

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

ORDER

Under Sections 11, 11A, 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with SEBI (ILDS) Regulations, 2008 and Regulation 25 of the SEBI (Debenture Trustee) Regulations, 1993 against Ambitious Diversified Projects Management Limited (CIN U74999WB2010PLC154440; PAN: AAICA9397H) and its Directors viz.-

1. Shri Rajkumar Yadav (DIN: 02411346),
2. Shri Pradeep Ojha (DIN: 03563844; PAN: AARPO7824P),
3. Shri Satyendra Singh Bhadouria (DIN: 06627978; PAN: BSWPB8332F),
4. Shri Kunaal Tiwary (DIN: 03275175; PAN: AHEPT6376K),
5. Shri Onkar Singh (DIN: 03286706; PAN: CVPPS0839B),
6. Shri Arshad Hussain (DIN: 03275176; PAN: ABWPH9754M),
7. Shri Nimai Kumbhakar (DIN: 03337142; PAN: ALUPK1326J)
8. Shri Apurba Kumar Mondol (DIN: 06443833; PAN: AYAPM9092Q),
9. Shri Pradip Kumar Kundu (DIN: 02925124; PAN: AMRPK9676M),
10. Shri Mriganka Sekhar Chakraborty (DIN: 06443869, PAN: AHNPC3667M),
11. Shri Mohammad Sohaib (DIN: 06443855, PAN: CVFPS3456N),
12. Shri Arindam Kundu (DIN: 06446876, PAN: CASPK9438A),
13. Shri Iftexhar Hussain (DIN: 06432160, PAN: ACLPH2788P),
14. Shri Rakesh Sharma (DIN: 06369047, PAN: CJEPS7584N) and
15. Debenture Trustee viz., Ambitious Diversified Trust represented by Smt. Sriparna Gupta.

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1. Securities and Exchange Board of India (“SEBI”) received an investor complaint dated March 07, 2014 against Ambitious Diversified Projects Management Limited (‘ADPML’ or ‘the company’) alleging non-repayment of amount *inter alia*, in respect of Non – Convertible Secured Redeemable Debentures (“NCDs”).
 2. SEBI vide letters dated April 01, 2014 and April 07, 2014 *inter alia*, sought the following information from ADPML and its Directors at the relevant time viz., Shri Rajkumar Yadav, Shri Pradeep Ojha, and Shri Satyendra Singh Bhadouria :
 - i. Copy of the Memorandum and Articles of Association of the company;
 - ii. Copy of Audited Balance Sheet and Profit & Loss account of the company for the last 3 years;
 - iii. Name, addresses and occupation of all the Promoters/Directors and Key Managerial of the company;

- iv. Other information in respect of issue of Preference shares/debentures by the company, viz. –
- a. Copy of Prospectus/Red Herring Prospectus/Statement in lieu of Prospectus/Information Memorandum filed with Registrar of Companies ("**ROC**");
 - b. Date of opening and closing of the subscription list;
 - c. Details regarding the number of application forms circulated inviting subscription for Preference shares/debentures;
 - d. Details regarding the number of applications received;
 - e. Details regarding the number of allottees and list of such allottees, etc.;
 - f. Number of shares/debentures allotted and value of such allotment against each allottee's name.
 - g. Details regarding subscription amount raised;
 - h. Date of allotment of shares/debentures;
 - i. Copies of the minutes of Board/Committee meeting in which the resolution has been passed for allotment;
 - j. Copies of application forms, pamphlets, advertisements and other promotional material circulated for issuance of shares/debentures;
 - k. Terms and conditions of the issue of Preference shares/debentures.
3. The letters addressed to ADPML (at its registered office address), Shri Pradeep Ojha and Shri Satyendra Singh Bhadouria were returned undelivered. Although letter addressed to Shri Rajkumar Yadav was delivered, no reply has been received from him till now.
- 3.1 SEBI vide letter dated June 12, 2014 *inter alia*, sought the following information from the Auditors of ADPML:
- i. *“Clarification as to whether the company issued any NCDs to the general public,*
 - ii. *A copy of audited annual accounts of the company for the last three years,*
 - iii. *Details regarding the number of allottees,*
 - iv. *Alternate address of the company and details of its Directors/promoters.”*
- 3.2 The Auditors vide letter dated August 18, 2014 submitted that details of allottees were not available with them. They however furnished details of Directors and a copy of the audited annual accounts of the Company for the financial years 2010–11, 2011–12 and 2012-13.

3.3 Since no reply was received from company and its Directors reminders dated June 27, 2014 were issued. Till date, no information has been received from either ADPML or any of its Directors.

4. A physical verification of ADPML's registered office was also conducted by SEBI during November 2014. However, it was discovered that the aforesaid premises were occupied by others, who informed SEBI that ADPML's offices were closed almost a year earlier.
5. The material available on record i.e. complaint received by SEBI and information obtained from the Ministry of Corporate Affairs' website i.e. *MCA 21 Portal*, have been perused. On an examination of the same, it is observed that :

- I. ADPML was incorporated on November 03, 2010 with the ROC, West Bengal with CIN U74999WB2010PLC154440. Its registered office is at '19B, 1st Floor, Syed Amir Ali Avenue, Kolkata, 700017, West Bengal'.
- II. The present Directors of ADPML are Shri Rajkumar Yadav (DIN: 02411346), Shri Pradeep Ojha (DIN: 03563844) and Shri Satyendra Singh Bhadouria (DIN: 06627978). Shri Kunaal Tiwary (from 03/11/2010 to 25/02/2014), Shri Onkar Singh (from 01/01/2011 to 25/02/2014) , Shri Arshad Hussain (from 03/11/2010 to 25/02/2014) , Shri Nimai Kumbhakar (from 10/12/2012 to 25/02/2014), Shri Apurba Kumar Mondol (from 10/12/2012 to 25/02/2014) , Shri Pradip Kumar Kundu (from 03/11/2010 to 05/03/2012), Shri Mriganka Sekhar Chakraborty (from 10/12/2012 to 25/02/2014), Shri Mohammad Sohaib (from 10/12/2012 to 25/02/2014), Shri Arindam Kundu (from 10/12/2012 to 11/12/2012) , Shri Iftekhar Hussain (from 10/12/2012 to 11/12/2012) and Shri Rakesh Sharma (from 10/12/2012 to 11/12/2012) who were earlier directors in the company have since resigned.
- III. From the material available on record, the following information is noted –
 - A. ADPML issued NCDs ("*Offer of NCDs*") during the Financial Years 2010–11, 2011–12 and 2012-13 and raised a total amount of Rs.1.63 crores. As per the details available with MCA21 portal, nature/type of Debentures issued along with year wise breakup are as under:

Table A: - Details of Debentures Issued

Year of issue	Security issued	Amount Raised (Rs. In Crores)	Number of Allottees
2010 – 11	Secured Non - Convertible Redeemable Debentures	0.32	Details not provided by ADPML and also not available on MCA21 Portal
2011 – 12		1.06	
2012 – 13		0.25	
	Total	1.63	

B. As per Form 10 filed with the ROC, ADPML created a charge for Rs.50 Crores on November 15, 2010 on its immovable properties.

C. ADPML appointed '*Ambitious Diversified Trust*' (represented by its Trustee Smt. Sriparna Gupta) as its Debenture Trustee having registered office at 1st Floor, 19B, Syed Amir Ali Avenue, Kolkata – 700 017, West Bengal.

D. Auditors in their Audit Report for the year ended March 31, 2013, have *inter alia*, stated "*According to the information and explanation given to us and on an overall examination and review of accounts, we are of the opinion that the Company has issued Secured Non – Convertible Redeemable Debentures of Rs, 25,47,600/- (Previous Year Rs. 1,37,68,700/-) on Private Placement basis during the period covered by our report.*"

E. On perusal of the Balance Sheet of ADPML for the financial years ended March 31, 2011, March 31, 2012 and March 31, 2013, it is observed that company has not created any Debenture Redemption Reserve, which is required to be done in terms of Section 117C of the Companies Act, 1956.

6. In the context of the abovementioned details of the *Offer of NCDs*, the issue for determination in the instant matter is whether the mobilization of funds by ADPML through the aforesaid issue of NCDs is in accordance with the provisions of the SEBI Act, 1992 ("**SEBI Act**") read with the SEBI (Issue and Listing of Debt Securities), Regulations, 2008 ("**Debt Securities Regulations**"); the Companies Act, 1956.

6.1 I note that the jurisdiction of SEBI over various provisions of the Companies Act in the case of public companies, whether listed or unlisted, when they issue and transfer securities, flows from the provisions of Section 55A of the

Companies Act. While examining the scope of Section 55A of the Companies Act, 1956, the Hon'ble Supreme Court of India in ***Sahara India Real Estate Corporation Limited & Ors. vs. SEBI (Civil Appeal no. 9813 of 2011) (Judgment dated August 31, 2012)*** (hereinafter referred to as the "***Sahara Case***"), had observed:

"We, therefore, hold that, so far as the provisions enumerated in the opening portion of Section 55A of the Companies Act, so far as they relate to issue and transfer of securities and non-payment of dividend is concerned, SEBI has the power to administer in the case of listed public companies and in the case of those public companies which intend to get their securities listed on a recognized stock exchange in India."

6.2 In this regard-

- i. Reference is also made to Sections 67(1) and 67(3) of the Companies Act, which are reproduced 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)."

- ii. While examining the scope of Section 67 of the Companies Act, the Hon'ble Supreme Court of India in the *Sahara Case* 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. ...

I may, therefore, indicate, subject to what has been stated above, in India 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. ..."

- iii. In the instant matter, for ascertaining whether the *Offer of NCDs* is a public issue or an issue on private placement basis in accordance with Section 67 of the Companies Act, 1956, a conclusive finding in respect of the number of investors to whom *NCDs* were issued by ADPML under the *Offer of NCDs* is of utmost importance. However, such a finding has not been made possible due to the non-cooperative attitude of ADPML. SEBI has continuously made efforts to obtain information from ADPML in relation to the *Offer of NCDs* (as detailed in paragraphs 2–4). However, no information has been provided by either ADPML or its Directors. Further, a physical verification of ADPML's registered office was also conducted by

SEBI during November, 2014. However, it was discovered that the aforesaid premises were occupied by others, who informed SEBI that ADPML's office was closed almost a year earlier.

- iv. As per the documents furnished by one of the Complainants, it is noted that a "*list of proposed Offerees of the Debentures*" is enclosed with the copy of Debenture Trust Deed. As per the same, the NCDs were proposed to be issued to the Directors of ADPML, Debenture Trustee, etc. The number of Debentures offered is 10,000 each to seven *Offerees* mentioned therein aggregating to 70000 Debentures having face value of Rs.100/- each. If the proposed allottees were the only allottees, then the company could raise only upto seven crores. However, as per the Board Resolution dated November 15, 2010 (mentioned in the Trust deed) ADPML decided to raise a sum of Rs.50 crores through issue of Debentures of Rs.100/- each. It is specifically mentioned in the Trust Deed that the said issue consists of series of 3000000 (30 lacs) Debentures of Rs.100/- each aggregating to Rs.30,00,00,000/- (Rs.30 crores) with an option of retaining the over subscription of another 2000000 (20 lacs) Debentures of Rs.100/- each aggregating to Rs.20,00,00,000/- (Rs.20 crores). The fact that Rs.50 crores were decided to be raised *prima facie* shows that that the *Offer of NCDs* were not limited to the number of *Offerees* (seven) as mentioned in the list enclosed with the Trust Deed.

Furthermore, the '*Letter of Allotment*' and '*Certificates*' issued by the company (as furnished by the Complainants), clearly shows that the NCDs of face value of Rs. 100/- were also offered to members of general public as per different interest schemes.

As per the debenture certificates enclosed with an investor complaint dated February 03, 2016 received by SEBI, it is observed that the company had issued atleast 21 debenture certificates during the financial year 2011-12 and at least 33 debenture certificates during FY 2012-13.

The aforesaid, when viewed against the features of the *Offer of NCDs* such as amounts raised during the Financial Years 2010–11, 2011–12 and 2012-13 is Rs. 1.63 crores and charge created for such *Offer i.e.* Rs.50 crores on November 15, 2010 can lead to only one conclusion i.e. that ADPML, by its non-cooperation, has tried to

deliberately conceal the true nature of its fund mobilizing activities. I, therefore, feel it is an eminently reasonable conclusion to draw from the aforesaid facts that the *Offer of NCDs* was subscribed several times beyond the threshold for a private placement. In light of the same, I find that the *Offer of NCDs* was nothing but a public issue of securities. In these circumstances, regulatory intervention for protection of investors' interests is doubtless necessitated.

- v. ADPML is not stated to be a Non-banking financial company or public financial institution within the meaning of Section 4A of the Companies Act, 1956. In view of the aforesaid, I, therefore, find that ADPML is not covered under the *second proviso* to Section 67(3) of the Companies Act, 1956.
- vi. In view of the above, the *Offer of NCDs* by ADPML, would *prima facie* qualify as public issues under the *first proviso* to Section 67(3) of the Companies Act, 1956. In this regard, it is pertinent to note that by virtue of Section 55A of the Companies Act, Section 67 of that Act, so far as it relates to issue and transfer of securities, shall also be administered by SEBI.

6.3 From the abovementioned the following are noted:

- i. Since *Offer of NCDs* is a public issue of securities, such securities shall also have to be listed on a recognized stock exchange, as mandated under Section 73 of the Companies Act. In this regard, reference is made to Sections 73 of the Companies Act of which sub-Sections (1), (2) and (3) are relevant for the instant case, which is reproduced as under:

"73. (1) Every company intending to offer shares or debentures to the public for subscription by the issue of a prospectus shall, before such issue, make an application to one or more recognised stock exchanges for permission for the shares or debentures intending to be so offered to be dealt with in the stock exchange or each such stock exchange.

(1A) ...

(2) Where the permission has not been applied under subsection (1) or such permission having been applied for, has not been granted as aforesaid, the company shall forthwith repay without interest all moneys received from applicants in pursuance of the prospectus, and, if any such money is not repaid within eight days after the company becomes liable to repay it, the company and every director of the company who is an officer in default shall, on and from the expiry of the

eightth day, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent and not more than fifteen per cent, as may be prescribed, having regard to the length of the period of delay in making the repayment of such money.

(3) All moneys received as aforesaid shall be kept in a separate bank account maintained with a Scheduled Bank 1 [until the permission has been granted, or where an appeal has been preferred against the refusal to grant such. permission, until the disposal of the appeal, and the money standing in such separate account shall, where the permission has not been applied for as aforesaid or has not been granted, be repaid within the time and in the manner specified in sub-section (2)]; and if default is made in complying with this sub- section, the company, and every officer of the company who is in default, shall be punishable with fine which may extend to five thousand rupees.”

- ii. In the *Sahara Case* cited earlier, the Hon'ble Supreme Court of India also examined Section 73 of the Companies Act, wherein it has observed that –

"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. Listing is, therefore, a legal responsibility of the company which offers securities to the public, provided offers are made to more than 50 persons."

- iii. Having regard to the abovementioned observations of the Hon'ble Supreme Court of India, since the *Offer of NCDs* is *prima facie* a public issue in accordance with the provisions of the Companies Act, 1956, the same will attract the requirement of compulsory listing before a recognized stock exchange in terms

of Section 73(1) of the Companies Act, 1956 and also compliance with the provisions of Sections 73(2) and 73(3) of that Act.

- iv. In the facts of the instant case, it *prima facie* appears that ADPML has violated the provisions of Section 73 of the Companies Act, 1956, in respect of the *Offer of NCDs*.

6.4 Under Section 2(36) read with Section 60 of the Companies Act, a company needs to register its prospectus with the ROC, before making a public offer or issuing the prospectus. As per the aforesaid Section 2(36), "*prospectus*" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate. As mentioned above, since the issue of "*Offer of NCDs*" were made to more than forty nine persons, it has to be construed as a public offer. Having made a public offer, ADPML was required to register a prospectus with the ROC under Section 60 of the Companies Act. In this regard, I find that there is nothing on record to suggest that ADPML has issued any Prospectus/ Red Herring Prospectus (RHP), Statement in lieu of Prospectus relating to the issue of Debentures. In view of the same, I find that ADPML has *prima facie* not complied with the provisions of Section 60 of Companies Act.

6.5 Under Section 56(1) of the Companies Act, 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, no one shall issue any form of application for shares in or debentures of a company, unless the form is accompanied by abridged prospectus, contain disclosures as specified. Based on the material available on record, it is observed that ADPML has not complied with the provisions of Section 56(1) and 56(3) of the Companies Act and therefore, has *prima facie* violated the aforesaid provisions.

6.6 Under Section 117B of the Companies Act, 1956, no company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless it has, before such issue, appointed one or more debenture trustees for such debentures and the company has, on the face of the prospectus or the letter

of offer, stated that the debenture trustee or trustees have given their consent to the company to be so appointed. Further, under Section 117C of the Companies Act, 1956, where a company issues debentures, it shall create a debenture redemption reserve for the redemption of such debentures, to which adequate amounts shall be credited, from out of its profits every year until such debentures are redeemed. Based on the material available on record, I find that ADPML has not complied with the provisions of Sections 117B–117C of the Companies Act, 1956 and therefore, has *prima facie* violated the aforesaid provisions in respect of the *Offer of NCDs*.

6.7 In addition to the above, reference may be made to the Debt Securities Regulations, which were framed by SEBI in exercise of its powers under Section 30 of the SEBI Act. The said Regulations are applicable to the public issue and listing of debt securities. It may be relevant to note that under the aforesaid Regulations, '*debt securities*' have been defined as '*non-convertible debt securities which create or acknowledge indebtedness, and include debenture...*' In this context, I find that ADPML, through the *Offer of NCDs*, which is a public issue of debt securities, has *prima facie* violated the following provisions of the aforesaid Regulations, which contain inter alia conditions for public issue and listing of debt securities, viz.-

- i. Regulation 4(2)(a) – *Application for listing of debt securities*
- ii. Regulation 4(2)(b) – *In-principle approval for listing of debt securities*
- iii. Regulation 4(2)(c) – *Credit rating has been obtained*
- iv. Regulation 4(2)(d) – *Dematerialization of debt securities*
- v. Regulation 4(4) – *Appointment of Debenture Trustees*
- vi. Regulation 5(2)(b) – *Disclosure requirements in the Offer Document*
- vii. Regulation 6 – *Filing of draft Offer Document*
- viii. Regulation 7 – *Mode of disclosure of Offer Document*
- ix. Regulation 8 – *Advertisements for Public Issues*
- x. Regulation 9 – *Abridged Prospectus and application forms*
- xi. Regulation 12 – *Minimum subscription*
- xii. Regulation 14 – *Prohibition of mis-statements in the Offer Document*
- xiii. Regulation 15 – *Trust Deed*
- xiv. Regulation 17 – *Creation of security*
- xv. Regulation 19 – *Mandatory Listing*
- xvi. Regulation 26 – *Obligations of the Issuer, etc.*

- 6.8 Upon a consideration of the aforementioned paragraphs, I am of the view that ADPML is *prima facie* engaged in fund mobilising activity from the public, through the *Offer of NCDs* and as a result of the aforesaid activity has violated the aforementioned provisions of the Companies Act, 1956 (Section 56, Section 60 read with Section 2(36), Section 73, Sections 117B–117C) read with the Debt Securities Regulations.
- 6.9 From the material available on record, it is observed that ADPML created a charge of Rs.50 Crores on November 15, 2010 and appointed ‘*Ambitious Diversified Trust*’ (represented by its Trustee Smt. Sriparna Gupta) as its Debenture Trustee.
- 6.10 Section 12(1) of the SEBI Act states that: "*No... trustee of trust deed ... shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act*".
- 6.11 In addition, Regulation 7 of SEBI (Debenture Trustees) Regulations, 1993, provides that no person should act as a debenture trustee unless he is either—
- i. scheduled bank carrying on commercial activity; or*
 - ii. a public financial institution within the meaning of section 4A of the Companies Act, 1956; or*
 - iii. an insurance company; or*
 - iv. body corporate.*
- 6.12 Based on the material available on record, I find that Smt. Sriparna Gupta and ‘*Ambitious Diversified Trust*’, have acted as an unregistered Debenture Trustees, which amounts to violation of the abovementioned provisions of the SEBI Act read with the Debenture Trustees Regulations.
7. SEBI has a statutory duty to protect the interests of investors in securities and promote the development of, and to regulate, the securities market. Section 11 of the SEBI Act has empowered it to take such measures as it deems fit for fulfilling its legislative mandate. Further, as per the provisions of Section 55A of the Companies Act, 1956, administrative authority on the subjects relating to public issue of securities is exclusively with SEBI. For this purpose, SEBI can exercise its jurisdiction under Sections 11(1), 11A, 11B and 11(4) of

the SEBI Act read with Section 55A of the Companies Act, 1956 (as mentioned in paragraphs 6.1–6.6 above). In the instant proceedings, SEBI has continuously made efforts to obtain information from ADPML in relation to the *Offer of NCDs*. However, this has not been possible due to the non-cooperative attitude of ADPML and its Directors. A physical verification of ADPML's registered office was also conducted by SEBI during November 2014. However, it was discovered that the aforesaid premises were occupied by others, who informed SEBI that ADPML's office was closed almost a year earlier. The amounts raised under the *Offer of NCDs* during Financial Years 2010–11, 2011–12 and 2012–13 *i.e.* Rs.1.63 crores and charge created for such *Offer* was Rs.50 Crores on November 15, 2010, can lead to only one conclusion that ADPML has deliberately concealed the true nature of its fund mobilizing activities. Considering the investor complaints received by SEBI, steps have to be taken in the instant matter to ensure that only legitimate fund raising activities are carried on by ADPML and no investors are defrauded. In light of the facts in the instant matter, I find that there is no other alternative but to take recourse through an interim action against ADPML and its Directors, for preventing that company from further carrying on with its fund mobilising activity under the *Offer of NCDs*.

8. In view of the foregoing, I, in exercise of the powers conferred upon me under Sections 11, 11A, 11B and 11(4) of the SEBI Act, hereby issue the following directions:
 - i. ADPML shall forthwith cease to mobilize funds from investors through the *Offer of NCDs* or through the issuance of equity shares or any other securities, to the public and/or invite subscription, in any manner whatsoever, either directly or indirectly till further directions;
 - ii. ADPML and its Directors Shri Rajkumar Yadav (DIN: 02411346), Shri Pradeep Ojha (DIN: 03563844; PAN: AARPO7824P), Shri Satyendra Singh Bhadouria (DIN: 06627978; PAN: BSWPB8332F), Shri Kunaal Tiwary (DIN: 03275175; PAN: AHEPT6376K), Shri Onkar Singh (DIN: 03286706; PAN: CVPPS0839B), Shri Arshad Hussain (DIN: 03275176; PAN: ABWPH9754M), Shri Nimai Kumbhakar (DIN: 03337142; PAN: ALUPK1326J), Shri Apurba Kumar Mondol (DIN: 06443833; PAN: AYAPM9092Q), Shri Pradip Kumar Kundu (DIN: 02925124; PAN: AMRPK9676M), Shri Mriganka Sekhar Chakraborty (DIN: 06443869; PAN: AHNPC3667M), Shri Mohammad Sohaib (DIN: 06443855; PAN: CVFPS3456N), Shri Arindam Kundu (DIN: 06446876; PAN: CASPK9438A), Shri Iftekhhar Hussain (DIN: 06432160; PAN: ACLPH2788P), Shri Rakesh Sharma (DIN: 06369047;

- PAN: CJEPS7584N)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;
- iii. ADPML and its abovementioned Directors, are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in the securities market, either directly or indirectly, till further directions;
 - iv. ADPML and its abovementioned Directors shall provide a full inventory of all its assets and properties;
 - v. ADPML and its present Directors viz., Shri Rajkumar Yadav, Shri Pradeep Ojha and Shri Satyendra Singh Bhadouria shall not dispose of any of the properties or alienate or encumber any of the assets owned/acquired by that company through the *Offer of NCDs*, without prior permission from SEBI;
 - vi. ADPML and its present Directors viz., Shri Rajkumar Yadav, Shri Pradeep Ojha and Shri Satyendra Singh Bhadouria shall not divert any funds raised from public at large through the *Offer of NCDs*, which are kept in bank account(s) and/or in the custody of ADPML;
 - vii. ADPML and its abovementioned Directors shall furnish complete and relevant information (as sought by SEBI letters dated April 01, 2014 and April 07, 2014), within 14 days from the date of receipt of this Order;
 - viii. The Debenture Trustee, viz. '*Ambitious Diversified Trust*' represented by Smt. Sriparna Gupta, is prohibited from continuing with its assignment as debenture trustee in respect of the *Offer of NCDs* of ADPML. They are also prohibited from taking up any new assignment or involvement in any new issue of debentures, etc. in a similar capacity, from the date of this order till further directions.

9. The above directions shall take effect immediately and shall be in force until further orders.

- 9.1 The *prima facie* observations contained in this Order are made on the basis of the material available on record including information obtained from the Ministry of Corporate Affairs' website i.e. *MCA 21 Portal*. In this context, ADPML and its abovementioned Directors are advised to show cause as to why suitable directions/prohibitions under Sections 11(1), 11(4), 11A and 11B of the SEBI Act and Section 73 (2) of the Companies Act read with Section 27(2) of the SEBI Act including the following, should not be taken/imposed against them:

- i. Directing them jointly and severally to refund money collected through the *Offer of NCDs* alongwith interest, if any, promised to investors therein;
 - ii. Directing them to not 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;
 - iii. Directing them to refrain from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period.
- 9.2 ADPML and its abovementioned Directors, may, within 21 days from the date of receipt of this Order, file their replies, if any, to this Order and may also indicate whether they desire to avail themselves an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
- 9.3 Similarly, the Debenture Trustee, viz. '*Ambitious Diversified Trust*' represented by Smt. Sriparna Gupta, is advised to show cause as to why suitable directions/prohibitions under Sections 11(1), 11(4), 11A and 11B of the SEBI Act including restraining them from accessing the securities market and further restraining them from buying, selling or dealing in securities, in any manner whatsoever, for an appropriate period should not be issued.
- 9.4 The Debenture Trustee viz. '*Ambitious Diversified Trust*' represented by Smt. Sriparna Gupta may, within 21 days from the date of receipt of this Order, file their replies, if any, to this Order and may also indicate whether they desire to avail themselves an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
10. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against ADPML and its abovementioned Directors/Promoters and its debenture trustee, in accordance with law.

Place: Mumbai
Date: February 15, 2016

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