A reading of the above observations on the sample of documents submitted by KBCL gives an inference that the transaction of KBCL are not simple real estate transaction or land sale/ purchase transaction. KBCL in its reply has submitted that it refers to a piece of land/ area of land as a unit. It has also been said that some customers prefer to buy one single large piece of land which would amount to one unit while other prefer to buy 2-3 small pieces of land in different locations which would amount to 2-3 units. However, a random scrutiny of the letters of land/ plot allotment (copies of which were provided by KBCL) shows that customers namely Mr. Lavanya Sharma and Mr. Tara Chand Sharma have been allotted 508 units each, measuring area of these are 2,541 (sq. ft./ yard) each.

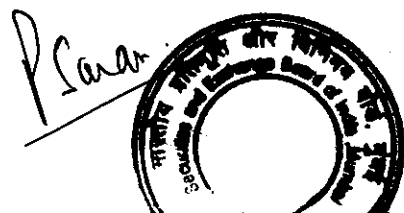
At this stage, I note that the copies of the sale deeds of customers as submitted by KBCL do not support its own story. It is seen that a single sale deed is presented in respect of customers at serial numbers 41, 42, 43, 44, 45 and 46. It appears that all these are getting undivided share in the same agricultural land. Further, KBCL has failed to give complete set of documents in respect of customers at serial numbers 47, 48, 49 and 50 (referred as bulk deal) in spite of asking for these specifically during the hearing.

h. From the above discussion and the *interim* order, I note as under:

- The customer while applying authorises KBCL for development/ maintenance, without which agreement will not be entered with the customer/ investor.
- The plot of land mentioned in the sale deeds cannot be identified. The customer gets only an undivided interest in single plot of land and does not know which portion is his. It is not clear how the customers are taking possession of such land.
- KBCL guarantees a certain value in the form of 'assured realizable cost at the end of the term'/ 'expected cost at the end of term'.
- On entering into the agreement, the customer hands over all the rights of development of the land/ plot to KBCL. The customer only gets a right to inspect the land.
- In case of any dispute, the decision of Chairman/ Managing Director of KBCL or person nominated by him, shall be final and shall have binding on applicant.



- KBCL appears to have changed the formats of certain documents/ terms and conditions, without specifically bringing these changes before SEBI.
- i. Having considered the above, now I proceed to deal with the charges levelled against KBCL. The main allegation leveled against KBCL is that it is operating CIS without obtaining registration from SEBI. Before proceeding further in the matter, it is necessary to note the background of CIS Regulations and how the provisions came to be framed. Several entities were mobilizing huge money by issuing various instruments and offering very high rates of return inconsistent with the normal rate of returns and then misutilizing these funds, for the purposes not disclosed at the time of inviting the investments, thereby not only causing loss to the investors who lost their life savings to such unscrupulous entities, but also eroding the confidence of the general public. Considering the high element of risk associated with such schemes, the Government of India felt that it was necessary to set up an appropriate Regulatory framework to regulate such entities. Hence, in order to protect the interest of the investors and to ensure that only legitimate investment activities are carried on, vide press release dated November 18, 1997, the Government of India communicated its decision that schemes through which instruments such as agro bonds, plantation bonds, etc., are issued by the entities, would be treated as Schemes under the provisions of the SEBI Act and directed SEBI to formulate Regulations for the purpose of regulating these CISs. It was against this background that Section 11AA of the SEBI Act and the CIS Regulations came to be framed. Thereafter, several press releases and newspaper advertisements/ notices were issued by SEBI from time to time in the leading newspapers bringing to the notice of the investors and the persons concerned, the various instructions issued by SEBI/ Central Government from time to time in respect of the functioning of the CIS. The press releases further stated that instruments such as agro bonds, plantation bonds should be treated as CIS coming under the SEBI Act. All the companies having such activities were required to file information with SEBI. Moreover, general public was also informed that no person can sponsor or cause to be sponsored any new CIS and thereafter raise further funds. Meanwhile, a committee was formed to examine and finalize the draft regulations for CIS to structure a comprehensive regulatory framework. Subsequently, the notification of SEBI (Collective Investment Schemes) Regulations 1999 was issued on October 15, 1999. As per the CIS Regulations, any person who has been operating a CIS at the time of commencement of the CIS Regulations was required to make an application to SEBI for the grant of registration under the provisions of the regulation, within a period of two months from the date of the notification. No



entity was allowed to run a CIS scheme without obtaining the Certificate of Registration from SEBI.

- j. The definition for "collective investment scheme" was inserted in the SEBI Act, 1992, vide the Securities Laws (Amendment) Act, 1999 w.e.f. February 22, 2000. According to the definition, CIS means any scheme or arrangement which satisfies the conditions specified in Section 11 AA of the SEBI Act, which provides as under:

"(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) or [sub-section (2A)]¹ shall be a collective investment scheme.

[Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under the exemptions from CIS sub-section (3), involving a corpus amount of one hundred Crore rupees or more shall be deemed to be a collective investment scheme.]²

(2) Any scheme or arrangement made or offered by any [person]³ under which,
(i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement;
(ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement;
(iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;
(iv) the investors do not have day to day control over the management and operation of the scheme or arrangement."

The term "securities" in section 2(h) of the Securities Contracts (Regulation) Act, 1956 was amended vide the Securities Laws (Amendment) Act, 1999, w.e.f. February 22, 2000, to include units or any other instrument issued by any collective investment scheme to the investors in such schemes.

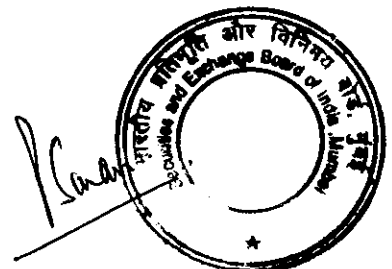
- k. Having discussed the above, let us now examine whether the schemes floated by KBCL satisfy all the four conditions prescribed under Section 11AA(2) of the SEBI Act.:

- The first condition, under Section 11AA(2), is that the contributions or payments made by the investors, by whatever name called, are pooled and utilised for the purposes of the scheme/ arrangement. In the instant case, KBCL admittedly collects the money/ investments from customers, offers investment plans/ scheme. The said monies are utilized for the purposes of the scheme, which is sale/ purchase and development of land. KBCL has claimed that the collection of payments, development of land and sale/

¹ Inserted by Securities Laws (Amendment) Ordinance, 2014

² Inserted by Securities Laws (Amendment) Ordinance, 2014

³ Substituted for 'company' by The Securities Laws (Amendment) Ordinance, 2014

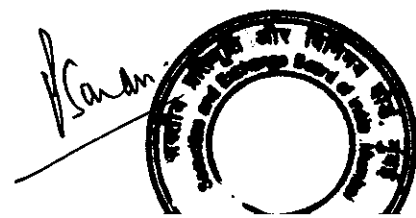


purchase of land is an ongoing and continuing process, the cost of which is covered by KBCL from the income generated by the sale of previous properties/ land/ plots. KBCL in an attempt to give its dealings a color of real estate transactions has submitted that the money paid by the customers is utilized towards procuring the land/ plot, conveying it to the customers, developing the same, planting of sapling, plants, trees, management fee, etc.

The above submissions are an admission of KBCL that it pools the investments made by its customers for procuring the land/ plot, developing the same, etc. I note from the earlier discussion that KBCL has executed very few sale deeds i.e. 50 in number (during the year 2011 and 2013) which included customers of both the plans (i.e. single installment and multiple installment) out of its large investor base of 4,92,357 customers from whom it has collected money to the tune of ₹118.69 crore at different points of time. Therefore, the sequence of facts and the number of customers enrolled with KBCL suggest that the investments of customers were being pooled and utilized for the plans/ schemes offered.

Further, I note from the clause contained in the 'application form cum agreement' that the buyer/ customer is desirous of purchasing plot of land and getting the same developed and maintained through KBCL. The 'application form cum agreement'/ registration certificate does not mention about the location of the plot of land/ property. I also note that a customer who is investing its money with KBCL is mandatorily required to give authority for the development and maintenance of the land/ plot in favour of KBCL. As discussed above, KBCL pools the investment made by customers, with the aim/ object of carrying out the overall scheme/ arrangement. Therefore, it becomes clear that KBCL is pooling payments from its customers and utilising it for the purposes of the scheme/ arrangement, thus satisfying the first condition as stipulated in Section 11AA(2)(i) of the SEBI Act.

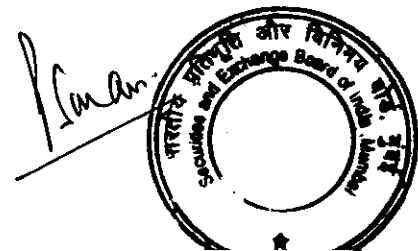
- The second condition, is that the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable, from such scheme or arrangement. In this regard, I note that the contribution/ payments are made by customers to KBCL by selecting the options available as detailed in the 'application form cum agreement' about the profits/ income/ property. Under those options, the customer makes contribution/



payment with a view to receive the profits/ income/ property on their initial investments that may accrue to them as applicable, thus attracting the second condition as stipulated in Section 11AA(2)(ii) of the SEBI Act.

- The third condition is that the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed by KBCL on behalf of the investors. By the own admission of KBCL, the customers give it the authority to develop and maintain the plot of land/ property. I note that the said authority is given to KBCL by the customers vide the 'application form cum agreement' which is a primary document for becoming the customer of KBCL. The customer does not manage his investments in the scheme rather his investments are managed and utilized by KBCL as per its own discretion. Thus, it is clear that the plot of land/ property are not managed by the customers at any stage of the scheme. The same therefore, satisfies the third condition as stipulated in Section 11AA(2)(iii) of the SEBI Act.
 - The fourth condition is that investors do not have day to day control over the management and operation of the scheme or arrangement. As stated above, KBCL obtains the unconditional authority from its customers for developing and maintaining the land/ plot intended to be purchased by the customers. From the facts of the present case, it is clear that the land is being purchased by KBCL in its own name and the same has been transferred in favour of only fifty (50) customers since the starting of the operations of KBCL. As the contribution/ investment and the plot of land/ property are managed by KBCL on behalf of its customers, they do not have any role in their management. This makes it clear that the customer does not have day to day control over the plot of land/ property as the same remained in the custody/ use of KBCL which satisfies the fourth and last condition as stipulated in Section 11AA(2)(iv) of the SEBI Act.
1. KBCL has submitted that the word/ phrase 'estimated realizable' is only an indicative price of the land at the time of the execution of sale deed and based on the appreciation of the price of the land in 10-15 years. However, I note that under normal circumstances price cannot be fixed at a stage where the land is not even allotted.

KBCL in its reply has also submitted that the customer has every right to monitor and participate in the development/ management of his land/ plot and to make suggestions to



it. This submission of KBCL is without any merits as the land being sold are either agricultural or without any infrastructure as noted from the sale deed. Therefore, it is not clear as to what development KBCL was carrying on the land and charges levied for the same were justified.

All these suggest that KBCL is carrying out activities of CIS in the garb of real estate business as out of 4,92,357 customers, it only has 50 registered sale deeds. A reading of the sample sale deeds makes it clear that the land being sold is barren and without any kind of infrastructure. Therefore the claim made by KBCL while submitting the photograph of the site is solely to depict its CIS activities as real estate transaction.

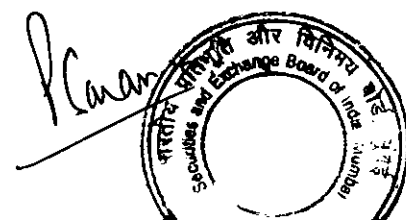
m. Considering the above discussion, it can be said that the transactions between KBCL and its customers are not real estate transactions in true sense, rather they satisfy all the ingredients of a CIS as defined under Section 11AA of the SEBI Act. In this regard, I place my reliance on the observations of the Hon'ble Supreme Court, made in the matter of *PGF Limited & Ors. Vs. Union of India & Anrs.* (Civil Appeal No. 6572 of 2004):

"Therefore, the paramount object of the Parliament in enacting the SEBI Act itself and in particular the addition of Section 11AA was with a view to protect the gullible investors most of whom are poor and uneducated or retired personnel or those who belong to middle income group and who seek to invest their hard earned retirement benefits or savings in such schemes with a view to earn some sustained benefits or with the fond hope that such investment will get appreciated in course of time. Certain other Section of the people who are worstly affected are those who belong to the middle income group who again make such investments in order to earn some extra financial benefits and thereby improve their standard of living and on very many occasions to cater to the need of the educational career of their children.

38. Since it was noticed in the early 90s that there was mushroom growth of attractive schemes or arrangements, which persuaded the above vulnerable group getting attracted towards such schemes and arrangements, which weakness was encashed by the promoters of such schemes and arrangements who lure them to part with their savings by falling as a prey to the sweet coated words of such frauds, the Parliament thought it fit to introduce Section 11AA in the Act in order to ensure that any such scheme put to public notice is not intended to defraud such gullible investors and also to monitor the operation of such schemes and arrangements based on the regulations framed under Section 11AA of the Act. ...

... ..

40. It will have to be stated with particular reference to the activity of the PGF Limited, namely, sale and development of agricultural land as a collective investment scheme, the implication of Section 11AA was not intended to affect the development of agricultural land or any other operation connected therewith or put any spokes in such sale-cum-development of such agricultural land. It has to be borne in mind that by seeking to cover any scheme or arrangement by way of collective investment scheme either in the field of agricultural or any other commercial activity, the purport is only to ensure that the scheme providing for investment in the form of rupee, anna or paise gets registered with the authority concerned and the provision would further seek to regulate such schemes in order to ensure that any such investment based on any promise under the scheme or arrangement is



truly operated upon in a lawful manner and that by operating such scheme or arrangement the person who makes the investment is able to really reap the benefit and that he is not defrauded ... It is, therefore, apparent that all other schemes/arrangements operated by all others, namely, other than those who are governed by sub-section 3 of Section 11AA are to be controlled in order to ensure proper working of the scheme primarily in the interest of the investors.

... ..

42. Therefore, in reality what sub-section (2) of Section 11AA intends to achieve is only to safeguard the interest of the investors whenever any scheme or arrangement is announced by such promoters by making a thorough study of such schemes and arrangements before registering such schemes with the SEBI and also later on monitor such schemes and arrangements in order to ensure proper statutory control over such promoters and whatever investment made by any individual is provided necessary protection for their investments in the event of such schemes or arrangements either being successfully operated upon or by any misfortune happen to be abandoned, where again there would be sufficient safeguards made for an assured refund of investments made, if not in full, at least a part of it.

... .. In the light of our above conclusions on this ground it will have to be held that Section 11AA is a

valid provision, not suffering from any infirmity, as it does not intrude into the specific activities of sale of agricultural land and its development.

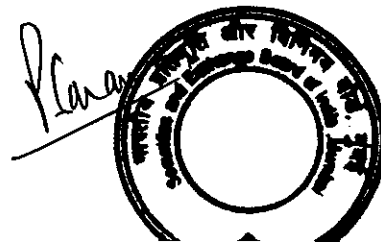
... ..

It is needless to state that as per the agreement between the customer and the PGF Limited, it is the responsibility of the PGF Limited to carry out the developmental activity in the land and thereby the PGF Limited undertook to manage the scheme/arrangement on behalf of the customers. Having regard to the location of the lands sold in units to the customers, which are located in different states while the customers are stated to be from different parts of the country it is well-nigh possible for the customers to have day to day control over the management and operation of the scheme/arrangement. In these circumstances, the conclusion of the Division Bench in holding that the nature of activity of the PGF Limited under the guise of sale and development of agricultural land did fall under the definition of collective investment scheme under Section 2(ba) read along with Section 11AA of the SEBI Act was perfectly justified and hence, we do not find any flaw in the said conclusion.

... ..

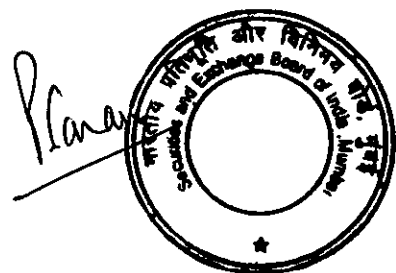
53. We, therefore, hold that Section 11AA of the SEBI Act is constitutionally valid. We also hold that the activity of the PGF Limited, namely, the sale and development of agricultural land squarely falls within the definition of collective investment scheme under Section 2(ba) read along with Section 11AA (ii) of the SEBI Act and consequently the order of the second respondent dated 06.12.2002 is perfectly justified and there is no scope to interfere with the same. In the light of our above conclusions, the PGF Limited has to comply with the directions contained in last paragraph of the order of the second respondent dated 06.12.2002"

In view of the foregoing, I am of the considered view that the plans/ schemes/ of KBCL is in the nature of a collective investment scheme as all the four conditions specified under section 11AA (2) of the SEBI Act are satisfied. I, therefore, find that the Company is engaged in the fund mobilising activity from the public by floating/ sponsoring/ launching 'collective investment schemes' as defined in section 11AA of the SEBI Act. It is clear that the business run by the KBCL is nothing but that of a CIS, as all the conditions of Section 11AA of the SEBI Act are satisfied by the plans/ schemes operated by KBCL. Therefore, I have no hesitation in holding that KBCL and its directors, viz., Mr. Rakesh Kumar, Mr.



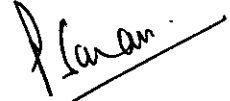
Vishvnath Pratap Singh and Mr. Shashi Kant Mishra are engaged in the fund mobilising activity from public by floating/ sponsoring/ launching CISs as defined in the Section 11AA of the SEBI Act.

- n. Section 12(1B) of the SEBI Act mandates that no person, shall sponsor or cause to be sponsored or carry on or caused to be carried on any CIS unless it obtains a certificate of registration from SEBI in accordance with the CIS Regulations. KBCL has clearly failed to do so. Regulation 3 of the CIS Regulations provides that no person other than a Collective Investment Management Company which has obtained a certificate under the said regulations shall carry on or sponsor or launch a 'collective investment scheme'. A person can launch or sponsor or cause to sponsor a collective investment scheme only if it is registered with SEBI as a Collective Investment Management Company. Therefore, the launching/ floating/ sponsoring / causing to sponsor any 'collective investment scheme' by any 'person' without obtaining the certificate of registration in terms of the provisions of the CIS Regulations is in contravention of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations. I note that KBCL has launched a CIS without obtaining certificate of registration from SEBI, it has contravened the provisions of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations.
9. I note from the *interim* order that KBCL has mobilized funds to the tune of ₹118.69 crores as of March 31, 2012.
10. As regards the liability of the directors, I note from the information provided by the KBCL that Mr. Rakesh Kumar, Mr. Vishvnath Pratap Singh and Mr. Shashi Kant Mishra are its present directors. Therefore, they are also liable for the violation committed by KBCL in not obtaining registration to offer/launch CIS.
11. Therefore, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and Sections 11(1), 11B and 11(4) thereof and Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999, hereby issue the following directions:
- a. KBCL India Limited shall not collect any money from investors or launch or carry out any Collective Investment Schemes including the scheme which has been identified as a Collective Investment Scheme in this Order.



- b. KBCL India Limited [PAN: AACCK 1768N] and its directors Mr. Rakesh Kumar [PAN: BDXPB 7192Q], Mr. Vishvnath Pratap Singh [PAN: BYYPS 5946N] and Mr. Shashi Kant Mishra [PAN: AHYPM 9076H] shall wind up the existing Collective Investment Schemes and refund the money collected by the said company under the schemes with returns which are due to its investors as per the terms of offer within a period of three month from the date of this Order and submit a winding up and repayment report to SEBI in accordance with the SEBI (Collective Investment Schemes) Regulations, 1999, **failing which** the following actions shall follow :
- SEBI would initiate prosecution proceedings under Section 24 and adjudication proceedings under Chapter VI of the Securities and Exchange Board of India Act, 1992 against KBCL India Limited and its directors.
 - SEBI would make a reference to the State Government/Local Police to register a civil/ criminal case against KBCL India Limited and its directors for offences of fraud, cheating, criminal breach of trust and misappropriation of public funds; and
 - SEBI would make a reference to the Ministry of Corporate Affairs, to initiate the process of winding up of KBCL India Limited and its directors.
- c. KBCL India Limited and its directors Mr. Rakesh Kumar, Mr. Vishvnath Pratap Singh and Mr. Shashi Kant Mishra are restrained from accessing the securities market and are prohibited from buying, selling or otherwise dealing in securities market till all the Collective Investment Schemes are wound up by it and all the monies mobilized through such schemes are refunded to its investors with returns which are due to them.
12. This order shall come into force with immediate effect.
13. Copy of this Order shall be forwarded to the stock exchanges and depositories for necessary action.

Place: Mumbai
Date: May 26th, 2014


PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

