

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under sections 11(1), 11(4), 11A(1)(b) and 11B of the Securities and Exchange Board of India Act, 1992

In the matter of Midas Touch Assets and Securities Limited

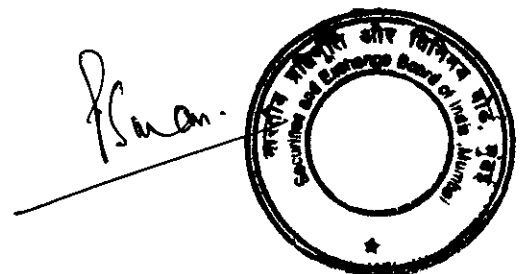
In respect of

1. Midas Touch Assets and Securities Limited (PAN: AABCJ2925P),
2. Mr. Soubhagya Kumar Samal (DIN: 02169620 & PAN: AMYPS3013P),
3. Mrs. Nirupama Samal/Thatoi (DIN: 02183778 & PAN: AGGPT2796Q),
4. Ms. Swarna Lata Samal (DIN: 02761654 & PAN: ARCPS6416R),
5. Mr. Debasis Prasad Mishra (DIN: 06560400 & PAN: AKWPM6994P) and
6. Mr. Swetanshu Shekhar Samal (DIN: 06560414 & PAN: BBNPS8548C)

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') had initiated an enquiry into the alleged money mobilization activities through the issuance of redeemable preference shares by a company, namely, **Midas Touch Assets and Securities Limited** (hereinafter referred to as '**Midas Touch**' or '**the Company**'), a company incorporated under the Companies Act, 1956 having its registered office at Plot No. 779/1657, Madhusudan Nagar, Unit IV (Backside of Parthasarthi Kalyan Mandap) Bhubaneswar - 751001, Odisha. The enquiry was conducted on the basis of complaints that were received.

2. In pursuance of such examination, SEBI vide letter dated March 27, 2013 (*addressed to the registered office of the Company*) advised the Company to *inter alia* furnish the following information/ documents:

1. Copy of the memorandum and articles of association of the company;
2. Copy of audited balance sheet and profit & loss account of the company for the last 3 years;
3. Name, addresses and occupation of all the promoters/ directors of the company;
4. Names and details of the key managerial personnel of the company;



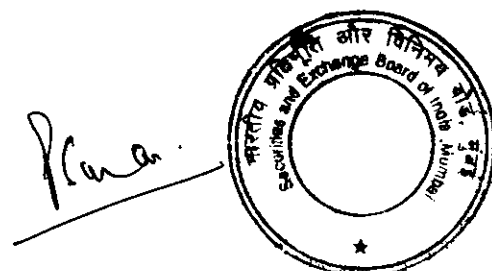
5. Information in respect of issue of preference shares/ debentures issued by the Company:

- a. Copy of Prospectus/ Red Herring Prospectus/ Statement in lieu of prospectus/ information memorandum filed with RoC for issuance of debentures/ preference shares.
- b. Date of opening and closing of the subscription list for the said debentures/ preference shares.
- c. Details regarding the number of application forms circulated inviting subscription for debentures/ preference shares.
- d. Details regarding the number of applications received, number of allottees and list of such allottees.
- e. Number of debentures/ preference shares allotted and value of such allotment against each allottee's name.
- f. Details regarding subscription amount raised.
- g. Date of allotment of the debenture/ preference shares.
- h. Copies of the minutes of board/ committee meeting in which the resolution has been passed for allotment.
- i. Date of dispatch of debenture/ preference share certificates, etc.
- j. Copies of application forms, pamphlets, advertisements and other promotional material circulated for issuance of debentures/ preference shares.
- k. Terms and conditions of the issue of debentures/ preference shares.

SEBI also sought information from the Company in respect of 'schemes' launched by it for raising funds.

Though the above letter was received by the Company, it did not respond.

3. In the meanwhile, SEBI also sought information, vide its letter dated March 01, 2013, from the Office of the Registrar of Companies (hereinafter referred to as 'RoC'), Cuttack. Information regarding the Company were also collected from the website of the Ministry of Corporate Affairs (hereinafter referred to as 'MCA').

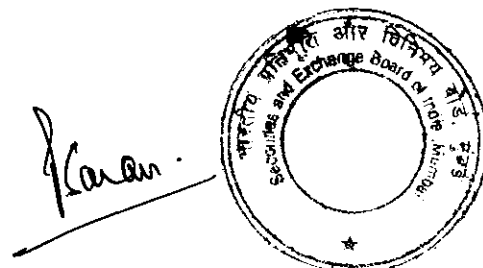


4. As the Company did not submit the information/documents as sought by SEBI, vide letters dated February 25, 2014, SEBI again sought the same information, as was sought vide its earlier letter dated March 27, 2013, from the Company and its existing Directors, namely, Soubhagya Kumar Samal, Debasis Prasad Mishra and Swetanshu Sekhar Samal. These letters of SEBI were returned undelivered with the reason 'addressee left/unclaimed' except for the letter issued to Debasis Prasad Mishra. Mr. Debasis Prasad Mishra in his reply dated June 20, 2014 to SEBI letter dated February 25, 2014 *inter alia* stated that he was neither the MD/Director nor a member in the Board of Directors of the Company and was working as an employee of the Company as a General Manager at Angul Branch. His submissions are also dealt with in a later paragraph of this Order.

5. SEBI officials had also visited the registered office of the Company on April 07, 2014 for inspection and found that the office premises were closed. SEBI, vide letter dated May 28, 2014, also sought clarification from M/s. Patro & Co., the Auditor of the Company, with respect to the Preference Shares issued by the Company. The reply submitted by the Auditor is discussed in a later paragraph.

6. Again, SEBI received complaints dated September 26, 2014 enclosing copies of preference share certificates alleging that the Company has stopped remitting the dividends and has not refunded the monies.

SEBI also received a letter dated September 26, 2014 from the Office of Registrar of Companies-cum-Official Liquidator, Odisha ("RoC") forwarding two complaints received by them from investors in respect of the Company. These complaints/reference alleged that (1) the Company had mobilised substantial amount of public funds under its different plans with a promise of high interest ; (2) the Company had issued redeemable preference share certificates acknowledging receipt of money and the terms and conditions ; (3) the Company promised redemption after 5 years of the investment/subscription in the share certificates ; (4) no dividends/return of the monies invested by them in such preference shares were forthcoming from the Company and (5) the investors were not able to reach the Company/its promoters/directors.



The RoC also stated that it had perused the various documents filed by the Company and it is seen that the Company has filed the Form No. 2 relating to return of allotment of redeemable preference shares on various dates. The particulars of the same given by RoC are as under:

Date of Allotment	No. of allottees	No. of shares allotted	Amount raised (in ₹)	Type of Security
27-10-2010	765	35,33,000	3,53,30,000	RPS
28.08.2009	5	10,000	1,00,000	EQ. Share
29-12-2010	1,333	71,18,500	7,11,85,000	RPS
30-03-2011	999	48,69,500	4,86,95,000	RPS

RoC has stated that the aforesaid allotments appear to have been made by the Company in a deemed public issue and requested SEBI to look into the matter.

7. As no information was forthcoming from the Company and its promoters/directors, SEBI examined the matter on the basis of the material collected during the preliminary examination i.e., the complaints from investors, information obtained from the 'MCA 21 Portal' etc., reference from the MCA/RoC etc. The following are *inter alia* the preliminary observations of SEBI :

a. Midas Touch was incorporated on December 19, 1995 as JMG Gases Pvt. Ltd. with two promoters namely Mr. Satyanarayan Agarwal and Mr. Sandeep Agarwal, each holding 1,000 shares. The name of the company was changed to Midas Touch Assets and Securities Pvt. Ltd. on August 04, 2009. Subsequently on August 24, 2009, the company became a public limited company and its name was changed to the present name of "Midas Touch Assets and Securities Limited". The Corporate Identification Number (CIN) of the Company is U74140OR1995PLC004269. The Company has its registered office at "Plot No. 779/1657, Madhusudan Nagar, Unit-IV, Backside of Parthasarathi Kalyan Mandap, Bhubaneswar-751001".

b. The following table provides the details of the Company's promoters/directors, as available from the website of the MCA along with their Permanent Account Number (which was obtained from the website of Income Tax Department) :

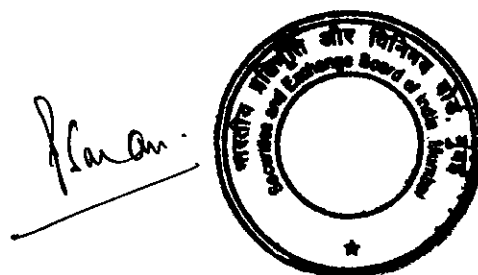


Table A

Sl. No.	Name of the Promoter/ Director	Date of Joining/ Appointment	Date of Resignation	PAN*
1	Satyanarayan Agarwal	19.12.1995	31.03.2009	-
2	Sandeep Agarwal	19.12.1995	31.03.2009	-
3	Bishnu Kumar Choudhary	23.02.2009	20.07.2009	-
4	Anil Kumar Choudhary	23.02.2009	20.07.2009	-
5	Nirupama Samal/Thatoi	24.06.2009	25.04.2013	AGGPT2796Q
6	Swarna Lata Samal	28.08.2009	25.04.2013	ARCPS6416R
7	Soubhagya Kumar Samal (Chairman & Managing Director)	24.06.2009	Continuing	AMYPS3013P
8	Debasis Prasad Mishra	25.04.2013	Continuing	AKWPM6994P
9	Swetanshu Sekhar Samal	25.04.2013	Continuing	BBNPS8548C

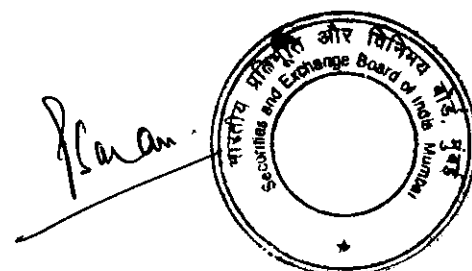
c. Further, from the extract of the minutes of the meetings of the Board of Directors of the Company as obtained from the 'MCA 21 Portal', it is observed that funds to the tune of ₹ 15,52,10,000/- had been mobilized by the Company till March 30, 2011 through the issuance of 1,55,21,000 Cumulative Redeemable Preference Shares ("CRPS"). The Company was found to have issued CRPS in 3 tranches during the Financial Year (FY) 2010-2011 to 3097 investors and raised a total of ₹ 15,52,10,000/-. Relevant details are as below :

Table B

Date of board meeting	No. of allottees	No. of shares (CRPS)	Amount raised (in ₹)
27-10-2010	765	35,33,000	3,53,30,000
29-12-2010	1,333	71,18,500	7,11,85,000
30-03-2011	999	48,69,500	4,86,95,000
	3,097	1,55,21,000	15,52,10,000

d. Further, from 'Form-2/' 'return on allotment' as submitted to the RoC by the Company, it is also noticed that as of March 30, 2011, the Company had a subscribed capital of ₹ 15,52,10,000/- by way of 1,55,21,000 CRPS.

e. As per the Company's Statement of Account, the Company had, as on March 31, 2011, an Authorized Share Capital of ₹22,00,00,000/- (authorised preference share capital of ₹20,00,00,000/- and authorised share capital of ₹2,00,00,000/-). As observed from the certified



copy (of resolutions) dated September 18, 2010, the above increase of authorised capital was done by a resolution passed in the EGM of the Company held on September 16, 2010.

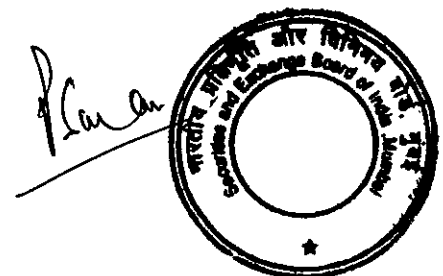
f. The balance sheet of the Company for the FY 2010-2011 (*submitted by Company's Auditor M/s. Patro & Co.*) states that the paid-up equity share capital of the company as on March 31, 2011 was ₹ 5,19,000/-, the paid-up capital through 30% CRPS was ₹ 10,65,15,000/- and the paid-up capital through 24% CRPS capital was ₹ 4,86,95,000/-. Further, the sum of ₹ 1,56,575/- was shown as 'share application money pending allotment'. Therefore, it is observed that the Company had, as on March 31, 2011, mobilized/collected a sum of ₹ 15,53,66,575/- through issuance of CRPS including 'CRPS capital pending allotment'.

g. The Company's Auditor M/s. Patro & Co., vide letter dated May 30, 2014 to SEBI has also submitted the list of allottees of CRPS, wherein it is observed that the Company has raised capital to the tune of ₹ 15,52,10,000/- by issuing 1,55,21,000 number of preference shares to 3,097 investors.

h. A further scrutiny of the audit report and balance sheet of the Company for the years 2009-10 and 2010-11 including 'XBRL report' for the balance sheet filed by the Company with RoC, indicates that the major outflow of the Company's funds are advances for the company's 'Packwood Project', payment of commission, pending declaration of dividend and remuneration for director etc. Other major outflow of the Company's funds are as advances to allegedly Company related entities viz. Midas Touch Properties Marketing Pvt. Ltd., Midas Touch Realtech Pvt. Ltd., Midas Touch Retail India Pvt. Ltd. and Midas Touch Securities. All these transactions pertaining to related entities are loans granted by the Company including Inter-Corporate Deposits (ICDs).

8. The sample 'application form' for CRPS received along with the complaint is perused. From the same, it is noted that the application is stated to be 'private and confidential'. The terms and conditions as set out in the 'application form' also mentions the following :

- the face value for each preference share shall be ₹10 each. Minimum number of preference shares to be applied for allotment of 500 numbers i.e. ₹ 5,000 or any multiple of 500 numbers.
- **The preference shares are redeemable after 5 years (60 months) from the date of issue/ allotment. However, the holder of preference shares may opt for conversion**



for such shares to equity in the company. In such case, the holder should express his option one month prior to expiry of 5 years and the number of equity shares to be allotted in place of his preference share shall depend on the face value or equity on the date of conversion. Any fraction shall be refunded to the holder in cash/ D.D.

- The preference shares could be transferred to others.

The application form also has a 'Declaration by Introducer'. This introduction was mandatory as per the application form.

9. I also note that there are material on record to observe that the Company has issued pamphlets/advertisements/brochures soliciting investments from the public luring them with returns. In this regard, the relevant portions from such material are reproduced below :

"IN PREFERENCE SHARES YOUR INVESTMENT IS SECURE.

IN PREFERENCE SHARES YOUR RETURN IS PREDICTED (GUARANTEED)"

"Example :-

Suppose You invested Rs.1,00,000/- (One lakh only)

You will get

Rs.2000 (monthly) x 60 (month) = Rs.1,20,000/-

After 60 month you will get back

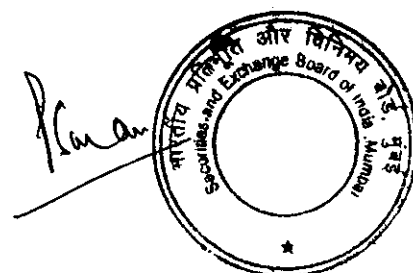
Your 100% investment = Rs.1,00,000/-

Total-Return After 60 months = Rs.2,20,000/-"

"REDEEMABLE PREFERENCE SHARE

(DIVIDEND DETAIL)

INVESTMENT AMOUNT	MONTHLY DIVIDEND 2%	5 YEAR [60MONTHS]	DIVIDEND I.P.O. PLAN-1105	AFTER 5 YEAR AMT. RECEIVED IN I.P.O. PLAN	AFTER 5 YEAR AMOUNT RECEIVED IN RPS



60000	1200	72000	115920	175920	132000
70000	1400	84000	135240	205240	154400
80000	1600	96000	154560	234560	176000
90000	1800	108000	173880	263880	198000
100000	2000	120000	193200	293200	220000
200000	4000	240000	386400	586400	440000
300000	6000	360000	579600	879600	660000
400000	8000	480000	772800	1172800	880000
500000	10000	600000	966000	1466000	1100000

CASH DOWN PAYMENT PLAN

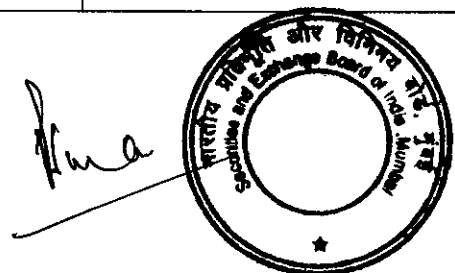
PLANCODE CDPO - 1106 (TERM - 3 YEARS)

INVESTMENT AMNT (IN RS.)	TERM	REDEEMABLE VALUE ON MATURITY (IN RS.)
5000	36 MONTH	7500
10000	36 MONTH	15000
15000	36 MONTH	22500
20000	36 MONTH	30000
25000	36 MONTH	37500
50000	36 MONTH	75000
10000	36 MONTH	15000
50000	36 MONTH	75000

CASH DOWN PAYMENT PLAN

PLAN CODE CDPO - 1107 TERM - 4 YEARS 2 MONTHS

INVESTMENT AMNT (IN RS.)	TERM	REDEEMABLE VALUE ON MATURITY (IN RS.)
5000	50 MONTH	10000
10000	50 MONTH	20000
15000	50 MONTH	30000
20000	50 MONTH	40000
25000	50 MONTH	50000



50000	50 MONTH	100000
100000	50 MONTH	200000
500000	50 MONTH	1000000

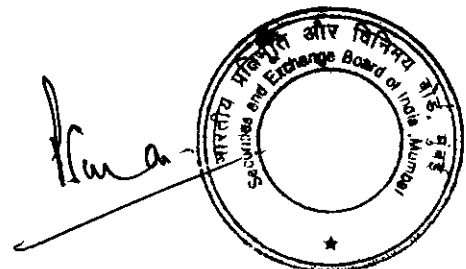
FLEXIBLE PAYMENT OPTION

PLAN CODE FPO - 1108 [TERM - 4 YEARS 2 MONTHS]

FLEXIBLE PAYMENT [10 NOS.]	REDEEMABLE VALUE ON MATURITY (IN RS.)
5500	100000
11000	200000
22000	400000
33000	600000
44000	800000
55000	1000000

The location of the Company's branches were also mentioned. in those brochure/material soliciting investments. The following were the branches - 1. Mumbai (corporate office), 2. Bhubaneshwar (regd. office), 3. Guwahati, 4. Hyderabad, 5. Lucknow, 6. Surat, 7. Bhilai, 8. Jamsedpur, 9. Bailadilla, 10. Kolkata, 11. Angul, 12. Sambalpur, 13. Baripada, 14. Berhampur, 15. Cuttak, 16. Balasore, 17. Hemgiri, 18. Keonjhar, 19. Rairangpur, 20. Jeypore, 21. Paradeep, 22. Rourkela, 23. Jharsuguda, 24. Dhenkanal, 25. Puri, 26. Phulbani, 27. Bolangir and 28. Polosara.

10. After having noted the above details, it becomes important to determine whether the Company had complied with the applicable law in respect of its issuance of RPS. The first issue would be to find whether the issuance was a 'private issue' of RPS or otherwise. As the RPS were issued in the FY 2010-2011, the Companies Act, 1956 (now repealed) would be applicable. According to Section 86 of the Companies Act, 1956 read with section 2(46) thereof, the share capital of a company limited by shares, comprises of equity shares and preference shares issued, if any. Cumulative Redeemable Preference Shares is a sub-category of 'preference shares', wherein the unpaid dividends on such preference shares are treated as arrears and are carried forward to subsequent years till it is paid off in full. Therefore, CRPS is also governed under the Companies Act.



11. As per the details available, the Company had issued CRPS during 2010-2011 to 3,097 investors. In this regard, a reference is made to section 67 of the Companies Act, 1956, which, reads as under :

"67. (1) Any reference in this Act or in the articles of a company to offering shares or debentures to the public shall, subject to any provision to the contrary contained in this Act and subject also to the provisions of sub-sections (3) and (4), be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

(2) ...

(3) No offer or invitation shall be treated as made to the public by virtue of sub-section (1) or sub-section (2), as the case may be, if the offer or invitation can properly be regarded, in all the circumstances-

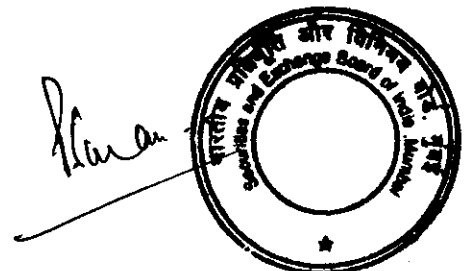
(a) as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation; or

(b) otherwise as being a domestic concern of the persons making and receiving the offer or invitation ...

Provided that nothing contained in this sub-section shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more:

Provided further that nothing contained in the first proviso shall apply to non-banking financial companies or public financial institutions specified in section 4A of the Companies Act, 1956 (1 of 1956)."

A reading of the above, makes it clear that in terms of the first proviso to section 67, the provisions of Section 67(3) shall not apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. In this case, the Company had issued and allotted CRPS in three tranches during FY 2010-2011. The number of investors to whom the CRPS were allotted are substantially in excess of 49. Even the number of investors who were allotted in the those three tranches during 2010-2011, the number of investors have exceeded 49. Therefore, the offer and issue of CRPS by the Company cannot *prima facie* be said to be a 'private placement'. By virtue of the above provision, the same is a **public issue** of such securities. While examining the scope of section 67 of the Companies Act, 1956, the Hon'ble Supreme Court of India in the matter of *Sahara India Real Estate Corporation Limited & Ors. Vs. SEBI (Civil Appeal no. 9813 and 9833 of 2011)* (hereinafter referred to as the '*Sahara Case*'), had observed that:



"Section 67(1) deals with the offer of shares and debentures to the public and Section 67(2) deals with invitation to the public to subscribe for shares and debentures and how those expressions are to be understood, when reference is made to the Act or in the articles of a company. The emphasis in Section 67(1) and (2) is on the "section of the public". Section 67(3) states that no offer or invitation shall be treated as made to the public, by virtue of subsections (1) and (2), that is to any section of the public, if the offer or invitation is not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation or otherwise as being a domestic concern of the persons making and receiving the offer or invitations. Section 67(3) is, therefore, an exception to Sections 67(1) and (2). If the circumstances mentioned in clauses (1) and (b) of Section 67(3) are satisfied, then the offer/ invitation would not be treated as being made to the public.

The first proviso to Section 67(3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. ...

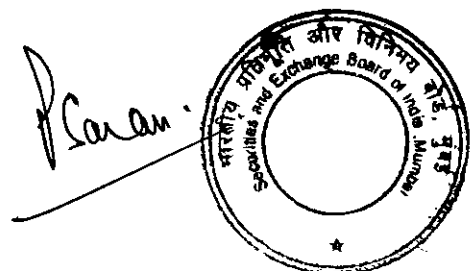
Resultantly, if an offer of securities is made to fifty or more persons, it would be deemed to be a public issue, even if it is of domestic concern or proved that the shares or debentures are not available for subscription or purchase by persons other than those received the offer or invitation. ...

... that any share or debenture issue beyond forty nine persons, would be a public issue attracting all the relevant provisions of the SEBI Act, regulations framed thereunder, the Companies Act, pertaining to the public issue. ..."

[Emphasis supplied]

It is also noted from the application form that the applicant had to be mandatorily 'introduced' for applying to the RPS. It is strange that on one hand the Company declares that its offer and placement of RPS was 'private' in nature and on the other hand the Company requires an 'introducer' to verify the boanfides of the applicant. This would indicate that the offer was not 'private' as stated by Company and was open for all including the public to apply for and subscribe for shares.

12. Having allegedly made a public issue of CRPS during 2010-2011, the Company ought to have complied with all the applicable provisions of the Companies Act, 1956. The same *inter*

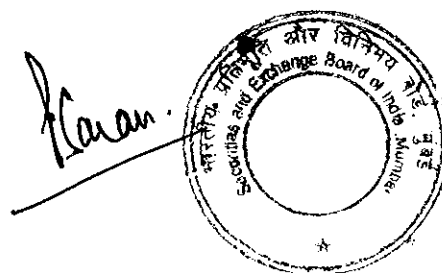


alia includes compliance with sections 56, 60 and 73 of the Companies Act, 1956. In terms of the section 2(36) of the Companies Act read with section 60 thereof, a company needs to register its 'prospectus' with the RoC, before making a public offer/ issuing the 'prospectus'. There is no material on record to say that the Company had complied with section 60.

13. In terms of section 56(1) of the Companies Act, 1956, every prospectus issued by or on behalf of a company, shall state the matters specified in Part I and set out the reports specified in Part II of Schedule II of that Act. Further, as per section 56(3) of the Companies Act, 1956, no one shall issue any form of application for shares in a company, unless the form is accompanied by abridged prospectus, contain disclosures as specified. The Company has not allegedly complied with these provisions of law.

14. Further, by issuing CRPS to more than 50 persons, the Company had to compulsorily list such securities in compliance with section 73 of the Companies Act, 1956. As per section 73(1) and (2) of the Companies Act, 1956, a company is required to make an application to one or more recognised stock exchanges for permission for the shares or debentures to be offered to be dealt with in the stock exchange and if permission has not been applied for or not granted, the company is required to forthwith repay with interest all moneys received from the applicants. The Company appears to have contravened the said provisions as it has neither made an application seeking listing permission nor refunded the amounts on account of such failure. The Company has also not complied with the provisions of section 73(3) as it has not kept the amounts received from investors in a separate bank account and failed to repay the same in accordance with section 73(2) as observed above. In the matter of the *Saharas*, the Hon'ble Supreme Court of India, while examining the provisions of section 73 of the Companies Act, 1956 has observed as under :

"93. Section 73(1) of the Act casts an obligation on every company intending to offer shares or debentures to the public to apply on a stock exchange for listing of its securities. Such companies have no option or choice but to list their securities on a recognized stock exchange, once they invite subscription from over forty nine investors from the public. If an unlisted company expresses its intention, by conduct or otherwise, to offer its securities to the public by the issue of a prospectus, the legal obligation to make an application on a recognized stock exchange for listing starts. Sub-section (1A) of Section 73 gives indication of what are the particulars to be stated in such a prospectus. The consequences of not applying for the permission under sub-section (1) of Section 73 or not



granting of permission is clearly stipulated in sub-section (3) of Section 73. Obligation to refund the amount collected from the public with interest is also mandatory as per Section 73(2) of the Act.

94. Listing is, therefore, a legal responsibility of the company which offers securities to the public, provided offers are made to more than 50 persons. A company cannot be heard to contend that it has no such intention or idea to make an application to the stock exchange. "

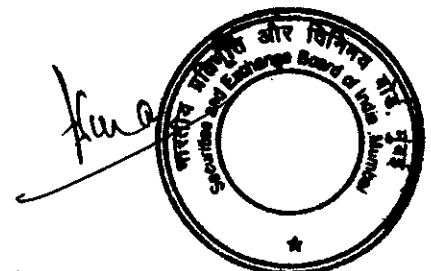
15. In view of the above, it is alleged that the Company has contravened the provisions of the Companies Act, 1956 which regulates the issue of securities, including sections 60 read with section 2(36), 56(1), 56(3) and 73 of the Companies Act, 1956, in respect of its issuance of CRPS. It may be noted that though as per section 465(1) of the Companies Act, 2013, the Companies Act, 1956, shall stand 'repealed', section 465(2) of the Companies Act, 2013, provides that:

"(2) Notwithstanding the repeal under sub-section (1) of the repealed enactments,—

(a) anything done or any action taken or purported to have been done or taken, including any rule, notification, inspection, order or notice made or issued or any appointment or declaration made or any operation undertaken or any direction given or any proceeding taken or any penalty, punishment, forfeiture or fine imposed under the repealed enactments shall, insofar as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

16. In terms of section 55A of the Companies Act, 1956, sections 55 to 58, 59 to 81 (including Sections 68A, 77A and 80A), 108, 109, 110, 112, 113, 116, 117, 118, 119, 120, 121, 122, 206, 206A and 207, so far as they relate to the issue and transfer of securities shall be in the case of listed public companies and in the case of those public companies which intend to get their securities listed on any recognised stock exchange in India, be administered by SEBI. The terms 'securities' as per Section 2(h) of the Securities Contracts (Regulation) Act, 1956 includes 'shares'. As already observed above, the term 'shares' includes 'preference shares'. From the above, it could be noted that sections 67 and 73 of the Companies Act, 1956 are included in the list of sections under section 55A of the Companies Act, 1956, and therefore, such sections are to be administered by SEBI.

17. Accordingly, under sections 11 and 11A of the SEBI Act, SEBI could regulate *inter alia* the issue of capital by companies and the contents of prospectus for such issue. Whenever a



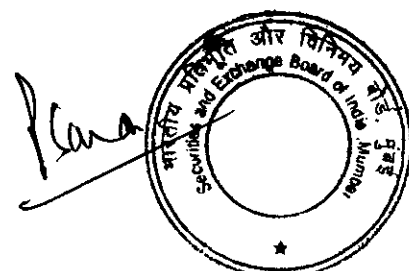
company which raises capital from the public through issue of securities, it has to comply with the SEBI Act and the rules, regulations and guidelines framed thereunder in addition to the provisions of the Companies Act. As mentioned in the application form, the CRPS is a security which had an option of being converted into equity shares. Such convertible preference shares are therefore 'specified securities' within the ambit of regulation 2(1)(zi) of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (hereinafter referred to as 'ICDR Regulations'). Therefore, in addition to its compliance with the provisions of the Companies Act, 1956, the Company was mandated to comply with the applicable provisions of the ICDR Regulations.

18. The ICDR Regulations lays down eligibility norms, disclosure norms and other procedural requirements for compliance by a company intending to raise capital through issue of 'specified securities' from public. Such conditions are mandated to ensure the protection of investors who apply for subscribing to such securities. In terms of Regulation 3 of the ICDR Regulations, *inter alia* all public issues are required to comply with the ICDR Regulations. The relevant provisions of the ICDR Regulations which had to be complied by the Company in respect of its alleged issuances of CRPS during 2010-2011 are:

- *Application for listing of specified securities on one or more recognized stock exchange (Regulation 4(2)),*
- *Appointment of merchant banker and other intermediaries (Regulation 5),*
- *Filing of draft offer document with SEBI and the designated stock exchange and RoC (Regulation 6),*
- *Obtaining in-principle approval from the recognized stock exchanges in which the specified securities are to be listed (Regulation 7),*
- *Satisfy the conditions of initial public offer (Regulation 25 and 26),*
- *Lock-in of specified securities held by promoters and persons other than promoters (Regulation 36 and 37)*
- *Keeping the public issue open for the specified period (Regulation 46),*
- *Pre issue advertisement for public issue (Regulation 47)*
- *Manner of disclosures in the offer documents (Regulation 57)*
- *Refrain from offering any incentive to any person making application for allotment of specified securities (Regulation 59).*

The Company is therefore alleged to have not complied with the relevant provisions of the ICDR Regulations.

19. I have perused the Auditor's Report dated August 05, 2011 and annexure thereto. The auditor, at point no. 6 of Annexure-I to the Report, has certified that the Company has not accepted any deposits from the public under sections 58(A) and 58(AA) of the Companies Act,



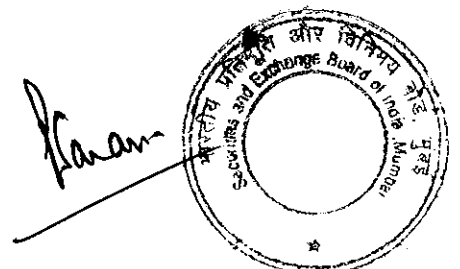
1956. The report also certifies that the Company has not raised any money through a public issue during the year. Further, in response to SEBI's letter dated May 28, 2014, the auditor vide its letter dated May 30, 2014 has stated that it has reported as per Paragraph 20 of 'CARO', that the Company has not raised any money by public issue during the FY 2010-11 and that the issue of preference shares by the Company was not a public issue and was a 'private placement by individual persuasion to their known people'. Further, the report also states that the Company has granted unsecured loan to 5 companies covered in the register maintained under section 301 of the Companies Act, 1956 and the total amount involved is ₹163.55 Lakhs (Previous Year: 18.52 Lakhs).

In this regard, I have perused the Balance Sheet (as on March 31, 2011) of the Company and Notes on Accounts annexed thereto. From the same, I observe from 'Notes on Accounts' under sub-head 'Related Party Disclosure' - 'Significant transactions with related parties', the company has given huge advances to five companies/corporate bodies to the tune of Rs.196.96 lakhs as detailed hereunder :

Table C

Sl. No.	Name of the company	Advance made as on 31.03.2011 (Amt in ₹Lakhs)	Advance made as on 31.03.2010 (Amt in ₹ Lakhs)
1	Midas Touch Properties Marketing Pvt. Ltd.	13.09	17.52
2	Midas Touch Realtech Pvt. Ltd.	76.88	
3	Midas Touch Retail India Pvt. Ltd.	68.49	
4	Midas Touch Securities	38.50	
5	Midas Touch Life Care	-	1.00
	Total	196.96	18.52

The aforesaid advances as observed are related party transactions and it *prima facie* appears that the company has siphoned off the funds raised to the group companies/ companies in which the directors have interest. As the rate of interest and other terms and conditions of such advances, whether prejudicial or not to the Company, cannot be determined in the absence of the agreements for the said loans given/taken by the Company. It cannot also be ascertained whether the Company has complied with section 370 {Loans, etc., to companies under the same management} of the Companies Act. It is also noted that the Company has not filed its Annual Report for the years 2011-2012, 2012-2013 and 2013-2014.

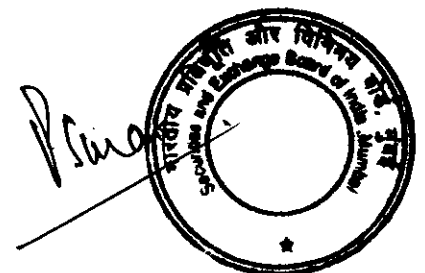


20. As observed above, the certifications given by Auditor namely Patro & Co. in its report have serious irregularities and the same needs to be referred to Institute of Chartered Accountants of India ("ICAI") for necessary action. As regards irregularities observed in the accounts of the Company relating to the related party transactions and non filing of Annual Reports for aforesaid period, the same needs to be referred to MCA for their examination and necessary action.

21. The Company had commenced issuance of CRPS allegedly to the public since October, 2010. Thus, it can be reasonably inferred that the directors of the Company during that period and the directors who are in that position thereafter namely Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal were instrumental in the formulation of the alleged plan of mobilisation of public funds through issue of CRPS without complying with the applicable law as discussed above.

22. At this stage, I note that Mr. Debasis Prasad Mishra while replying to SEBI's letter has submitted that he was neither the Managing Director/Director nor was a member in the Board of Directors of the company. Mr. Debasis Prasad Mishra also submitted that he was working as General Manager of the Company at Angul Branch and was not authorised to take any policy decision of the Company including the issue of Preference Shares/Debentures and schemes launched by the Company for raising funds. In his reply, he has also stated that Mr. Soubhagya Kumar Samal was the Managing Director, his wife Ms. Nirupama Samal/Thatoi and mother Ms. Swarna Lata Samal were the Directors of the company and that Mr. Soubhagya Kumar Samal was exercising absolute power in taking policy decisions in the Company. However, from records, I note that Mr. Debasis Prasad Mishra became a director of the Company on April 25, 2013. Further, he has not approached the Police alleging that he had been made a director in the Company in a fraudulent manner. In the absence of relevant documents at this stage, it would not be appropriate to give credence to such submission of Mr. Debasis Prasad Mishra.

23. I also note from a media report dated August 05, 2014 that the Central Bureau of Investigation (CBI) has conducted raids in the premises of the Company which is alleged to have duped hundreds of investors in Odisha of Rs.50 crore. The report also stated that the



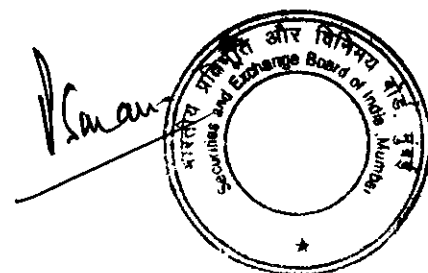
Company's head office in Madhusudan Nagar was found locked and that the 'CBI sleuths could not lay their hands on the company's managing director Mr. Soubhagya Kumar Samal, who is on the run'. This report also alleged that the Company diverted public deposits into retail business.

24. In view of the above alleged violations committed by the Company in raising money from public through issue of CRPS and to restrain the Company from carrying on such activities, if any, done allegedly in contravention of the law, it becomes necessary for SEBI, as the regulator for the securities market, to intervene and issue suitable directions. Further, the interest of the investors also need to be protected to ensure that public funds are not diverted and misappropriated. Accordingly, I, in exercise of the powers conferred under Sections 11(1), 11(4), 11A(1)(b) and 11B of the Securities and Exchange Board of India Act, 1992 read with section 19 thereof and regulation 107 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009, hereby issue the following directions :

a. The Company, namely, Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal (DIN: 02169620 & PAN: AMYPS3013P), Mrs. Nirupama Samal/Thatoi (DIN: 02183778 & PAN: AGGPT2796Q), Ms. Swarna Lata Samal (DIN: 02761654 & PAN: ARCPS6416R), Mr. Debasis Prasad Mishra (DIN: 06560400 & PAN: AKWPM6994P) and Mr. Swetanshu Shekhar Samal (DIN: 06560414 & PAN: BBNPS8548C) are restrained from mobilizing funds through the issue of cumulative redeemable preference shares or through the issuance of equity shares or through any other form of securities, to the public and/ or invite subscription, in any manner whatsoever, either directly or indirectly till further directions.

b. Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal are prohibited from issuing prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, till further orders.

c. Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr.



Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal shall not dispose of any of the properties or alienate the assets of the Company or dispose off any of their properties or alienate their assets.

d. Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal shall not divert any funds raised from public at large through the issuance of the impugned cumulative redeemable preference shares, kept in its bank accounts and/or in the custody of the company without prior permission of SEBI until further orders.

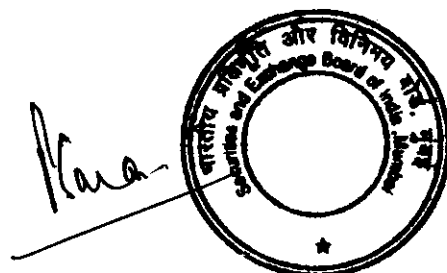
e. Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal are restrained from accessing the securities market and are further prohibited from buying, selling or otherwise dealing in securities in any manner whatsoever, either directly or indirectly, till further directions.

f. The above named company and its promoter and directors including the above named persons shall co-operate with SEBI and shall furnish documents, as required by SEBI vide letter dated March 27, 2013 read with SEBI letter dated February 25, 2014.

g. Midas Touch Assets and Securities Limited, its promoters and directors are also directed to provide a full inventory of all their assets and properties and details of all their bank accounts, demat accounts and holdings of shares/securities, if held in physical form.

25. The above directions shall come into force with immediate effect.

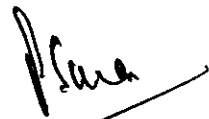
26. Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal are advised to show cause as to why suitable directions/prohibitions, under the sections 11(1), 11(4), 11A and 11B of the SEBI Act read with the ICDR Regulations, including the following, should not be taken/imposed against them :



- a. directing them jointly and severally to refund the money collected through the issue of redeemable preference shares that are impugned in this Order, along with interest that is promised to the investors ;
- b. directing them to not to issue prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, for an appropriate period;
- c. directions restraining them from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period;
- d. directing them and other companies in which their directors hold substantial or controlling interest, to not to access the capital market for an appropriate period.

27. Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal may file their replies/submissions within a period of 21 days from the date of receipt of this Order and may also indicate whether they desire to avail an opportunity of personal hearing in the matter.

28. This Order is without prejudice to the right of SEBI to take any other action including prosecution proceedings under section 24 of the SEBI Act and section 621 of the Companies Act, 1956 read with the relevant provisions of the Companies Act, 2013 and adjudication proceedings under the SEBI Act, against Midas Touch Assets and Securities Limited and its promoters and directors including Mr. Soubhagya Kumar Samal, Mrs. Nirupama Samal/Thatoi, Ms. Swarna Lata Samal, Mr. Debasis Prasad Mishra and Mr. Swetanshu Shekhar Samal, in accordance with law.



PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA

Date: December 09 , 2014
Place: Mumbai

