

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA  
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER  
INTERIM EX PARTE ORDER**

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

**In Re: Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999**

**In respect of:**

Sl. No.	Name of the Entity	PAN / Address
1	Big Em Estates & Infrastructures Ltd.	AAGCB0385G
2	Mr. Munish Sharma	BDQPS1126P
3	Mr. Raghav Singh	BESPS6282K
4	Ms. Arti Sharma	CACPS0218L
5	Ms. Sudhi Singh	BESPS6281L
6	Mr. Rajinder Singh	CSEPS0815B
7	Ms. Prem Lata	AKMPB5152C
8	Ms. Sharda Bhandari	AAEPL2191D
9	Mr. Dharam Vir Bhandari	House No. 172, Defence Colony, Chhatwal, Tahsil – Pathankot, Dist – Gurdaspur, Pincode- 143521

**In the matter of Big Em Estates & Infrastructures Ltd.**

**BACKGROUND**

1. Big Em Estates & Infrastructures Ltd. (“**Big Em / Company**”) is a company which was incorporated on June 19, 2014 (CIN: U45209PB2014PLC038682). Its registered office is



at, First Floor, C-5, Victoria Estate, Commercial Complex, Defence Road, Pathankot - 145001.

2. Securities and Exchange Board of India ("SEBI") received a complaint against Big Em alleging that it is mobilising money from people in Pathankot by inducing people to invest in plantation of teak.

**SEBI's EXAMINATION**

3. In view of the complaint received, SEBI carried out a preliminary examination to ascertain whether unregistered collective investment scheme activities are being carried out by Big Em. To that end the replies of the company dated September 19, 2017 and February 26, 2020, documents from RoC, allotment letter, application form information gathered from site / plantation visit (February 27, 2018) and particulars of its bank accounts were perused to gather information. SEBI's preliminary examination found as follows:
  - 3.1. Big Em is operating three schemes viz. Product A (Teak), Product B (Teak) and Product C (Aloe Vera).
  - 3.2. Under Product A (Teak) scheme, the company plants the teakwood trees in the fields of customers while under Product C (Aloe Vera) scheme the company plants the saplings in the field of customers and provide them caring and maintenance services. Thus, the aforesaid schemes pertain to arrangement regarding outright sale / planting and caring of saplings in the land owned by the customers.
  - 3.3. Under the scheme Product B (Teak), the company plants the teakwood trees in its own land. It was stated that the trees allotted to the customers were numbered and company is taking care of teakwood trees on behalf of customers.
  - 3.4. The company was running a Collective Investment Scheme ("CIS") without obtaining registration under SEBI (Collective Investment Schemes) Regulations, 1999 ("CIS Regulations") for the scheme, Product B (Teak).
  - 3.5. Under the scheme Product B (Teak), the company has 629 customers and on behalf of them the company has planted 1,167 teakwood plants against consideration of Rs. 73,65,900/- as on March, 2017.



**Issues for Consideration and Prima Facie Findings**

4. I have perused the materials available on record, replies of the company, documents from RoC, information gathered from site / plantation visit (February 27, 2018), allotment letter, application form and particulars of company's bank accounts. A preliminary examination of the material available on record was made in order to verify whether the company is running a CIS and has pooled and utilised the contributions from various investors towards the scheme Product B (Teak) without obtaining registration from SEBI. In this context, *prima facie*, the following issues arise for determination in the instant matter:

4.1. *Whether Big Em is prima facie, running a CIS?*

4.2. *If the answer to the aforesaid issue is in the affirmative, whether Big Em has, prima facie, violated any provisions of SEBI Act read with CIS Regulations and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003?*

4.3. *If the answer to issue no. 4.2 is in the affirmative, who all are responsible for the violations?*

4.4. *If the answer to issue no. 4.2 is in the affirmative, whether urgent directions, if any, should be issued against those responsible for the prima facie, violations?*

**Issue No. 1: Whether Big Em is prima facie, running a CIS?**

5. As regards the first issue, I note the following from the material available on record:

5.1. On perusal of the documents provided by RoC, following observations are made:

5.1.1. The main object of the company is to engage in the business of land development for commercial, agricultural use, infrastructure, real estate developments, etc.

5.1.2. There is no specific mention of teak wood plantation development in the main clauses of MoA.

5.1.3. The Annual Report filed with RoC for the financial year ended March 31, 2016 mentions that the company continues to be a construction and real estate



company. During the year under review, there was no material change in the nature of the business of the company as per the Annual Report.

5.2. A site visit was conducted by SEBI officials (February 27, 2018) along with the Directors of the company, Mr. Raghav Singh and Mr. Munish Sharma, to a plantation field about 20 kms away from the registered office address of the company. The following information was gathered from the site visit to one of the teakwood plantation fields of the company located at the site Khewat No. 5/5, Khatauni No. 6, Comprising out of Khasra No. 37R/7, Village Behrian Bajurga, Hadbast No. 217, Tehsil and District- Pathankot:

5.2.1. It was observed that trees of teakwood have been planted there and the trees which were shown were small and it appeared that plantation was done around a year back and the trees were numbered with marker.

5.2.2. On a query raised to the Directors of the company whether the said land is in the possession of the company, the Directors of the company provided copy of the lease agreement which showed that the company has taken the land on lease for a period of 13 years i.e. from December 15, 2014 to December 15, 2027. As per the lease agreement area of the land is 32 kanals.

5.3. On a perusal of the terms and conditions of the Allotment Letter for Product B (Teak), the following is observed:

5.3.1. *The Company is receiving payments for the Product which includes the Cost Of Sapling, Development of Estate, Installation of fencing, dripping systems, solar lights & other allied expenses as may be required at different stages, and also includes Caring, Developing, Medicines, Gardening, Doctor's visits, & other allied charges for the Trees for a period of one year. For second year onwards, the customer has to pay a sum of INR Sixty only per year per tree as maintenance and caring charges of his Tree(s).*

5.3.2. *The Purchase Agreement is considered to be matured when the Trees in the particular yard attain a Girth of thirty four inches averagely... If in any particular case the Tree allotted to the Customer does not attain the Girth of Thirty Inches even after the yard is declared matures, the Tree would not be considered as*



*matured, and the Company shall provide the Customer with some other matured Tree in lieu of it with minimum Girth of Thirty Inches plus.*

5.3.3. *The cutting of the Trees would be done by Company when the Yard is considered to be matured...The Customer shall be intimated by the Company once the above condition is attained.*

5.3.4. *He also has full right to further sell his allotted Tree to any other Customer he feels suitable at what ever rates he is comfortable, by transferring the ownership rights after obtaining necessary NOC from the Company (before harvesting his trees)*

5.3.5. *The Company can use any kind of pesticide, fertilizers, manures etc as & when required for the betterment of the Trees.*

5.4. Some of the terms and conditions mentioned in the Application Form, is as under:

5.4.1. *On request of the Customer, the Company hereby as per this Agreement has agreed to plant Teak Wood Trees Saplings for the Customer, and to develop them with Professional care & required expertise & skills, by undertaking various activities for the same.*

5.4.2. *The Customer has agreed to pay the Company, in aggregate a sum of Rs. 8,000/- (On Words Rupees eight thousand only) as per payment schedule opted as Green or Blue ID as per Application Form annexed.*

5.4.3. *The Company or its nominees can procure and install open wells, bore wells and other water points and install motors, pump sets, irrigation systems, electrical installations, sheds etc in the Estates as & when required for convenience & necessity.*

5.5. The following is further observed from the details submitted by the company about its product and customers:

Product	Financial Year	No. of Customers	Amount Mobilized (Rs.)	No. of Plants
B (Teak)	Till March 31, 2016	317	46,67,200	604
	2016-17	288	25,09,000	398
	April 1, 2017 – October 31, 2017	24	1,89,700	165
<b>Total</b>		<b>629</b>	<b>73,65,900</b>	<b>1,167</b>



5.6. A sample client list is as follows:

Name	Address	Date of sale	Amount (Rs.)	Product	No. of Plants
P.S. Enterprises	Gurdaspur	February 3, 2016	40,000	B (Teak)	5
Kulwinder Kaur	Gurdaspur	February 11, 2016	16,000	B (Teak)	2
Surjit Kaur	Hoshiarpur	March 31, 2016	8,000	B (Teak)	1

5.7. It is noted from the records that Big Em has maintained bank accounts with Axis Bank (A/c No.: 915020000659717), ICICI Bank (A/c No.: 027105001736) and Dena Bank (A/c No.: 061811031115). An illustrative list of narrations in the ICICI Bank account of the company is as under:

Sr. No.	Date	Narration	Amount (Credit) (Rs.)
1.	28/02/2019	CLG/SYB/18.02.2019	96,000
2.	02/03/2019	NEFT-Kamaljit Singh Bhatti	96,000
3.	06/03/2019	UPI/Harwinder singh	16,000
4.	22/04/2019	Gurudwara Bhajangarh	2,00,000
5.	12/06/2019	Cash-Mamoon	40,000
6.	10/07/2019	MMT/Purchase of Fra	2,00,000
7.	17/07/2019	Shakuntala Devi	8,000

5.8. From the analysis of Bank statements, the following is observed:

5.8.1. The bank accounts maintained with Axis Bank and Dena Bank, are active.

5.8.2. Credit transactions from multiple / various individuals is observed during the period 2015-2020.

5.8.3. It is observed that certain credit entries were in multiples of Rs. 8,000/-. It is pertinent to mention that as per the details of clients furnished by the entity, the funds mobilized in scheme Product B (Teak) was Rs. 8,000/- per unit.

6. In light of the aforesaid discussions, I now proceed to examine the scheme Product B (Teak) offered by the company in light of Section 11AA of the SEBI Act. The said Section 11AA, which provides for the conditions to determine whether a scheme or arrangement is a CIS, 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 solely for the purposes of the scheme or arrangement;*
- (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement;*
- (iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;*
- (iv) the investors do not have day to day control over the management and operation of the scheme or arrangement.*

*[(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.]*

*(3) Notwithstanding anything contained in sub-section (2) [or sub-section (2A)], any scheme or Arrangement:*

- i. made or offered by a co-operative society*
  - ii. under which deposits are accepted by non-banking financial companies*
  - iii. being a contract of insurance*
  - iv. providing for any scheme, Pension Scheme or the Insurance Scheme framed under the Employees Provident Fund*
  - v. under which deposits are accepted under section 58A of the Companies Act, 1956*
  - vi. under which deposits are accepted by a company declared as a Nidhi or a mutual benefit society*
  - vii. falling within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982(40 of 1982);*
  - viii. under which contributions made are in the nature of subscription to a mutual fund;*
  - [ix. such other scheme or arrangement which the Central Government may, in consultation with the Board, notify,]*
- shall not be a collective investment scheme."*

7. Perusal of the above Section shows that any arrangement or scheme to be considered as CIS has to satisfy the four conditions mentioned in Section 11AA (2) of SEBI Act and the same should not fall within any of the exceptions mentioned in Section 11AA (3) of SEBI Act.

***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.***

Before proceeding further, it is relevant to see whether the existing arrangement is merely a sale of saplings and thereby does not fall under the ambit of a CIS scheme. It may be noted that "immoveable property" does not include standing timber, growing crops as per the Transfer of Property Act, 1882. Therefore, in this regard, as per Section





4(4) of Sale of Goods Act, 1930, an agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. Further, as per Section 21 of Sale of Goods Act, 1930, where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof. I now in the background of aforesaid provisions of Sales of Goods Act, 1930, proceed to examine the terms and conditions of the Allotment letter of Product B (Teak). I find for the following reasons that the scheme Product B (Teak) is not a sale:

- I note that as per the terms and conditions of the Allotment Letter that the agreement between company and the applicant is for the cost of sapling and its development into a tree with a minimum girth of 30 inches. Therefore, for the property in the teakwood tree to get transferred to the applicant, the teakwood tree has to attain a minimum girth of 30 inches. Therefore, the fact that the saplings allotted to the customers were numbered does not indicate that there was a sale of saplings. As noted from the terms and conditions of the Allotment Letter that once the teakwood tree attains a girth of minimum 30 inches, the product would be considered matured and the applicant will be intimated by the company once the above condition is attained. Thus, even going by the terms and conditions of the Allotment Letter, the property in the teakwood tree has not passed at the time of issuing Allotment Letter to the applicant as the applicant at that point in time, there is no deliverability of teakwood.
- It is also not the case of the company that the land on which the teakwood saplings are planted and developed belong to the applicants. Rather the money is pooled from all the investors towards the cost of saplings, development of estate, installation of fencing, caring, medicines, gardening and other allied expenses. Therefore, the agreement between the company and the applicant which includes the cost of sapling and other allied expenses for developing the sapling into a matured tree (teakwood tree of minimum 30 inches girth) is an arrangement which is founded on agreement for sale of specific goods to be put into a deliverable state





and is not a sale.

- As per the terms and conditions of the Allotment Letter, it is observed that if the Tree allotted to the applicant does not attain the girth of thirty inches, even after the yard is declared matured, the company would provide the applicant with some other matured tree in lieu of it which has a minimum girth of thirty inches. I note that the transfer of property in the goods from the seller to the buyer is the essence of an agreement of sale. The moment the property in goods passes, the seller ceases to be their owner and the buyer acquires the ownership. The buyer can then exercise the proprietary rights over the goods. In the given facts and circumstances of the case, considering the risk lies with the company till the yard is declared matured, the property in the teakwood tree has not passed on to the applicant. Thus, the ownership of the teakwood sapling and consequently the teakwood tree is with the company and hence it is not a sale.

Now, I proceed to deal with the issue whether the company has pooled contributions from its investors and utilized it solely for the purposes of the scheme. In this regard, I note that Big Em had solicited subscription for its teak wood plantation scheme (scheme Product B (Teak)). Investors enter into a standard agreement based on the application form. Admittedly, the company accepted the money from investors for subscribing to its scheme and raised Rs. 73,65,900/- from them as on March, 2017. Further, from terms and conditions of allotment letter it is observed that the company is receiving payments for cost of sapling, development of estate, installation of fencing, dripping systems, solar lights and other allied expenses as may be required at different stages. The same indicates that money collected from investors is used in a pooled manner to create facilities to be used for the benefit of all the investors. Credence to this is led from the fact that as per the balance sheet of the company for the financial year ending March, 2016 its share capital is Rs. 5 lakh. However, as noted the money mobilized by the company under scheme Product B (Teak) is Rs. 73,65,900/- as on March, 2017. Thus, it can be reasonably held that by pooling the proceeds of the scheme, company is running the scheme.

It will be relevant, at this juncture, to reproduce the observations of Hon'ble Supreme



Court of India ("SC") in the matter of *PGF Ltd. vs. Union of India and Ors.* decided on March 12, 2013 wherein the Hon'ble Court observed as follows:

*"52... Apart from the sale consideration, which is hardly 1/3rd of the amount collected from the customers, the remaining 2/3rd is pooled by the PGF Limited for the so called development/improvement of the land sold in multiples of units to different customers. Such pooled funds and the units of lands are part of such scheme/arrangement under the guise of development of land....*

*... In these circumstances, the conclusion of the Division Bench in holding that the nature of activity of the PGF Limited under the guise of sale and development of agricultural land did fall under the definition of collective investment scheme under Section 2(ba) read along with Section 11AA of the SEBI Act was perfectly justified and hence, we do not find any flaw in the said conclusion."*

Further, Hon'ble Securities Appellate Tribunal ("SAT") in the matter of *NGHI Developers India Ltd. and Ors. vs. SEBI* decided on July 23, 2013, observed as follows:

*"...In this regard, it is noteworthy that the Appellants first seek contributions from members of the public based on the standard agreement and the application form. On receiving contributions, they issue certificates confirming the receipt of the amount of money paid by the customers to the Appellants. This money, in turn, is utilized by the Appellants to further buy land after pooling the investments of all customers. This leads to the conclusion that there is in fact a scheme in place which involves pooling of the investments of the Appellants."*

In light of the aforesaid two precedents, I *prima facie* find that the arrangement founded on development of teakwood tree saplings was floated by inviting investors to invest their money in the scheme. Money collected from the investors are then pooled towards creating common assets / services which are instrumental in development of the teakwood sapling into a finished product that of a teakwood tree with a minimum girth of thirty inches. These common assets / services as noted above are development of estate, installation of fencing, caring, medicines, gardening and other allied expenses.

Thus, in view of the aforesaid discussions, I am of the view that under the guise of sale



and development of teakwood saplings, the company is collecting monies from the applicants and utilising the contribution towards running the scheme. In other words, the scheme in question satisfies the first criterion under Section 11AA (2) of SEBI Act.

In light of the aforesaid discussions, I am of the *prima facie* view that the facts show that the payments made by the investors, were pooled and utilised by Big Em for the purposes of the scheme, the scheme being to accept payments and to use the proceeds for running the teakwood plantation. Hence, the instant scheme *prima facie* satisfies the first condition stipulated in Section 11AA (2) (i) of the SEBI Act.

***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.***

As discussed above, the company collected funds from its customers. It is observed from the terms and conditions in the allotment letter that if in any particular case the tree allotted to the customer does not attain the girth of thirty inches, even after the year is declared matured, the tree would not be considered as matured and the company shall provide the customer with some other matured tree in lieu of it with minimum girth of thirty inches plus. In light of the above, it is *prima facie* observed that the contribution/investment is made by the investors in the scheme with a view to receive/earn profit/return / produce / property as stipulated in Section 11AA (2) (ii) of the SEBI Act in the form of tree with minimum girth of thirty inches plus.

***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.***

As per the information available on record, it is admitted by the company that it was collecting money from public at large. At the end of the investment period, the investors were entitled to get an expected produce. Further, the following *prima facie* indicates that the scheme was managed on behalf of the investors and the investors had no control in the day to day workings of the arrangement:



- The unit holder did not have any claim at any time on any right, title or interest in the land allotted which was always in the possession of / leased absolutely to the company.
- The terms and conditions of application form and allotment letter states that the company or its nominees can procure and install open wells, bore wells and install motors, pump sets, electrical installations in the estate as and when required for convenience and necessity. Similarly, company can use any kind of pesticide, fertilizers, manures etc. as and when required. The same *prima facie* indicates that the investor has no say or control as to how and where the money has to be utilised by the company.
- As per the terms and conditions of application form once the investor has agreed to plant the teakwood saplings, the various activities associated with its development, is *prima facie* in exclusive control of the company. The same can also be seen from another condition of the application form which states that the company would intimate the customer as to when the tree has matured. Moreover, the customer is also required to obtain NOC from the company before selling his allotted tree to any other customer (before harvesting of his trees). The aforesaid *prima facie* indicates that the investor is not involved in the growth and development of the teakwood sapling and also does not have an unfettered right to sell the finished product. Hence, the company controls every aspect which is related to development of teakwood sapling including the sale of the finished product. In other words, Big Em has day to day control over the operation of the scheme.

In light of the aforesaid discussion, it is *prima facie* observed that the instant scheme satisfies the conditions stipulated in Sections 11AA (2) (iii) and (iv) of the SEBI Act.

8. I also note that scheme Product B (Teak) does not fall within any of the exception mentioned in Section 11AA (3) of SEBI Act viz., the aforesaid scheme is not offered by a co-operative society registered under the Co-operative Societies Act, 1912 or deposits are accepted by non-banking financial companies or deposits are accepted by a company declared as a Nidhi or a mutual benefit society under section 620A of the Companies Act,



1956 or it falls within the meaning of Chit business as defined in clause (d) of section 2 of the Chit Fund Act, 1982, etc.

9. Here, it is relevant to refer to the observations of Hon'ble SC in the matter of *PGF Ltd. and Ors. vs. Union of India and Ors.* decided on March 12, 2013, wherein the Hon'bl Court observed as follows:

*"35. A reading of the said provision discloses that it talks of any scheme or arrangement, which would fall within the definition of a collective investment scheme. Section 2 (ba) under the definition clause states that a collective investment scheme would mean any scheme or arrangement, which satisfies the conditions specified in Section 11 AA. Under sub-Section (2) of Section 11AA, it is stipulated that any scheme or arrangement made or offered by any company by which the contribution, or payment made by the investors, by whatever name called, are pooled and utilized for the purposes of scheme or arrangement; contributions or payments are made by the investors with a view to receive profits, income, produce or property, whether movable or immovable, based on the scheme or arrangement, any property, contribution or investment which forms part of the scheme or arrangement is identifiable or not is managed by someone on behalf of the investors shall be collective investment scheme. Further the investors should not have day to day control over the management and operation of the scheme or arrangement. A detailed analysis of sub-section (2) of Section 11AA, 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. As a matter of fact the provision does not make any reference to agricultural or any other specific activity..."*

10. On the strength of the observations of Hon'ble Apex Court in the aforesaid matter and the *prima facie* findings arrived at in preceding paragraphs, coupled with the satisfaction of all the four conditions and *prima facie*, non-applicability of exclusions, I observe that the instant scheme falls within the definition of CIS. As all the four conditions specified under



Section 11AA (2) of the SEBI Act are *prima facie* satisfied in this case, the scheme promoted, launched, carried on and operated by the company is *prima facie* a CIS in terms of Section 11AA (1) of the SEBI Act.

***Issue No. 2:*** *If the answer to the aforesaid issue is in the affirmative, whether Big Em has, prima facie, violated any provisions of SEBI Act read with CIS Regulations and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003?*

11. In order to ensure that investors who contribute to a CIS are protected, it is imperative that any person sponsoring or carrying on a CIS has to necessarily obtain registration from SEBI and conduct its activities in accordance with the provisions of SEBI Regulations. Section 12(1B) of SEBI Act reads as under:

*"No person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations: Provided that any person sponsoring or causing to be sponsored, carrying or causing to be carried on any venture capital funds or collective investment schemes operating in the securities market immediately before the commencement of the Securities Laws (Amendment) Act, 1995, for which no certificate of registration was required prior to such commencement, may continue to operate till such time regulations are made under clause (d) of sub-section (2) of section 30."*

Further, as per regulation 3 of CIS Regulations, the registration is mandatory to launch a CIS. It provides that, *"No person other than a Collective Investment Management Company which has obtained a certificate under these regulations shall carry on or sponsor or launch a collective investment scheme"*.

12. I note that even before CIS Regulations were framed by SEBI, Section 12(1B) of SEBI Act inserted with effect from January 25, 1995 barred any person to sponsor or carry on CIS after January 25, 1995 unless that person obtains a certificate of registration from SEBI. Proviso to Section 12(1B) of SEBI Act, however, permitted a person operating CIS prior to January 25, 1995 to continue with that CIS till such time regulations were made by SEBI. CIS Regulations came into force with effect from October 15, 1999. Here, it will be





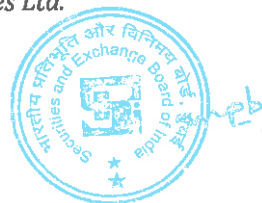
noteworthy to quote the observations of the Apex Court in the matter of *SEBI vs. Gaurav Varshney and Anr.* dated July 15, 2016 wherein it was observed as follows;

*"...In our considered view, an effective interpretation of Section 12(1B) can be rendered, only upon understanding the intent behind Section 12(1B), and the exception created through the proviso thereunder. On being so considered it is apparent, that on the insertion of Section 12(1B) in the SEBI Act on 25.1.1995, two classes of persons were created. The first class comprised of such person(s) who had commenced the activity of sponsoring or carrying on a collective investment scheme prior to 25.1.1995 (this category will be referred to hereinafter as, the proviso category). This category would be governed by the proviso under Section 12(1B). The second category created by Section 12(1B) was constituted of persons who had not commenced the activity of sponsoring or carrying on a collective investment scheme prior to 25.1.1995 (this category will be referred to hereinafter as, the non-proviso category).*

...

17. Insofar as the non-proviso category is concerned, the same was barred from sponsoring or carrying on a collective investment initiative, without first obtaining a certificate of registration from 'the Board', in accordance with the Collective Investment Regulations. The non-proviso category, comprised of persons who had not commenced any activity in the nature of a collective investment, prior to 25.1.1995. In other words, Section 12(1B) introduced a clear bar, prohibiting any action of sponsoring or initiating a collective investment scheme after 25.1.1995, without obtaining a certificate of registration from 'the Board', under the Collective Investment Regulations. Stated differently, a new entrepreneur desirous of sponsoring or carrying on any activity in the nature of collective investment for the first time after 25.1.1995, could do so only after he/it had obtained a certificate of registration from 'the Board', in accordance with the Collective Investment Regulations. Therefore, till such time the Collective Investment Regulations were framed by 'the Board' under Section 12(1B), and a certificate of registration was obtained, no fresh entry could be made in the field of collective investment, by a person/entity not already carrying on such activity.

18. A perusal of the conclusions drawn by us in the foregoing two paragraphs, wherein we have interpreted Section 12(1B) of the SEBI Act would reveal, that persons governed by the





*substantive provision (the non- proviso category) were permitted to “commence” activities concerning collective investment, only after obtaining a certificate of registration; and persons covered under the proviso category (-who were already carrying on such activities), were permitted to “continue” their activities (concerning collective investment), and after the concerned regulations were framed, they could continue the said activities only after obtaining a certificate of registration.”*

13. In the extant matter, it is observed that Big Em was incorporated on June 19, 2014. Further, from the lease agreement dated December 15, 2014, it is observed that Big Em had taken on lease the land wherein it was planting teakwood saplings for a period of thirteen years. Thus, *prima facie*, it can be held that the scheme Product B (Teak) was launched on December 15, 2014 when the land for planting the teakwood saplings was leased by Big Em. Hence, the incorporation of Big Em as well as the launch of scheme Product B (Teak) is post January 25, 1995. The same necessarily means that if Big Em is sponsoring or carrying on any activity in the nature of collective investment after January 25, 1995, the same could be done only after it had obtained a certificate of registration from SEBI, in accordance with the CIS Regulations.
14. The activities of Big Em, as brought out from the various materials described above, seen in the backdrop of the aforesaid provisions show that the scheme Product B (Teak) floated by Big Em is *prima facie* a CIS. However, no material is available on record to indicate that Big Em is a Collective Investment Management Company which has obtained a certificate under CIS Regulations.
15. In view of the aforesaid, I note that Big Em or its Promoters (at the beginning of FY 2014-2015, as noted from Annual Return) Mr. Munish Sharma, Mr. Raghav Singh, Mr. Rajinder Singh, Ms. Sudhi Singh, Ms. Arti Sharma, Ms. Sharda Bhandari and Ms. Prem Lata or its Directors, Mr. Munish Sharma, Mr. Raghav Singh, Mr. Rajinder Singh, Ms. Sudhi Singh and Ms. Arti Sharma, in their individual capacity are not registered with SEBI in any capacity. The characteristics and features of the scheme Product B (Teak) floated by Big Em, as discussed in the preceding issue, *prima facie*, leads to the conclusion that the scheme promoted, launched, carried on and operated by the company is a CIS scheme and is operating without a certificate of registration from SEBI. In my view, the company



by floating scheme Product B (Teak) is, *prima facie*, in violation of Section 12(1b) of SEBI Act read with regulation 3 of the CIS Regulations.

16. Moreover, as observed in preceding paragraphs, the company has admittedly collected Rs. 73,65,900/- as on March, 2017 under the scheme Product B (Teak) from 629 investors. As noted in the preceding issue, the said scheme is *prima facie* a CIS which has been floated by the company and has been launched and run without obtaining a certificate of registration from SEBI. Thus, it is further observed that the company by floating the aforesaid scheme Product B (Teak) is *prima facie* in violation of regulation 4 (2)(t) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations 2003 ("**PFUTP Regulations**"). The text of the said regulation is as follows:

*"4(2) Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include all or any of the following, namely: -*

*...*

*(t) illegal mobilization of funds by sponsoring or causing to be sponsored or carrying on or causing to be carried on any collective investment scheme by any person"*

**Issue No. 3:** *If the answer to issue nos. (4.2) is in the affirmative, who all are responsible for the violations?*

17. It has been noted in the preceding paragraphs that Big Em is *prima facie* responsible for launching and running a CIS without obtaining a certificate of registration from SEBI. I now proceed to *prima facie* determine whether any person has sponsored or caused to be sponsored or carry on or caused to be carried on the CIS activities of Big Em.

**Promoters of Big Em**

18. I note from the Annual Return for the FY 2014-2015 that the following were the Promoters of Big Em during the financial year 2014-2015:

Sl. No.	Name of the Promoter
1	Mr. Munish Sharma
2	Mr. Raghav Singh
3	Mr. Rajinder Singh*
4	Ms. Sudhi Singh
5	Ms. Arti Sharma
6	Ms. Sharda Bhandari
7	Ms. Prem Lata



Sl. No.	Name of the Promoter
8	Mr. Dharam Vir Bhandari**

*\*Towards the end of FY 2014-2015, Mr. Rajinder Singh sold his 15,000 shares (30%) in the company, equally to Mr. Munish Sharma (7,500 shares) and Mr. Raghav Singh (7,500 shares).*

*\*\* Mr. Dharam Vir Bhandari was not part of Promoter Group in the beginning of FY 2014-2015 but he had become part of Promoter Group towards the end of FY 2014-2015. He was holding 500 shares (1%) in the company.*

19. Section 12 (1B) of SEBI Act stipulates that no person shall sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes unless he obtains a certificate of registration from the Board in accordance with the regulations. Regulation 3 of the CIS Regulations provides that no person other than a Collective Investment Management Company, which has obtained a certificate under the said regulations, shall carry on, sponsor, or launch a CIS. The stipulation is on every person who sponsors or causes to be sponsored or carries on or caused to be carried on a CIS. It may be seen in a typical sponsoring of CIS, the company though in the eye of the law sponsors the scheme, the same is caused to be sponsored by the Promoters. In view of this, the prohibition not to launch or carry on the unregistered CIS is on the company as well as on the Promoters, independently.
20. It is observed from the table at paragraph 18 that there were seven Promoters of the company when the scheme was launched in December, 2014 and Mr. Dharam Vir Bhandari became part of the become part of Promoter Group towards the end of financial year 2014-2015. Here, it will be relevant to quote the order Hon'ble SAT in the matter of *Mrs. Manisha B. Kadhi vs. SEBI and Ors.* decided on November 12, 2020 wherein the Hon'ble Tribunal observed as follows:
- "...We are of the opinion that a promoter plays a vital role in the raising of the capital for a company and, therefore, the role of a promoter is subject to greater scrutiny irrespective of his shareholding and his position in the management of the company. It is immaterial that the appellants are not actively involved in the management of the company."*
21. The aforesaid observation of Hon'ble SAT when read with the provisions of Section 12 (1B) of SEBI Act, in the given facts and circumstances of the case, leads to a *prima facie* observation that the Promoters of Big Em were instrumental in raising the capital for the



company and even attracting investors to subscribe to the scheme, which enabled the company to run the aforesaid *prima facie* CIS. It has been noted in preceding paragraphs that Big Em is not a Collective Investment Management Company which has obtained a certificate from SEBI. Thus, the Promoters of the company namely Mr. Munish Sharma, Mr. Raghav Singh, Ms. Arti Sharma, Ms. Sudhi Singh, Mr. Rajinder Singh, Ms. Prem Lata, Ms. Sharda Bhandari and Mr. Dharam Vir Bhandari are *prima facie* liable for the violation of Section 12(1b) of SEBI Act read with regulation 3 of the CIS Regulations and regulation 4 (2)(t) of PFUTP Regulations.

#### **Directors of Big Em**

22. From the MCA documents, it is observed that the following are / were the Directors of the company during the launch / operation of the scheme by the company:

S. No.	Name	Designation	Date of Appointment	Date of Resignation
1.	Mr. Munish Sharma	Director	June 19, 2014	Continuing
2.	Mr. Raghav Singh	Director	June 19, 2014	Continuing
3.	Mr. Rajinder Singh	Director	June 19, 2014	March 30, 2015
4.	Ms. Arti Sharma	Director	March 30, 2015	Continuing
5.	Mr. Sudhi Singh	Director	March 30, 2015	Continuing

23. As noted in preceding paragraphs, the stipulation under Section 12 (1B) of SEBI Act is on every person who sponsors or causes to be sponsored or carries on or caused to be carried on a CIS. Company has admitted that it has collected money from investors under scheme Product B (Teak). It has been observed that credits have been taking place in company's bank accounts since January, 2015. From the aforesaid table, it is noted that Mr. Munish Sharma, Mr. Raghav Singh, Mr. Rajinder Singh, Ms. Arti Sharma and Mr. Sudhi Singh were the Directors of Big Em at the relevant period when the company was soliciting/ collecting funds from the public.

24. I note that the position of a 'Director' in a company comes along with responsibilities for compliances under law, which have to be fulfilled by such Director and in case of default, he has to face the consequences thereof. A Director cannot therefore, wriggle out from his liability. In terms of Section 179 of the Companies Act, 2013, the Board of Directors of a company shall be entitled to exercise all such powers and do all such acts and things as the company is authorised to exercise and do. Therefore, the Board of Directors, being



responsible for the conduct of the business of a company, are liable for any non-compliance of law and such liability shall be upon the individual Directors also. I note for an offence committed by the company, apart from the company, the Directors of company who at the time of the offence, were in charge and responsible to the company for the conduct of the business of the company or their neglect results in the said offence, are also liable for said offence of law committed by the company. The relevant provision is as follows:

**SEBI Act**

**27. Offences by companies**

*(1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:*

*Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.*

*(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.*

*Explanation: For the purposes of this section, — (a) "company" means any body corporate and includes a firm or other association of individuals; and*

*(b) "director", in relation to a firm, means a partner in the firm.*

25. In the instant matter, as per material available on record, it is already established in the preceding paragraphs that the company is *prima facie* running a CIS without obtaining certificate of registration from SEBI and that Big Em is not a Collective Investment Management Company which has obtained a certificate from SEBI. Further, from the



material available on record, it is observed that none of the Directors of Big Em are designated as Managing Director or Executive Director or Independent Director. Moreover, it is also observed from the material available on record that the company does not have a CEO, CFO or any other officer who is designated as key managerial personnel. Thus, on a preponderance of probability basis, all the Directors who have been appointed to the Board of Big Em, are in charge and responsible for managing the affairs / business of the company.

26. It is also observed from the Annual Return for the financial year ended on March 31, 2015 that there were five Board Meetings that were held during the said financial year. Mr. Munish Sharma, Mr. Raghav Singh and Mr. Rajinder Singh had attended all the five Board Meetings of the company. During the said financial year, no leave of absence was granted to any Director. It may be noted that post the Board Meeting held on December 26, 2014, Axis Bank account (A/c No.: 915020000659717) was opened by the company on December 30, 2014, as observed from the KYC documents. Multiple credits in the bank account started to flow from January 5, 2015 onwards from various locations in Punjab, predominantly in the surrounding areas of Pathankot. Mr. Munish Sharma and Mr. Raghav Singh are the signatories of the said bank account. The nature of credit entries indicates that the receipt of money in the bank account is in respect of the scheme.
27. In light of the aforesaid discussion, it is *prima facie* observed that Mr. Munish Sharma, Mr. Raghav Singh and Mr. Rajinder Singh are *prima facie* liable under Section 27 (1) of SEBI Act for the offence of the company to run what is *prima facie*, an unregistered CIS.
28. I also note that the liability of the Directors also arises if the offence is attributable to any neglect on their part. There is no material on record to *prima facie* indicate that Mr. Munish Sharma and Mr. Raghav Singh who continue to be associated with the company since incorporation as Promoter - Director and Mr. Rajinder Singh who was associated with the company for nine months as Promoter - Director, have taken any steps to prevent the company from running what is *prima facie*, a CIS without obtaining a registration for the company from SEBI as a Collective Investment Management Company. It *prima facie*, shows there is a neglect attributable to the Directors. Thus, Mr. Munish Sharma, Mr. Raghav Singh and Mr. Rajinder Singh are also *prima facie* liable





under Section 27 (2) of SEBI Act for the offence of the company to run what is *prima facie*, an unregistered CIS.

29. With respect to Ms. Arti Sharma and Ms. Sudhi Singh, who apart from being Promoters of the company, also joined its Board as Directors from March 30, 2015 onwards, it is *prima facie* observed that they along with other Directors of Big Em were also in charge and responsible for managing the affairs / business of the company.
30. As observed in preceding paragraphs, none of the Directors of the company are designated as Managing Director or Executive Director or Independent Director. Moreover, it is also observed from the material available on record that the company does not have a CEO, CFO or any other officer who is designated as key managerial personnel. Thus, on a preponderance of probability basis, all the Directors who have been appointed to the Board of the company, are in charge and responsible for managing the affairs / business of the company. Furthermore, it has been admitted by the company that it has been collecting money under scheme Product B (Teak). It is observed from the Annual Return for the financial year ended on March 31, 2016 that there were six Board Meetings that were held during the said financial year. Ms. Arti Sharma and Ms. Sudhi Singh had attended all the six Board Meetings of the company. During the said financial year, no leave of absence was granted to any Director. From the records it is noted that during the financial year 2015-2016, 291 clients were enrolled under the scheme Product B (Teak) by the company. Ms. Arti Sharma and Ms. Sudhi Singh had attended all the Board Meetings of the company during the financial year. Thus, Ms. Arti Sharma and Ms. Sudhi Singh by being in charge and responsible for managing the affairs / business of the company along with other Directors of Big Em and having attended all the board meetings of the company are *prima facie* liable under Section 27 (1) of SEBI Act for the offence of the company to run what is *prima facie*, an unregistered CIS.
31. Moreover, being the Promoters – Directors of the company, Ms. Arti Sharma and Ms. Sudhi Singh were aware that Big Em is not registered with SEBI as a Collective Investment Management Company and being part of the Board they were also aware that the company is collecting money from investors under scheme Product B (Teak). However, they neglected to take steps to register Big EM with SEBI as a Collective Investment Management Company or to prevent Big Em from collecting money from





investors without obtaining a registration for the company from SEBI as a Collective Investment Management Company. Thus, Ms. Arti Sharma and Ms. Sudhi Singh are also *prima facie* liable under Section 27 (2) of SEBI Act for the offence of the company to run what is *prima facie*, an unregistered CIS.

**Issue No. 4:** *If the answer to issue no. 4.2 is in the affirmative, whether urgent directions, if any, should be issued against those responsible for the prima facie, violations?*

32. Before proceeding further, I would like to deal with the submission of the company made vide its letter dated February 17, 2020 wherein it has stated that “Product B has been discontinued in July, 2017 and no sales has been done under Product B after that.”. In this regard, the bank statements of the company were examined till September 5, 2020 and the following has been observed:

32.1. On perusal of Axis bank statement, it has been observed that no transactions are available in the same post April 13, 2019.

32.2. The last date of transaction in the ICICI bank account of the captioned entity was Oct 18, 2019 and the same has been closed w.e.f. January 4, 2020.

32.3. On perusal of ICICI Bank statement post February 2019, 20 transactions bearing “by cash” deposits were observed. In addition to the same, 20 other transactions in the multiple of Rs. 8,000/- have been observed.

Sr. No.	Date	Narration	Amount (Credit) (Rs.)
1.	28/02/2019	CLG/SYB/18.02.2019	96000
2.	01/03/2019	CLG/Harbans Singh	24000
3.	02/03/2019	NEFT-Kamaljit Singh Bhatti	96000
4.	02/03/2019	CLG/Kuldeep Electric works	48000
5.	06/03/2019	UPI/Harwinder singh	16000
6.	08/03/2019	NEFT-Manmohan singh	16000
7.	12/03/2019	NEFT- Jasbir Singh	40000
8.	15/04/2019	PNB 884683	40000
9.	17/04/2019	Avtar Singh	100000
10.	22/04/2019	Gurudwara Bhajangarh	200000
11.	09/05/2019	Surjit Singh	200000
12.	10/05/2019	CLG-Satwinder Pal	40000
13.	24/05/2019	Cash-Garhshankar	16000
14.	24/05/2019	UPI/singhdyal01	40000
15.	12/06/2019	Cash-Mamoon	40000
16.	10/047/2019	MMT/Purchase of Fra	200000



17.	17/07/2019	Shakuntala Devi	8000
18.	27/8/2019	SBI Bhupnesh	40000
19.	12/09/2019	Deepak Koushal	8000
20.	16/09/2019	MMT/Davinder	8000

32.4. Dena bank (merged with Bank of Baroda) account statement pertains to February 14, 2018 (account opening) till September 5, 2020. On perusal of the same, 6 transactions bearing narration "by cash" were observed and 2 other transactions in the multiple of Rs. 8,000/- have been observed:

Date	Narration	Amount (Credit) Rs.
12/08/2020	IMPS/MOBUA297555232	24000
24/08/2020	TRFR/UPI	96000

33. On perusal of the above credit transactions, it is observed that certain deposits were in cash and certain entries were in multiples of Rs. 8,000/-. It is pertinent to mention that as per the details of clients furnished by the company, the funds mobilized in scheme Product B (Teak) was Rs. 8,000/- per unit. Hence, *prima facie*, it is observed that Big Em has continued to mobilise funds from the public post July, 2017 in scheme Product B (Teak).

34. 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 thinks fit for fulfilling its legislative mandate. The concept of CIS Regulations was envisaged at a time when innocent investors were getting lured into investing their life savings in schemes floated by various entities, assuring such investors of huge profits. Thus, CIS Regulations has been formulated with the main objective of ensuring that the funds or properties of the CIS is managed in the best interests of the unit holders and hence registration of the company as Collective Investment Management Company with SEBI has been made mandatory. The CIS Regulations, *inter alia*, seek to create a structure within which a CIS has to operate and also to make Collective Investment Management Company duly accountable to its unit holders. The same is imperative for the protection of interests of investors and to safeguard the integrity of the securities market.



35. In the instant case, Big Em is soliciting and inducing investors to deal in securities market by contributing to its scheme Product B (Teak), *prima facie*, without having the requisite registration / certification as mandated under the CIS Regulations. Considering the facts and circumstances of the present matter and on the basis of the *prima facie*, findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Big Em through its Promoters and Directors, from collecting any more money from the public and indulging in unauthorized CIS activities. It is noted from material available on record that the last transaction in its Dena bank account (merged with Bank of Baroda) is in the month of August, 2020. Further, as per the terms of Allotment Letter the applicant has to pay maintenance charges from second year onwards. A teakwood tree as mentioned in the Allotment Letter takes ten years to mature on an average and the company has leased the land for thirteen years on which the teakwood saplings were planted, as observed during the site visit. There is no evidence available on record which shows that the matured product has been given to the applicants of the scheme. Therefore, *prima facie* the scheme is still continuing. Moreover, as per MCA records the company is active as on date. Therefore, the threat of investors getting lured towards the unregistered activity of Big Em in the securities market is still in existence and imminent. The amount of money, *prima facie*, observed to have been collected by Big Em is Rs. 73,65,900/- as on March, 2017 and indicates the magnitude of the prospective threat to the investors.
36. It is noted that permitting the investors to contribute to scheme Product B (Teak) of an unregistered entity, in effect means, the same is contributed to an unqualified entity without following the safeguards mentioned in the CIS Regulations. An investor receiving a service from a registered CIS in consonance with the CIS Regulations vis-a-vis an investor who receives such a service from an unregistered CIS stands at a disadvantageous position in respect of his protection as an investor as envisaged under the CIS regulations. An unregistered CIS has not satisfied the Regulator that it is a fit and proper person to hold the certificate of registration as CIS. Availing of service from such company is detrimental to investors and such unqualified service results in irreparable detriment as the investors' money is invested based on unqualified and un-regulated service. Exposing investors to such service also has the effect of interfering with the



development of securities market, as victim of such services tend to lose faith in the securities market. Such an injury/detriment to the development of the securities market also qualifies as an “irreparable injury”. The objective of SEBI as enshrined in the SEBI Act is not only the protection of investors but also orderly development of securities market.

37. Further if an *ex-parte* order is not passed, many prospective investors may have to part with large contributions resulting into irreparable injury to themselves. However, if an *ex-parte* order is passed, what is at stake is right of the current entity herein vis-a-vis multitude of prospective and current clients of the entity. It may be noted that one of the underlying differences between the *ex-parte* orders in the case of private suits and *ex-parte* public enforcement actions, is the identification of the injured party. In private damage suits, the injured individual, as “whole”, is identifiable whereas *ex-parte* public enforcement actions, seeks to protect the floating multitude of investing public by preventing, continuous and imminent violations of the securities laws. I note that the potential contribution of funds by the investors to the scheme Product B (Teak) of the company which is not registered with SEBI and resultant loss of investor’s confidence and reliability of securities market, cannot be retrieved, if, *prima facie*, unregistered CIS activities is permitted to continue by not passing an *ex-parte interim* order at this stage. Therefore, I consider the balance of convenience is also not in favour of the entity.
38. Considering the facts and circumstances of the present matter and on the basis of the *prima facie* findings, it is necessary to take urgent preventive action in this matter and to take immediate steps to prevent Big Em from collecting any more funds from the public and indulging in unauthorized CIS activities. As noted in the preceding paragraphs, monies were being credited in the bank account of the company as on August, 2020 and the bank accounts of the company (Axis Bank and Dena Bank) are still active. Moreover, the company is active. The same *prima facie* demonstrates that Big Em can still lure investors to deal through it in the securities market and probability of investors reaching Big Em is still high. Therefore, the threat of investors getting lured towards the unregistered activity of Big Em in the securities market is still in existence and imminent.



39. The amount of money, *prima facie*, observed to have been collected by Big Em is approximately Rs. 73.65 lakh as on March, 2017 and indicates the magnitude of the prospective threat to the investors. In light of the same, I find that there is no other alternative but to take recourse through an *interim ex-parte* order against Big Em and its Promoters and Directors for preventing them from collecting funds by indulging in unauthorized CIS activities without obtaining the mandatory registrations from SEBI in accordance with the law. Therefore, appropriate direction for stopping the activity is required to be passed. However, preservation of the assets and trees are also required in the interests of the investors. The maintenance of teakwood trees will have a bearing on an effective outcome of the Order of the State Government under the Banning of Unregulated Deposit Schemes Act, 2019. Thus, appropriate direction in this regard has been incorporated.

#### **ORDER**

40. In view of the above, pending conclusion of enquiry on granting of hearing opportunity as per this Order, to Big Em Estates and Infrastructures Ltd., Mr. Munish Sharma, Mr. Raghav Singh, Mr. Rajinder Singh, Ms. Sudhi Singh, Ms. Arti Sharma, Ms. Sharda Bhandari, Mr. Dharam Vir Bhandari and Ms. Prem Lata, I, in order to protect the interests of investors and integrity of the securities market, in exercise of the powers conferred upon me under Sections 11(1), 11(4), 11B (1) and 11D of SEBI Act read with regulation 65 of CIS Regulations and Section 19 of the SEBI Act hereby issue by way of this *interim ex-parte order*, the following directions:

40.1. Big Em Estates and Infrastructures Ltd. and its Promoters and Directors are directed to:

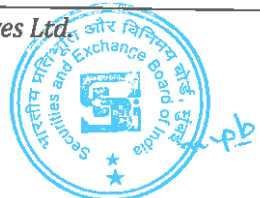
40.1.1. *Cease and desist from floating any CIS, directly or indirectly, and cease to solicit or undertake such activity determined as CIS in the instant order except for the maintenance of scheme Product B (Teak) or any other activities in the securities market, directly or indirectly, in any matter whatsoever, until further orders.*

40.1.2. *Not to collect money from new investors or any additional sum of money from existing investors in its existing scheme Product B (Teak).*

40.1.3. *Not to divert any funds collected from investors, kept in bank account(s) and / or in their custody.*



- 40.1.4. *Immediately withdraw and remove all advertisements, representations, literatures, brochures, materials, publications, documents, communications etc., physical or digital in relation to their scheme Product B (Teak) or any other unregistered activity in the securities market until further orders.*
- 40.1.5. *Not to access the securities market and buy, sell or otherwise deal in securities in any manner whatsoever, directly or indirectly, until further orders.*
- 40.1.6. *To submit the number and details of clients (contact number, address, date of enrollment) who have contributed to scheme Product B (Teak) and to submit details of contributions received from each such client / unit holder, immediately but not later than 5 working days from the date of receipt of this order.*
- 40.2. *If Big Em Estates and Infrastructures Ltd. or its Promoters or Directors have any open positions in any exchange traded derivative contracts, as on the date of the order, they can close out/ square off such open positions within 3 months from the date of order or at the expiry of such contracts, whichever is earlier. Big Em Estates and Infrastructures Ltd. and its Promoters and Directors are permitted to settle the pay-in and pay-out obligations in respect of transactions, if any, which have taken place before the close of trading on the date of this order.*
- 40.3. *Axis Bank Ltd. (A/c no.: 915020000659717) and Dena Bank (A/c No.: 061811031115) (merged with Bank of Baroda) wherein Big Em Estates and Infrastructures Ltd. is holding an account, are directed not to permit any debits / withdrawals and not to allow credits to the said accounts, without the permission of SEBI.*
- 40.4. *The Depositories are directed to ensure that till further directions not to permit any debits and not to allow any credits in the demat account(s) of Big Em Estates and Infrastructures Ltd. The Depositories are directed to ensure that till further directions not to permit any debits and not to allow any credits in the demat account(s) of Mr. Munish Sharma, Mr. Raghav Singh, Mr. Rajinder Singh, Ms. Sudhi Singh, Ms. Arti Sharma, Ms. Sharda Bhandari, Mr. Dharam Vir Bhandari and Ms. Prem Lata, held jointly or individually.*





- 40.5. *The Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including mutual fund units, held in the name of Big Em Estates and Infrastructures Ltd. are not transferred or redeemed. Further, Registrar and Transfer Agents are also directed to ensure that till further directions the securities, including mutual fund units, held in the name of Mr. Munish Sharma, Mr. Raghav Singh, Mr. Rajinder Singh, Ms. Sudhi Singh, Ms. Arti Sharma, Ms. Sharda Bhandari, Mr. Dharam Vir Bhandari and Ms. Prem Lata, held jointly or individually, are not transferred or redeemed.*
41. The directions in paragraphs 40.1.3, 40.1.5, 40.3, 40.4 and 40.5 above shall be subject to any order passed / to be passed by the Competent Authority / Forum under the Banning of Unregulated Deposit Schemes Act, 2019.
42. This Order shall also be treated as a Show Cause Notice and Big Em Estates and Infrastructures Ltd. and its Promoters and Directors, are show caused as to why scheme Product B (Teak) floated by them should not be held as "CIS" in terms of SEBI Act and CIS Regulations and thereby the activity of Big Em Estates and Infrastructures Ltd. be treated as unregistered activity under the SEBI Act and CIS Regulations and in violation of PFUTP Regulations.
43. Big Em Estates and Infrastructures Ltd. and its Promoters and Directors, are also show caused as to why appropriate directions, under Sections 11, 11(4), 11B(1) and 11D of the SEBI Act and relevant SEBI Rules/Regulations, including directions to prohibit them from buying, selling or otherwise dealing in securities market, either directly or indirectly, in any manner whatsoever, for a particular period and directions not to be associated with any registered intermediary/ listed company and any public company which intends to raise money from public in the securities market, in any manner whatsoever, should not be issued against them.
44. The *prima facie*, observations contained in this Order are made on the basis of the material available on record. In this context, Big Em Estates and Infrastructures Ltd. and its Promoters and Directors, may, within 21 days from the date of service of this Order, file reply, if any, to this Order and may also indicate whether they desire to avail an opportunity of personal hearing on a date and time to be fixed on a specific request to be made in that regard.





45. The above directions shall take effect immediately and shall be in force until further orders.
46. A copy of this order shall be served upon Big Em Estates and Infrastructures Ltd. and its Promoters and Directors, Dena Bank (merged with Bank of Baroda), Axis Bank Ltd., Stock Exchanges, Depositories and Registrar and Transfer Agents for necessary action and compliance with the above directions.
47. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs / concerned Registrar of Companies- Chandigarh, for their information and necessary action with respect to the directions/ restraint imposed above against the company and the individuals.
48. A copy of this Order shall also be forwarded to the State Government of Punjab for information and consideration of appropriate action such as restitution etc., under the provisions of Banning of Unregulated Deposit Schemes Act, 2019.

**Date: February 26, 2021**

**Place: Mumbai**



*Madhabi Puri Buch*

**MADHABI PURI BUCH**

**WHOLE TIME MEMBER**

**SECURITIES AND EXCHANGE BOARD OF INDIA**