

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulations 65 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 in respect of M/s HNC Infrastructures & Shares India Ltd. (PAN: AABCH9386E), and its promoters/directors, viz. Mr.Santosh Kumar Saket (DIN- 02226438), Mr.Ramnaresh Saket (PAN-CIMPS8022E), Mr.Ramadhar Choudhary (PAN-AMWPC8208N) and Mr.Satish Kumar Arya (PAN- AREPA2954N).

1. SEBI received a complaint on November 28, 2013, regarding the fund raising activity of the company, HNC Infrastructures & Shares India Ltd. (hereinafter referred to as "HNC"), assuring high returns for investment in land. The complainant also provided sample copies of "*Brochure*" issued by HNC, "*Rule-book*" and a snapshot of the office premise of HNC.
2. Pursuant to this, SEBI collected information available on the website of Ministry of Corporate Affairs (MCA). In the meanwhile, as a matter of preliminary inquiry, SEBI, vide letter dated December 03, 2013, sought following details from HNC (with copies addressed to all the directors/promoters of HNC), in relation to its business activities, viz:-
 - (a) Memorandum and Articles of Associations (MoA and AoA) as filed with the Registrar of Companies (RoC),
 - (b) Details of the past and present directors including their name, address, PAN and contact details,
 - (c) Brochures pertaining to the schemes/ plans,
 - (d) Copies of applications forms and agreement/contract that are required to be submitted by investors/ to participate in the schemes offered,
 - (e) Sample copies of the registration and allotment letter issued to the investors who subscribed to the schemes,
 - (f) Details of the scheme wise amount mobilized till date along with the number of investors under the schemes,
 - (g) Name, address of each investor and amount deposited by each of them,

- (h) Address of all branches of HNC, operating in India,
 - (i) Certified copy of audited financial statement for the FY 2009-10, 2010-11, 2011-12 and 2012-13. Trial Balance for 2013-14 (from April 2013 till date of submission of information),
 - (j) Copy of Income Tax Return (ITR) filed by HNC for the last three years,
 - (k) Details of the regulatory approvals obtained by HNC, if any, for provision of accidental death/disability benefits to investor, under the schemes.
 - (l) Details of any other similar scheme(s), if any, floated by HNC or its group/associates company.
3. In response to the above, HNC, vide letter dated December 18, 2013 (received on December 30, 2013), while stating "*....the company is engaged in the business of real estate development which included purchase of land and then getting the land use changed and thereafter development, demarcation and plotting of the same.... The company has not floated any investment scheme and hence no statutory approval is required.*", provided the following information,
- (a) MoA and AoA as filed with the RoC,
 - (b) Details of the past and present directors (without PAN details),
 - (c) List of address of all offices operated by HNC,
 - (d) Copies of Annual Reports as filed with RoC for FY 2009-2010 to 2011-2012 (without Annual report for 2012-13 & Trial Balance for current year),
 - (e) Copies of ITR (for last three years).
4. While the matter was being examined by SEBI, the complainant vide e-mails dated December 20, 2013, December 30, 2013 and January 22, 2014, forwarded the following documents to SEBI,
- Copies of "*Registration Certificates*" issued by HNC to an investor,
 - Copies of "*Receipts*" issued by HNC to an investor.
5. In view of the categorical denial by HNC that *.. company has not floated any investment scheme and hence no statutory approval is required* and as HNC failed to provide complete information/documents, SEBI, vide letter dated January 17, 2014 sought clarifications from HNC in respect of various schemes, commission structures, "*Date of Commitment*" etc. as mentioned in the aforesaid "*Brochures*", "*Rule*

Book, "Registration Letter" etc. stated to have been issued by HNC to the investors as forwarded by the aforesaid complainant. In addition to this, clarifications were also sought from HNC in respect of the following discrepancies found in the financial statements forwarded to SEBI by HNC,

- (a) *The audited financial statements for 2010-11, shows that it had purchased land for an amount of ₹51,61,141/- and there was land development expenses of ₹72,80,733.75/-. It was also found that an amount of ₹48,00,000/- were shown as Current Assets being Advance towards land purchase. It was also reflected that an amount of ₹1,71,17,614/- as Current Liabilities being Advance from customers against land purchase.*
- (b) *A perusal of the audited financial statements for 2011-12 of HNC revealed that an amount of ₹2,94,01,320/- were mentioned as other current liabilities. HNC was advised to clarify whether the said amount is the advance collected from customer against land purchase.*
- (c) *In the "Notes to the financial statements for 2011-12", the land development expenses for the year ended March 31, 2012 is shown as ₹28,51,520.74/- and for March 31, 2011 as ₹5,59,432/-. However, in the "Profit and Loss Account for 2010- 2011", the land development expenses for the year ended March 31, 2011 is shown as ₹ 72,80,733/- In view of this, clarifications were sought in respect of the aforesaid two different figures for land development expenses for 2010-11 (₹72,80,733/-) shown in the Audited financial statement of 2010-11 and in previous year column of Audited financial statement of 2011-12 (₹5,59,432/-).*
- (d) *It is also noted that commission & bonus paid were ₹15,72,020/- for 2011-12 and ₹21,08,448/- for 2010-11. However, there is no payment for commission and bonus shown in Audited financial statement of 2010-11. Similar discrepancy was observed in Travelling & collection expenses.*

5.1 In view of apparent discrepancies noticed in the financial statements of HNC for 2010-11 and 2011-12, as noted above, clarifications were also sought from the auditor of the company, viz. Mr.Dhruv Kumar Pandey, partner of M/s Jayant Kothari & Co., Chartered Accountants, vide letter dated January 20, 2014.

5.2 In response to the aforesaid letter dated January 17, 2014, SEBI received an undated letter from HNC on January 31, 2014, signed by its auditor Mr. Dhruv Kumar Pandey along with an authorization

letter from HNC in his favour to give submission to SEBI on behalf of HNC. HNC, vide the said letter, while stating ...*it is not prime object of the company to provide any SEBI Collective Investment Scheme made under Regulation 1999.....company is purchasing the land on behalf of investors, develop it and then transfer to the members or investors in due time.However,... in any respect this scheme is covered under CIS as per recommendation of SEBI, the management of the company is willing to get registration under the said scheme.....*", furnished the following information/documents:

- (a) Details and PAN of three directors,
- (b) Sample copy of "*Customer Application Form*",
- (c) Copy of a "*Customer Application Form*" issued by HNC to an investor,
- (d) "*Rule Book*",
- (e) "*Pamphlet*" issued by HNC,
- (f) Copy of a certificate (Registration no.16 dated November 27, 2011) issued by Nagarpalika Nigam, Rewa, Madhya Pradesh to HNC company authorizing HNC for acting as a "*colonizer*".
- (g) List of the "*customers*"/investors who have invested in HNC.
- (h) Details of total advance taken from investors against land,
- (i) Copies of all executed registry agreements,
- (j) Denying any discrepancy in their accounts, HNC provided detailed breakup of accounts to explain their stand.

6. I have perused the materials available on record such as, the complaints received from investors, correspondence exchanged between SEBI and HNC along with the documents contained therein, submissions made by HNC, etc. The issue for determination in the instant matter is whether the mobilization of funds by HNC is a '*collective investment scheme*' in accordance with Section 11AA of the SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**").

6.1 On an examination of the material available on record, it is *prima facie* observed that:

- i. HNC Infrastructures and Shares India Ltd. (U51109MP2006PLC019076) was originally incorporated as HNC Network Pvt. Ltd. on November 23, 2006. Subsequently, the name of company was changed to HNC Infrastructures & Shares India Ltd. on August 04, 2008. It has its

registered office at 2nd Floor, Thirth Pariser Complex, University Road, Near Guru Market, Anantpur Rewa, M.P. -486001.

- ii. The Directors of HNC are Mr. Santosh Kumar Saket, Mr. Ramnaresh Saket, Mr. Ramadhar Choudhary and Mr. Satish Kumar Arya.
- iii. As per the MoA, the main objects of HNC, *inter alia* are "To engage in Real estate promoters, developers and project management association including civil, mechanical, electrical, colonizer, builders, developers...."
- iv. HNC collects money from the public by offering various schemes for "booking of land/plots" for development. As per the "Rule Book" issued by HNC, following are the various schemes offered by HNC,

Installment Scheme (monthly, quarterly, half-yearly and yearly instalments),

- Plan -RIP/ A (60 months),
- Plan - RIP/ B (84 months),
- Plan - RIP/ C (108 months) &
- Plan - RIP/ D (144 months).

Lumpsum Payment Plan,

- Plan (SIP/E) of one time booking of plots.

One each from the aforesaid categories are reproduced below,

RIP/A

(months-60)

(period- 5 years)

Sl. No.	Area of land booked	Installments				Amount deposited for land	Value of land with profits	Compensation on accident
		Monthly	Quarterly	Half- yearly	Yearly			
1	240	200	585	1175	2370	12000	16200	18000
2	360	300	880	1775	3550	18000	24300	27000
3	600	500	1475	2950	5925	30000	40500	45000
4	960	700	2150	4100	8200	42000	56700	63000
5	1200	1000	2950	5900	11900	60000	81000	90000

SIP/E
(Lump Sum Plan)

Years	Area of land booked in sq. ft.										
	100	200	300	400	500	600	700	800	900	1000	
	Lump Sum payment										
	5000	10000	15000	20000	25000	30000	35000	40000	45000	50000	Advance refund
1	5600	11200	16800	22400	28000	33600	39200	44800	50400	56000	No
2	6270	12540	18810	25080	31350	37620	43890	50160	56430	62700	No
3	7020	14040	21060	28080	35100	42120	49140	56160	63180	70200	No
4	7860	15720	23580	31440	39300	47160	55020	62880	70740	78600	Yes
5	8805	17610	26415	35220	44025	52830	61635	70440	79245	88050	„
6	9660	19720	29580	39440	49300	59160	69020	78880	88740	98600	„
7	11045	22090	33135	44180	55225	66270	77315	88360	99405	110450	„
8	12370	24740	37110	49480	61850	74220	86590	98960	111330	123700	„
9	13855	27710	41565	55420	69275	83130	96985	110840	124695	138550	„
10	15515	31030	46545	62060	77575	93090	108605	124120	139635	155150	„

** It is mentioned that company offers 12% yearly profit to investors. It is also mentioned that compensation for accidental death is given to investors.*

v. The “customers”/investors, who are interested to invest in any of the aforesaid schemes are made to execute a “Customer Application form”. Following are the clauses noted in the said application form,

- *"The allotment of plot / land by the company to customer / investor after completion of the three years as per the actual values of their vested amount for plot which is clearly shown on plan table. (Clause -2)*
 - I. *The allotment of plot / land for amount ranging from Rs.5000/- to 20,000/- allotted will be 20 to 30 kilometres from the city,*
 - II. *The advance money deposited for the plot allotment nearby city for amount ranging from Rs.20,000 to 50,000,*
 - III. *.....*
 - IV. *If any customer is not interested to take plot/land after completion of his / her bounded time period, he will take actual money as per plan table at the time after the plot / land sale to company.*
- *Company prescribed one instalment of minimum Rs.5000=00 and maximum Rs.50000=00 for booking plot or by product in single installment. If the plot or product having cost of more than 50000=00 , customer can pay the amount within the proof of income (Clause -4) .*
- *Company booked difference size of plot or product in the name of customer after advance payment in the multiple of Rs.50=00 per sqr fit. Due to rate in cases in future will be applicable in agreement terms and conditions. (Clause -5)*
- *Customer can register the plot, which was booked in his name by company, at any time after completion of three years (Clause -6)*

- I. *After 3 years if customer wants allotment of plot / land booked by the company, he has to submit written application in this regard in the office. (Clause -7)*
 - II. *Within one month from the date of receiving the application from the customer, location of plot / land will be fixed and allotment will be done by the company. (Clause -7)*
- *Customer can sell booked plot / land to company and time after completing three years and receive advance amount along with the 12% annual profit and company terminates agreement at the same time (Clause 9).*
 - *Customer can book company product or plot on the payment basis of monthly, quarterly, half yearly or yearly installment for the prescribed period of 5,7,9 and 12 years (Clause -10).*
 - *The company regulates and introduces new payment as specified in rule book (time to time) by rules and regulations and new payment plan is changed at any time without any notice (Clause -13).*
 - *The changed terms and conditions of company will be applied on the agreement enforced after the change (Clause -14).*
 - *The customer will not file any suit or any type of interference in distributed plot or purchased product. (Clause -17).*
 - *The customer will not interfere in any work of company he / she is only the part of scheme (Clause -18).*
 - *The customer will not interfere in the advertisement, development, project related work of the company (Clause -19).*
 - *All the charges all included for the development in product /plot of company (Clause -20)."*
- vi. HNC issues a "Registration Certificate" to the "customers"/investors. The said certificate contains certain details of the plan opted by the "customer"/investor, such as the "date of commitment of customer, "price of land/product value and booked plot sqr. Ft.", "expiry of land/product value with profit"/return etc.
 - vii. From the audited financial statements of the company for the FY 2009–10, 2010–11 and 2011–12, it is observed that the amounts mobilized from customers, cost of land purchased, development expenses etc. incurred by HNC, as stated in the relevant Balance Sheet are as under:

(Amount in ₹.)

	As on March 31, 2010	As on March 31, 2011	As on March 31, 2012	As on March 31, 2013
Advances from customers	7,67,800	1,71,17,614	2,90,68,098.50	4,11,52,879.25
<u>Opening Stock (inventory)</u>				
Land at cost	0	0	5161141.00	5161141.00
Add: Land development expenses	0	0	7280732.95	15224543.29
Add: Stationery	0	0	35674.00	0
	<u>0</u>	<u>0</u>	<u>12477547.95</u>	<u>20385684.29</u>
<u>Closing Stock (inventory)</u>				
Land at cost	0	5161141.00	5161141.00	5161141.00
Add: Land development expenses	0	7280732.95	15224543.29	24954868.84
Add: Stationery	0	35674.00	0	0
	<u>0</u>	<u>12477547.95</u>	<u>20385684.29</u>	<u>30116009.84</u>

**It is noted that in financial statements of 2010-11, the opening and closing stock are not separately reflected in Schedules. However, profit & loss account shows change in stock includes (a) Land purchase for Rs. 5161141/- and (b) Land development expenses for ₹7280733.75/- The corresponding figure in profit & loss account for 2009-10, is nil.*

- From the above table (stock position), it is observed that the land purchased in 2010-11 is continued to be reflected in financial statement as on March 31, 2013. This implies that company has not allotted any land to its “customers”/investors from whom funds were raised.

viii. HNC initially made misstatements to SEBI that it did not float any investment scheme. It was only when confronted with copies of documents/materials provided by the complainant that HNC, admitted that schemes were floated for investment in land, (vide its letter received on January 31, 2014, as detailed in paragraph No. 5.2). Following are noted from the documents/submissions provided by HNC, vide the aforesaid letter:

- The total advance taken from “customers”/investors against land as on January 22, 2014, is ₹4,75,20,825/-. The cost of land including development & other cost is ₹4,74,93,118/-. It was stated that market value of land is ₹600 lacs and thus they are financially capable for refunding the entire amount taken as advance against land.
- As per the list of investors furnished by HNC, there are 10,528 investors in the schemes/plans offered by HNC.
- Further, from the copies of the registry agreements furnished by HNC, it is noted that there are seven agreements to sale/sale agreement vide which properties were purchased by HNC.
- As regards the discrepancy in its accounts, (as pointed out in paragraph No. 5 above), it is noted from the documents furnished by HNC (vide the aforesaid letter received on January

31, 2014), that in financial statements of 2010-11, HNC clubbed all its expenses under head "*Land Development Expenses*" as ₹72,80,733.75. It is indicated from detailed ledger provided by HNC for 2010-11 that within this overall group head "*Land Development Expenses*", there were sub-heads such as land development expenses - ₹5,59,432/-, commission & bonus paid- ₹21,08,448.60/-, Travelling & collection expenses- ₹21,45,365.35/- etc. It is also noted that auditor in note to accounts of Audited financial statement of 2011-12 has mentioned that previous year figures has been regrouped and rearranged.

- ix. As regards, the commission offered by HNC, it is observed that HNC is offering very high commission to its agents. For "*Regular Installment plan*" the commissions are 34% (for 1st year), 25% (for 2nd year), 22% (3rd year), 21.50% (for 4th year onwards) and for "*Single Installment plan*", the commission is 15%. In addition to this, the agents are given 2% royalty on profits earned by HNC.
7. The aforementioned features of the various plans for the "*booking land/plots*" for development offered by HNC clearly appears to be a "*scheme*". In view of this, the details of the "*schemes*"/plans offered by HNC have to be considered in light of Section 11AA of the SEBI Act. The aforesaid Section 11AA, which provides for the conditions to determine whether a scheme or arrangement is a '*collective investment scheme*', reads as follows:
- “(1) *Any scheme or arrangement which satisfies the conditions referred to in subsection (2) [or sub-section (2A)] shall be a collective investment scheme.*
- (2) *Any scheme or arrangement made or offered by any [person] under which,-*
- (i) *the contributions, or payments made by the investors, by whatever name called, are pooled and utilized 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.”*

[(2A)] Any scheme or arrangement made or offered by any person satisfying the conditions as may be specified in accordance with the regulations made under this Act.]”

7.1 In the context of the abovementioned Section 11AA of the SEBI Act, the "*scheme*"/plan of "*booking of plot*" for development offered by HNC, is examined as under:

- 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.***

HNC collects money from the public by offering various schemes for “*booking of land /plots*” for development. The amounts are collected through various schemes/plans mentioned in the “*brochure*” issued by HNC. The details regarding the location of the land/plot are provided neither in the “*Brochures*” nor in the “*Registration Certificate*” (blank as well as copy of duly filled form of a “*customer*”/investor). The land units against which amounts are collected from the “*customers*”/investors, are not identified in any of the documents/agreements/contracts pertaining to the schemes as available on record. Clause 9 of the terms & conditions in the “*Customer Application form*”, states “*Customer can sell booked plot/ land to company after the completion of three years and receive advance amount along with the 12% annual profit and company terminates agreement at the same time.*” The aforesaid clause implies that there is no intention of transferring the possession of land units to the investor at any time during the scheme. An amount of ₹4,75,20,825/- has been collected by HNC as advance from “*customers*”/investors against land as on January 22, 2014. As has been noted in paragraph No. 6.1(vii), the land purchased in 2010-11 are continued to be reflected in financial statement as on March 31, 2013. This indicates that HNC has not allotted any land to its “*customers*”/investors from whom funds were raised. I, therefore, find that the instant “*scheme*”/plan satisfies the first condition stipulated in Section 11AA(2)(i) of the SEBI Act that the contributions or payments made by the investors are pooled and utilized for the purpose of the scheme.

- 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.***

From the various plans mentioned in the brochures issued by HNC (as reproduced in the forgoing paragraph), it is observed that for an amount of ₹ 12,000/- towards the amount deposited for land, (paid as monthly instalments of ₹ 200/- for 60 months), “*the value of land with profit*”/return offered after the term period of 5 years as per the plan is ₹ 16,200/-. HNC also offers compensation in case of accidental death to the “*customers*”/investors. Clause 2(IV) of the terms & conditions in the “*Customer Application form*”, states “*If any customer is not interested to take plot/land after completion of his /her bounded time period, he will take actual money as per plan table at the time after the plot/land sale of the company.*” In view of this, it is evident that payments are made by the “*customers*”/investors with a

view to receive profit or income, and hence the second condition in Section 11AA (2) (ii) of the SEBI Act, which stipulates 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 is also fulfilled.

- iii. The property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors, and***
- iv. The investors do not have day-to-day control over the management and operation of the scheme or arrangement.***

Clause 5 of terms & conditions in the “*Customer Application form*”, states “*Company booked difference size of plot or product in the name of customers after advance payment in the multiple of Rs. 50 per sqr. ft.*” It is noted from Clause 17 that “*The customer will not file any suit or any type of interferes in distributed plot or purchased product.*” Further, Clause 18 states “*The customer will not interfere in any work of company, he/she is only the part of scheme.*” The aforesaid clauses imply that control over the management and operation of scheme vests solely with HNC.

The “*customers*”/investors do not have any day to day control over the schemes offered by HNC. This is supported by the fact that specific details regarding the location of plot is provided neither in the “*Customer Application form*” nor in the “*Registration Certificate*”. Further, as indicated in clauses 17 to 19 of the said application form, the “*customers*”/investors cannot interfere in the project related work, development etc. of HNC. It is further noted that the land so allocated can be disposed of only after 3 years to the company with 12% annual profit and the “*customer*”/investor does not have any right to alienate the property independently. In view of the above, it can be concluded that investors do not have any day to day control over the operation and management of the scheme and do not have any choice in respect of the land involved in the scheme.

I, therefore, find that the instant *Scheme* also satisfies the conditions stipulated in Section 11AA(2)(iii) and (iv) of the SEBI Act.

7.2 From the above analysis, I find that the scheme of “*booking of land /plots*” for development offered by HNC with a resultant promise of returns when considered in light of peculiar characteristics and features of such scheme, as discussed in the preceding paragraphs, *prima facie* satisfies all four conditions specified in Section 11AA (2) of the SEBI Act.

8. It is observed that aforesaid fund mobilizing activity of HNC, promising an estimated returns/profit, has been camouflaged by HNC by way of a "*Booking of Land /plots* " for development, only to mislead and attract investment from the general public, which in essence satisfies all the conditions of a '*collective investment scheme*' as defined in Section 11AA of the SEBI Act. In this context, it is relevant to refer to the following observations of the Hon'ble Supreme Court of India in the matter of ***P.G.F Ltd. & Ors. vs. UOI & Anr.*** (MANU/SC/0247/2013) (hereinafter referred to as "PGFL Case"):

" While analyzing the scope of sub-section (2) of Section 11AA, the Hon'ble Court held that: "*..sub-section (2) of Section 11 AA, which defines a collective investment scheme disclose that it is not restricted to any particular commercial activity such as in a shop or any other commercial establishment or even agricultural operation or transportation or shipping or entertainment industry etc. The definition only seeks to ascertain and identify any scheme or arrangement, irrespective of the nature of business, which attracts investors to invest their funds at the instance of someone else who comes forward to promote such scheme or arrangement in any field and such scheme or arrangement provides for the various consequences to result there from.*"

- 8.1 In view of the said observations of the Hon'ble Supreme Court of India in the PGFL Case and in view of the abovementioned analysis and examination, I find that the *scheme* offered by HNC in the name of "*booking of land /plots*" for development is nothing but a smokescreen for its fund mobilizing activity with a resultant promise of returns, which clearly falls within the ambit of '*collective investment schemes*' as defined in Section 11AA of the SEBI Act.
9. Section 12(1B) of the SEBI Act states "*no person shall sponsor or cause to be sponsored or cause to be carried on a 'collective investment scheme' unless he obtains a certificate of registration from the Board in accordance with the regulations*". Regulation 3 of the SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "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*'. Therefore, 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. Thus, 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 read with Regulation 3 of the CIS Regulations.

9.1 In the instant case, I am of the view that HNC is *prima facie* engaged in fund mobilizing activity from the public, by floating/sponsoring/ launching 'collective investment scheme' as defined in Section 11AA of the SEBI Act without obtaining a certificate of registration from SEBI as required under Section 12(1B) of the SEBI Act and the CIS Regulations. It is further noted that HNC, vide its letter (undated) received by SEBI on January 31, 2014, submitted “.. if this scheme is covered under CIS as per recommendation of SEBI, the management of the company is willing to get registration under the said scheme.....”. Obtaining registration from SEBI as mandated by the provisions of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations, is prerequisite for a person to commence any activity in the nature of "Collective Investment scheme". In the instant case, HNC has been conducting the collective investment activities without obtaining registration, which *ab initio*, is in violation to the provisions of SEBI Act and CIS Regulations. In view of this, the question of granting registration to HNC does not arise at this juncture. Considering the fact that no prior registration was obtained by HNC in respect of the aforesaid activities in the nature of collective investment scheme, I am of the view that HNC and its promoters/directors *viz.* Mr.Santosh Kumar Saket, Mr.Ramnaresh Saket, Mr.Ramadhar Choudhary and Mr.Satish Kumar Arya are illegally mobilizing funds from the public, which *prima facie* amounts to a fraudulent practice in terms of Regulation 4(2) (t) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practice Relating to Securities Market) Regulations, 2003.

10. Protecting the interests of investors is the first and foremost mandate for SEBI. Under the circumstances, SEBI has to take immediate steps to prevent activities of companies or entities defrauding investors and damaging the orderly development of the securities market. In order to ensure that HNC and its directors/promoters do not collect further funds under its schemes and to safeguard the assets/property acquired by HNC and its promoters/directors from the funds of the investing public until full facts and materials are brought and final decision is taken in the matter, it becomes necessary for SEBI to take urgent preventive action. In the light of the same, I find no other alternative but to take recourse through an interim measure against HNC and its promoters/directors for preventing them from further carrying on with the fund mobilizing activity.

11. In view of the above, I, in exercise of the powers conferred upon me under Section 11(4) and 11B of the SEBI Act, 1992 and Regulation 65 of CIS Regulations, hereby direct **HNC Infrastructures & Shares India Ltd.** (PAN: AABCH9386E), and its promoters/directors including **Mr.Santosh Kumar Saket** (DIN- 02226438), resident of Sindhi Camp, Near Puraswani Dal Mill, Satna, Madhya Pradesh-485001,

Mr. Ramnaresh Saket (PAN- CIMPS8022E) resident of Village - Saman, Belauhan Tola Post Office- Ratah, Rewa, Madhya Pradesh- 486001, **Mr. Ramadhar Choudhary** (PAN- AMWPC8208N) resident of Boda Bagh Majhla Tola, Ward No.- 08, Rewa-, Madhya Pradesh 486001, and **Mr. Satish Kumar Arya** (PAN-AREPA2954N) resident of Village -Raghunathpur, Post office- Janardanpur, Satna, Madhya Pradesh-485001,

- a. not to collect any fresh money from investors by its existing scheme;*
- b. not to launch any new scheme/plan or float any new companies to raise fresh moneys;*
- c. not to dispose of any of the properties or alienate the assets of the existing scheme;*
- d. not to divert any funds raised from public at large, kept in bank account(s) and/or in the custody of HNC;*
- e. to immediately submit the full inventory of the assets owned by HNC out of the amounts collected from the "customers"/investors under its existing schemes;*
- f. to furnish all the information sought by SEBI vide letter dated December 03, 2013, including, sample copies of the documents/agreements/contracts executed with the "customers"/investors for the purpose of the scheme.*

12. The above directions shall take effect immediately and shall be in force until further orders.
13. The *prima facie* observations contained in this Order are made on the basis of the material available on record. This order is without prejudice to the right of SEBI to take any other action that may be initiated against HNC and its Directors/Promoters in accordance with law.
14. HNC and its abovementioned Directors shall, within 15 days from the date of receipt of this Order, file its reply, if any, to the *prima facie* observations made herein. HNC and its Directors may also indicate, in such reply, whether they wish to avail an opportunity of personal hearing in the matter.

Place: Mumbai
Date: August 5, 2014

S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA