

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: MADHABI PURI BUCH, WHOLE TIME MEMBER

FINAL ORDER

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

In the matter of Sanket Investments and Marketing Ltd.

In re Deemed public issue norms

In respect of:

Name of the Entity	PAN	DIN
Ms. Nibedita Nath	AHBPN9799H	03576083

Background

1. Securities and Exchange Board of India (“SEBI”) had passed an order dated April 24, 2018 in the matter of Sanket Investments and Marketing Ltd. (hereinafter referred to as “SIML”/ “the Company”) against SIML and its directors namely, Mr. Prashanta Kumar Dash, Mr. Pravat Kumar Dash and Ms. Nibedita Nath for engaging in fund mobilizing activity from the public, through the offer of Redeemable Preference Shares (“RPS”) during the financial year 2011-12 thereby raising Rs. 58,10,300/-. It was observed that on account of the said offer of RPS, SIML and its directors had violated the provisions of sections 56(1), 56(3), 2(36) read with 60, 73(1), 73(2), 73(3) of the Companies Act, 1956. The said order dated April 24, 2018 was passed while dealing with the allegations / findings against the aforesaid entities levelled in and the directions issued against them vide an interim order dated March 10, 2017.

2. The following directions were issued by SEBI vide the *order* dated April 24, 2018

“a. SIML, Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath shall forthwith refund the money collected by the Company, during their respective period of directorship through the issuance of RPS including the application money collected from investors during their respective period of directorship, till date, pending allotment of securities, if any, with an interest of 15% per

annum, from the eighth day of collection of funds, to the investors till the date of actual payment.

- b. The repayments and interest payments to investors shall be effected only through Bank Demand Draft or Pay Order both of which should be crossed as "Non-Transferable" or any other appropriate banking channel with clear identification of beneficiaries and supporting bank documents.*
- c. SIML and Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath are directed to provide a full inventory of all the assets and properties and details of all the bank accounts, demat accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form, of the company and their own.*
- d. SIML, Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath are permitted to sell the assets of the Company for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalized Bank. Such proceeds shall be utilized for the sole purpose of making refund/repayment to the investors till the full refund/repayment as directed above is made.*
- e. Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath are prevented from selling their assets, properties and holding of mutual funds/shares/securities held by them in demat and physical form except for the sole purpose of making the refunds as directed above and deposit the proceeds in an Escrow Account opened with a nationalized Bank. Such proceeds shall be utilized for the sole purpose of making refund/repayment to the investors till the full refund/repayment as directed above is made.*
- f. SIML and Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath in their personal capacity to make refund, shall issue public notice, in all editions of two National Dailies (one English and one Hindi) and in one local daily with wide circulation, detailing the modalities for refund, including the details of contact persons such as names, addresses and contact details, within 15 days of this Order coming into effect.*
- g. After completing the aforesaid repayments, SIML, Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath in their personal capacity shall file a report of such completion with SEBI, within a period of three months from the date of this order, certified by two independent peer reviewed Chartered Accountants who are in the panel of any public authority or public institution. For the purpose of this Order, a peer reviewed Chartered Accountant shall mean a Chartered Accountant, who has been categorized so by the Institute of Chartered Accountants of India ("ICAI") holding such certificate.*
- h. In case of failure of SIML, Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath to comply with the aforesaid applicable directions, SEBI, on the expiry of three months period from the date of this Order may recover such amounts, from the company and the directors liable to refund as specified in paragraph 46(a) of this Order, in accordance with section 28A of the SEBI*

Act including such other provisions contained in securities laws. The recovery officer may consider proceeding against the assets of SIML, at first, if there are sufficient assets of SIML and thereafter against the assets in the name of Shri Prashanta Kumar Dash, if there are sufficient assets of Shri Prashanta Kumar Dash, thereafter against the assets in the name of Shri Pravat Kumar Dash, if there are sufficient assets of Shri Pravat Kumar Dash and at last recovery officer may consider proceeding against Nibedita Nath

- i. SIML, Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath are directed not to, directly or indirectly, access the securities market, by issuing prospectus, offer document or advertisement soliciting money from the public and are further restrained and prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly in whatsoever manner, from the date of this Order, till the expiry of 4 (four) years from the date of completion of refunds to investors as directed above. The above said directors are also restrained from associating themselves with any listed public company and any public company which intends to raise money from the public, or any intermediary registered with SEBI from the date of this Order till the expiry of 4 (four) years from the date of completion of refunds to investors.*
- j. In view of para 44 supra, this order will take effect as final order against Ms. Nibedita Nath only on the expiry of 30 days from the date of service of this order against her, unless she , within such period of 30 days from the date of service of this order seeks for personal hearing vide written letter, receivable by SEBI within said thirty days. If no request for personal hearing is filed, the interim directions vide Interim order dated March 10, 2017 shall continue against her till the time of said thirty days period, after which this order will come into effect. If request for personal hearing is filed by Ms. Nibedita Nath, the interim directions vide Interim order dated March 10, 2017 shall continue qua her till conclusion of personal hearing afforded to her, if sought and the directions passed herein against her shall be made applicable subject to the determination on the objections/replies filed in the said personal hearing.*
- k. This Order shall be harmoniously read with the Orders passed by Hon'ble Orissa High Court in Writ Petition No.16380 Of 2013- Seashore Group & Ors Vs. State of Orissa & Ors.”*

3. It is noted that by virtue of clause (j) of paragraph 46 of the order dated April 24, 2018 (noted above), the said order against Ms. Nibedita Nath would have taken effect if she had failed to make a request for personal hearing within a period of 30 days from the date of receipt of the order dated April 24, 2018. The reason for placing the said condition in the said order was recorded in paragraph 44, which read as under:

“I find that Ms. Nibedita Nath was afforded an opportunity to file a reply to the interim order cum SCN which was availed by her, however the opportunity of

personal hearing dated November 28, 2017 has been provided to her via notification published in newspaper as detailed in para 13. In view of this, appropriate directions are issued at the end of this order.”

4. It is noted that Ms. Nath filed a representation in the matter within the said period of 30 days and the same was received by SEBI on May 19, 2018. Consequently, as has been mentioned in paragraph 46(j) of the order dated April 24, 2018, currently, the directions issued against her vide the interim order dated March 10, 2017 in the matter of SIML are in force and shall continue to be in force till issuance of directions (if any) against her vide the present order.

Reply and hearing

5. Vide the aforesaid representation / letter dated May 12, 2018 (received by SEBI on May 19, 2018), the following submissions were made by Ms. Nath:
 - i) I belong to a middle class family, and in search of job to help my family financially, I applied for the post of Office assistant "Seashore Company" as mentioned in my reply letter dated Apr 08, 2017. I was having no link with any transaction/ collection done from public. I was working as a back office staff and looking after office administration. The directorship was made forcefully and keeping all these things hidden from my knowledge. My signature was also manipulated by the company in many places even making me director in other companies also which I have already told at the time of CBI investigation and it was told in front of the CBI officer when the CMD of Seashore Company, Mr Prashant Dash was present.
 - ii) Mr Prashant Dash was all in all of the company. The same has also been mentioned on the CBI investigation preliminary report and he was dealing with the transactions, I was only an employee.
 - iii) In the year 2011-12, I took 2 months leave as salary was not paid (exact month unable to recall) and it was difficult for me to manage the expenses of going to office without being paid which was told to HR and CMD also. For this reason, I got a mail from the company ID through HR regarding termination of my job. I replied asking them to clear my pending salary with the details of the pending dues on the company towards my salary but no reply received in this regard. I am unable to get the mail copy as the incident was almost 5 years back. On my personal discussion with the HR department at that time I was told to continue the Job (at that time I was Divisional Manager) and that salary will be paid and thereafter I could resign. In between the company was closed and I have not received 6 months' salary. Along with this I have also made some fixed deposits in the company scheme which I have not received also. At that time the office was functioning from different locations at Bhubaneswar and we were being asked to report to those locations/ place and from there to operate official work as per the instructions of Mr Prashant Dash, CMD.

- iv) With regards to the resignation letter, HR head's signature is there which can be verified from the other documents which I have already submitted with the reply letter 8th Apr 2017. I was never told regarding the illegal collection/ transactions of public money under the name of Sanket Investment and Marketing Ltd. I only came to know these things when the Crime Branch of Odisha raid was conducted against the company. I tried to resign from the post of director also but there was no way out and I was/ am not aware about the laws and acts of Companies Act and other acts. The CMD Mr Prashant Dash was absconding and later on he was behind the bars.
- v) Nothing was told to me by Mr Prashant Dash about the role as a director. Many of my colleagues who were employee of Seashore Company were kept as directors in different companies of Seashore Group. I was not aware about the fraud and money collection in the name of Sanket. Being an employee of the company, I was doing only the assigned work of my senior and the CMD Mr Prashant Dash.
- vi) My signature might have been manipulated to submit / file the documents like balance sheet, profit and loss statement etc. towards Sanket Investments and Marketing Ltd.
- vii) As per the letter / order, to submit the details of the property and accounts, here I give the details.
- viii) I don't have any property in my name. I am having the previous salary account of Indian Bank which I am continuing till date with A/C No- 811817748, Saheed Nagar, Bhubaneswar. One savings account is there in SBI, Utkal University Branch, Bhubaneswar where my husband and me (either or operative) are the account holders and this is being used by my husband. A/C No- 30056904510.
- ix) There is no fixed deposit, Mutual fund any other financial instrument in my name. I and my kids depend on my husband's income only. Now I am having 2 kids (daughter 10 years and son 10 months). I am unable to do any job and having financial problem. All the expenses are borne by my husband. Whatever he earns, some part of that is going in handling advocates and attending case dates at New Delhi, Mumbai, Cuttack and I am facing lot of problems due to Mr Prashant Dash along with mental harassment. I was cheated by him and still suffering.
- x) In the year 2016 i.e. on 7th Apr 2016 when CBI, Ranchi along with CBI, SPE, ACB, Bhubaneswar did a raid in my rented house where I was staying with my husband and daughter. They also searched the entire house all the documents and only found my resignation letter and the Indian Bank account pass book of A/ C No- 811817748.
- xi) With regard to the letter and notice to appear before SEBI on 28th Nov 2017, the same did not reach me. I normally don't watch news on TV and the local newspaper which comes to my home is Pragatbadi. As the letter / notice were not received by me so I was unable to appear on that day. Therefore I request you to provide me one more opportunity to place my views and the documents which are with me and already submitted to your good office also. In case it will be in front of Mr Prashant

Dash, CMD Seashore it will further help me to prove that I was not at all involved in any kind of illegal transactions and fraud and he was all in all of the company.

xii) As I am not financially sound and being a house wife and having a small kid of 10 month, I need some time to arrange money for booking of train tickets to reach you. So I request you to give at least 45 to 50 days prior information with regards to the specific date of personal hearing.

6. As requested by Ms. Nath, an opportunity of hearing was provided to her on September 25, 2018 when she appeared in person and made submissions. The oral submissions made by her during the hearing are, *inter alia*, as under:
- i) *When I was appointed as a director of the company, I was not told anything about the roles and responsibilities of a director. Actually the salary of a director was Rs. 45,000 but I was being paid only Rs. 25,000.*
 - ii) *Later, when I got to know about the same, I expressed my willingness to resign from the company.*
 - iii) *I was told by the management that if I resign as a director, my salary would be reduced to half.*
 - iv) *Subsequently, raids were conducted at the office of the company. Thereafter, I did not go to office for 5 months. Then in January 2013, I resigned as a director of the company and the resignation letter was acknowledged by a person from HRD.*
 - v) *The matter was also being investigated by CBI and a report has been filed by CBI which did not mention my name or role in the fraud committed by the company.*

Issues and consideration

7. It is noted that the order dated April 24, 2018 addressed the following three issues in the backdrop of the offer of RPS made by SIML:
- (1) *Whether the company came out with the Offer of RPS as stated in the interim order?*
 - (2) *If so, whether the said issues are in violation of Section 56, Section 60 and Section 73 of Companies Act 1956?*
 - (3) *If the findings on Issue No.2 are found in the affirmative, who are liable for the violation committed?*
8. The said order from paragraph 16 to paragraph 45 discusses at length the aspects relevant to the aforesaid issues such as the fact of offer and issuance of RPS, the provisions of law violated by SIML and its directors on account of such offer and issuance, the submissions of the entities, the responsibilities of the directors, etc. The submissions made by Ms. Nath (vide letter dated April 8, 2017) in respect of the allegations / findings of the interim order dated March 10, 2017 were also considered in the order.

9. Since the order dated April 24, 2018 had considered the submissions of Ms. Nath made vide letter dated April 8, 2017, and directions were accordingly issued, the question that arises for consideration at this stage is ***whether the submissions made by Ms. Nath subsequent to passing of the order dated April 24, 2018 would merit reconsideration of the findings of the order dated April 24, 2018 in respect of Ms. Nath and whether the same would lead to a change in the directions issued against Ms. Nath vide the said order.***
10. It is noted that in response to the interim order dated March 10, 2017, Ms. Nath, vide letter dated April 8, 2017, had made the following submissions:
- i) *In the month Feb/March, 2007 there were advertisements by Seashore Company in the local newspaper for recruitment of Unit Manager (22 posts) and Office Assistant (30 posts) at Seashore Funds Management Pvt. Ltd., and she applied for the post for Office Assistant and was offered appointment letter for the post of Office Assistant.*
 - ii) *In the same year, she was promoted as Assistant Manager on 1st Sep 2007 and was allotted the job profile to handle "Reliance Life Insurance" cases. In addition to the existing work profile, in the year 2008 she was told to handle office administration also, like to maintain office attendance, looking after the activities of back office staffs.*
 - iii) *She worked till 12th Dec 2009 with the same profile and her salary was increased to Rs 13,500/- (approximately) wherein she was reporting to Mr. Prasant Dash, CMD.*
 - iv) *She was deputed to STV (Seashore Television) on 12th Dec 2009 with the same terms and conditions of the service and thereafter transferred from "Seashore Funds Management Pvt. Ltd." to "Seashore Securities Ltd" w.e.f 1st Dec 2009. The job profile was to look after office administration like keeping office attendance, office infrastructure and maintenance of office decorum. She was reporting to Mr. Prasant Dash, CMD Seashore Securities Ltd.*
 - v) *That on 1st January 2010, she got promoted as a Divisional Manager and was given the same office administration profile at "Seashore Sahitya Academy". At that time, Seashore was publishing one monthly Odiya Magazine in the name of "Sahitya Prithibi" and she was reporting to the same person, Mr. Prasant Dash.*
 - vi) *On 17th May 2010, she was transferred to "Seashore Agricultural Promotion Company Pvt. Ltd" as a C.O.O. (Chief Operating Officer). At that time her reporting got changed.*
 - vii) *In the year 2011, she received a letter from the HR Department of Company to submit the updated CV with all updated testimonials, passport size photo, address proof, PAN Card and ID Proof and accordingly, she had submitted the same.*
 - viii) *One day in the year 2011, when she was sitting in the office along with the company CA Mr Manoj Naik, he called to Mr Prashant Dash (CMD Seashore) and asked him*

that whom to make the Director of the company, Sanket Investments and Marketing Ltd. At that time the CMD told that make Nibedita Nath as one of the Director. She asked what were the terms and conditions, responsibilities to become a director but he did not clearly say anything and asked her to submit PAN card copy. At that time from office end, they had deposited Rs 1 Lac in her salary account (Indian Bank account) and asked her to give a cheque of same amount to them and accordingly she gave the same.

- ix) In the year 2012, CBI Conducted raid in the Seashore Company and after the CBI raid, she came to know that the Company is a Chit Fund Company which is collecting money from various customers by giving false promises of returns. After CBI Investigation, she came to know that she was appointed fraudulently as a Director of two other Companies namely "Jatish Agro" and "Katua Finance Ltd".
- x) She had not received any appointment letter as a Director of Sanket Investments and Marketing Ltd. and also had not gone through the job profile of a director and its responsibilities. Her profile was same as office administration and along with this she was doing Gold trading for the company as per the instructions of CMD, Mr Prasant Dash through reporting manager. She was not aware that the company is a chit fund company. She had also invested Rs 30,000/- in the company and was getting salary as an employee of Seashore of Rs 25,000/- pm (approximately) p.m at that time.
- xi) Before knowing the fact, she had tried to resign from her job various times and had also written application but it was told to her that if she resigns from the post then her salary will be reduced to half which she was getting as on that date.
- xii) She was having some liabilities for which she had to continue with the same post. When the salary was not paid in time continuously for 4/5 months she had submitted her resignation on 04.01.2013 asking to settle the pending amount (salary from Jul 2012 to Oct 2012) and the copy was received by the then HR Head of Seashore Company but there was no proceeding on the same.
- xiii) She was not aware about the profit and loss of the company as well as she was never called for any board meeting of the company, Sanket Investments and Marketing Ltd. Later on, at the time of CBI enquiry she came to know that she was also director in some other companies which was out of her knowledge. Above stated information has also been given in writing to the CBI officers Odisha and officers of fraud investigation department, Delhi at the time of their investigations at different times. All the details were informed in writing to the CBI at time of the investigation.
- xiv) She was forcefully made the Director and was not involved in the day to day affairs of Sanket Investments and Marketing Ltd. She was not aware about the activities of the company. It was also not known to her that it was collecting money from the customers. Neither she had attended any Board Meetings nor it was being told to her. Everything was being handled by Mr. Prasant Dash CMD Seashore Group.
- xv) She was not at all involved in any kind of illegal activities. She does not know how much amount was being collected by violating the company rules and regulations.

Being a post graduate she did know how to file the balance sheet, what are the things being mentioned in the sheet is also not known to her.

- xvi) *Last year on 7th Apr 2016 Ranchi CBI team has done a raid at her rented house at Bhubaneswar related to the "Sanket Investments and Marketing Limited" link and they seized the resignation letter and Indian bank passbook). The originals have been taken by them also. After the raid, she came to know that "Sanket Investments and Marketing Limited" was involved in gathering money from public.*
- xvii) *She does not have any documents with her. She only has her joining, promotion/ transfer letters, company Identity Card, fixed/ regular deposit copies of invested amount (from her salary) with Seashore/ ITR assessment year 2011-12, Form 16 for year 2010-11/ available salary slips, Ranchi CBI raid copy date 7th Apr 2016 CBI preliminary investigation report (required pages). As a proof she attached the documents available with her.*
- xviii) *That her financial status is not good and she is unable to pay the house rent.*
- xix) *As per the local newspaper, both the directors Mr Prashant Dash and Mr Pravat Dash are behind the bars and investigation is in progress from that day.*
- xx) *She was being cheated by Mr. Prashant Dash the then CMD of Seashore Company. She joined as a junior employee of the company and till the end she was working as an employee only and never involved herself in the role as a Director and withdraw her salary as an employee. She has not received any extra money. As a Director her name was just in pen and paper and she was forced to continue as a director otherwise the salary could have been reduced to half which she was getting at that time.*

11. As mentioned earlier, when Ms. Nath came for personal hearing on September 25, 2018 (as the order dated April 24, 2018 was conditional in respect of Ms. Nath), she made her submissions in line with her written reply dated April 8, 2017. Her reply dated May 12, 2018 is also on the same lines. Her submissions made during the hearing are also summarized at paragraph 6 above and the contents of her reply dated May 12, 2018 (recorded above) have been considered. No new facts relevant to alter the earlier findings made in the order dated April 24, 2018 have been brought on record by her in her reply or during the said hearing.

12. Further, as has been mentioned earlier, the reply of Ms. Nath dated April 8, 2017 was considered and dealt with by SEBI while passing the order dated April 24, 2018. The observations of the said order pertinent to Ms. Nath are, *inter alia*, as under:

"... It is noted, from the allotment returns filed by SIML with RoC that SIML has issued and allotted RPS to 698 investors during the financial years 2011-2012 and raised an amount of Rs. 58,10,300/-.

... SIML engaged in fund mobilizing activity from the public, through the offer of RPS and has contravened the provisions of section 56(1), 56(3), 2(36) read with 60, 73(1), 73(2), 73(3) of the Companies Act, 1956,

...

35. Ms. Nibediata Nath has submitted that she had not received any appointment letter as a Director of SIML and also not gone through the job profile of a director and its responsibilities. That she was forcefully made as the Director and was not involved in the day to day affairs of SIML. She was not aware about the activities of the company and it was also not known to her that it was collecting money from the customers. Neither she had attended any Board Meetings nor it was being told to her. Everything was being handled by Mr Prasant Dash CMD Seashore Group.

36. Further I note her submission dated April 08, 2017 that one day in the year 2011, when she was sitting in the office along with the company CA Mr Manoj Naik, he called Mr Prashant Dash (CMD Seashore) and asked him that whom to make the Director of the company M/s Sanket Investments and Marketing Ltd. At that time the CMD told that make Nibedita Nath as one of the Director. In the said submission it is further stated that she asked what the terms and conditions responsibilities were to become a director but he did not clearly say anything and asked to submit PAN card copy and at that time from office end they had deposited Rs 1 Lac in her salary account (Indian Bank account) and asked to give a cheque of same amount to them and accordingly she gave the same. These submission clearly show that the circumstances and reasons for which the documents were parted with by her. Further, she also submitted that she had tried to resign from her job various times but it was told to her that if she resigns from the post then her salary will be reduced to half of which she was getting as on that date. These submission clearly show that the circumstances and reasons for which she willingly continued to hold the post of director of SIML. Therefore, it is not possible to hold that Ms. Nibediata Nath was not aware of her becoming director before the CBI raid in 2012. In view of this, it does not stand to reason to find that she was forcefully made a director.

...

Thus in view of SAT decision of Manoj Agarwal vs. SEBI, the contention of the directors of SIML Ms. Nibediata Nath that she was not being involved in the day today affairs and finances of the company is not acceptable and will not absolve her from her liability as a director of SIML.

Further, Ms. Nibediata Nath has also submitted that she had tried to resign from her job various times and had also written application but it was told to her that if she resigns from the post then her salary will be reduced to half which she was getting as on that date. However, when the salary was not paid to her in time

continuously for 4/5 months, she had submitted her resignation on January 04, 2013 asking to settle the pending amount (salary from Jul 2012 to Oct 2012) and the copy was being received by the then HR Head of Seashore Company but there was no proceeding on the same. In this regard I note that the so claimed resignation submitted by Ms. Nibediata Nath January 04, 2013 evidences that she was acting as director of SIML during the period of issuance of RPS in 2011-2012. Further I note from the resignation letter January 04, 2013 submitted by Ms. Nibediata Nath before me that it does not bear any stamp of SIML to indicate that the same was submitted to SIML and was indeed received by SIML. In light of the insufficiency of evidence to establish the claim of resignation submitted by Ms. Nibediata Nath to SIML, I am inclined to go as per the MCA records.

...

40. From the material available on record and the details of the appointment and resignation of the directors of SIML as reproduced in paragraph 38 of this Order, it is noted that Prashanta Kumar Dash, Pravat Kumar Dash and Nibedita Nath were directors at the time of the issuance of RPS. Since these persons were acting as directors during the period of issuance of RPS, they are officers in default as per Section 5(g) of Companies Act, 1956. Further, in the present case, no material is brought on record to show that any of the officers set out in clauses (a) to (c) of Section 5 of Companies Act, 1956 or any specified director of SIML was entrusted to discharge the obligation contained in Section 73 of the Companies Act, 1956. Therefore, as per Section 5(g) of the Companies Act, 1956 all the past and present directors of SIML, as officers in default, are liable to make refund, jointly and severally, along with interest at the rate of 15 % per annum, under section 73(2) of the Companies Act, 1956 for the non-compliance of the above mentioned provisions. None of the Noticees disputed this legal liability by way of any written or oral submissions. Since, the liability of the company to repay under section 73(2) is continuing and such liability continues till all the repayments are made, the above said directors are co-extensively responsible along with the Company for making refunds along with interest under section 73(2) of the Companies Act, 1956 read with rule 4D of the Companies (Central Government's) General Rules and Forms, 1956, and section 27(2) of the SEBI Act. Therefore, I find that SIML and its Directors, viz. Prashanta Kumar Dash, Pravat Kumar Dash, Nibedita Nath are jointly and severally liable to refund the amounts collected from the investors with interest at the rate of 15 % per annum, for the non-compliance of the above mentioned provisions.

41. I note that during the financial years 2011-2012 SIML through Offer of RPS, had collected an amount of Rs. 58,10,300/- from various allottees. I note that Prashanta Kumar Dash has been director of SIML since financial years 2011-2012 till present date. I note that Pravat Kumar Dash has been director of SIML since financial years 2011-2012 till present date. I note that Nibedita Nath has been

director of SIML since financial years 2011-2012 till present date. Therefore, in view of Hon'ble Securities Appellate Tribunal (SAT) Order dated July 14, 2017 in the matter of Manoj Agarwal vs. SEBI, I am of the view that the obligation of the director to refund the amount with interest jointly and severally with SIML and other directors are limited to the extent of amount collected during his/her tenure as director of SIML."

13. Ms. Nath has also made a submission that she had resigned from the directorship of SIML vide a letter dated January 4, 2013, which was acknowledged by the HR Head of the company. In this regard, no documentary proof has been submitted by Ms. Nath to substantiate her claim such as email to the director(s) or DIR-11 filed by her. The signature acknowledging her resignation letter (as claimed) cannot in itself be accepted as a proof of acceptance of her resignation. Further, the resignation letter claimed to have been acknowledged by the HR head of the company does not bear any stamp of SIML nor does it have the name of the receiving person or the date of receipt. In light of the insufficiency of evidence to establish the claim of resignation submitted by Ms. Nibedita Nath to SIML, I am inclined to go as per the MCA records, and find that she is a continuing director. Without prejudice to the above, even if it is assumed that she had resigned from SIML w.e.f. January 5, 2013, the fact that she was a director of SIML during FY 2011-12 when SIML had made the offer of RPS has been established. For the said reason, Ms. Nath along with SIML and its other Directors, viz. Prashanta Kumar Dash and Pravat Kumar Dash, is jointly and severally liable to refund the amounts collected from the investors with interest at the rate of 15 % per annum.
14. At the same time, the order dated April 24, 2018 has taken cognizance of the report of CBI (mentioned by Ms. Nath) wherein CBI has not identified any role of Ms. Nath in respect of the violations by Seashore group of companies including SIML. The following observations of the said order address the specific point:

" ... The interim order has contemplated issuance of directions against the Noticees, including prohibiting them from buying, selling or otherwise dealing in securities market, and directing them to refund any money collected to the concerned clients. Though the directors are jointly and severally liable for the acts of the company, in this case, I note from the charge sheet filed/Report filed by CBI in the court of Ld. Special Chief Judicial Magistrate, CBI Bhubaneswar that the investigation has revealed that Shri Prashanta Kumar Dash was the Director of 21 different companies which are considered as Seashore group of companies and in the 21 group companies, SIML was revealed as one of the group company of Seashore group of companies. Further it was ascertained from the said Report filed by CBI that Shri Prashanta Kumar Dash was the only authorized signatory in all the accounts standing in the name of Seashore Securities Ltd and as such, he was responsible for transfer of funds to other Seashore group of companies in which

he was the promoter-director and authorized signatory of the bank accounts. I also note that Shri Prashanta Kumar Dash was the signatory to the Return of allotments (Form 2) filed by SIML to ROC. I note from the charge sheet filed/Report filed by CBI that the investigation revealed that out of the 21 Seashore group of companies, Shri Pravat Kumar Dash, younger brother of Shri Prashanta Kumar Dash, was director of 15 companies through which funds have been illegally and unauthorized manner collected from public. In view of this, though all directors along with SIML are jointly and severally liable for the refund, if there is a failure to refund, it would be appropriate that the recovery may be considered against the assets of SIML, at first, if there are sufficient assets of SIML and thereafter against the assets in the name of Shri Prashanta Kumar Dash, if there are sufficient assets of Shri Prashanta Kumar Dash, thereafter against the assets in the name of Shri Pravat Kumar Dash, if there are sufficient assets of Shri Pravat Kumar Dash and at last recovery officer may consider proceeding against Nibedita Nath. Appropriate directions in this regard is issued in this order.”

15. Accordingly, in paragraph 46(h) of the order dated April 24, 2018, Ms. Nath's case has been considered and her name has been mentioned as the last name in the stepwise consideration of recovery process mentioned therein.
16. In view of the above, I find that all the submissions of Ms. Nath have been considered and dealt with in the order dated April 24, 2018 and no new material relevant to alter the earlier findings has been submitted by her which would merit a change in the directions issued against her vide the order dated April 24, 2018.

Order

17. In view of the aforesaid observations and findings, I, in exercise of the powers conferred under section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11, 11(4), 11A and 11B of the SEBI Act, hereby issue the following directions:
 - a. The directions issued against Ms. Nibedita Nath vide order no. WTM/MPB/EFD-1-DRA-IV/167/2018 dated April 24, 2018 shall take effect against her from the date of this order.
 - b. The present order shall always be read with the order no. WTM/MPB/EFD-1-DRA-IV/167/2018 dated April 24, 2018.
18. This Order shall be harmoniously read with the Orders passed by Hon'ble Orissa High Court in Writ Petition No.16380 Of 2013 - *Seashore Group & Ors Vs. State of Orissa & Ors.*

19. A copy of this Order shall be forwarded to the recognized stock exchanges and depositories and registrar and transfer agents for information and necessary action.
20. A copy of this Order shall also be forwarded to the Ministry of Corporate Affairs / concerned Registrar of Companies, for their information and necessary action with respect to the directions issued against Ms. Nibedita Nath.
21. A copy of this Order shall also be forwarded to Local Police/ State Government for their information.

Sd/-

DATE: October 26th , 2018

PLACE: Mumbai

**MADHABI PURI BUCH
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**