

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided On: 24.04.2014

+ **W.P.(C) 1399/2010 & CM APPL. 7072/2012**

NATIONAL INVESTOR FORUM REG. Petitioner
Mr. Ranjan Mukerjee, Adv. for the
applicant.

Versus

GOLDEN FORESTS INDIA LTD. Respondent
Through : Mr. Harpawan Kumar Arora,
Adv. for Committee-GFIL.
Mr. Neeraj Malhotra, Adv. for SEBI.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE R.V. EASWAR

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)
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CM APPL. 7072/2012

1. This application seeks appropriate directions from the Court, to the Court appointed Committee to carry out the affairs and manage the properties, and sell the assets of the Golden Forests (India) Ltd and its group companies.

2. The brief background of the case is that the Golden Forests (India) Ltd (GFIL) was incorporated in 1987. Between the years 1991 and 1997, its promoters set up over 100 companies, including Golden Tourist Resorts and Developers Ltd (1991), Golden Lease Finance Ltd (1994) Golden Projects Ltd (1996), Himachal Country Resorts Ltd, etc (hereafter called "GFIL group"). Golden Projects Ltd introduced a number of investment schemes promising handsome returns lured investors and depositors, and in 9-10 years collected several hundred crores of

rupees. Huge tracts of lands and property were acquired by it; likewise a large number of properties were acquired in the name of Golden Tourist Resorts and Developers Ltd and others in the name of Himachal Country Resorts Ltd and some other companies.

3. The GFIL group were controlled controlled by a family consisting of A. L. Syal, R. K. Syal, Neena Syal, Pamila Syal, Bimla Syal (since dead), H. K. Sinha (Brother in Law of R. K. Syal). In 1997, the Securities Exchange Board of India (SEBI) inquired into the activities of GFIL group and a two member Committee was constituted. Its report was submitted on 21-04-1998. The report highlighted financial and other irregularities committed by the company. A writ petition was filed in the Bombay High Court by SEBI in which an order was passed against GFIL restraining it from alienating the properties; a similar order was passed by this High Court in the same year. SEBI on 09-01-1998 made an order prohibiting the company from alienating its properties. Justice M. L. Pendse (Retired) was appointed as Receiver and certain properties were earmarked for sale, but the Receiver could not sell the properties. GFIL, in the meanwhile continued to accept deposits, carrying business and alienating properties. In this background, winding up proceedings, being CP No 60/ 2001 (National Investor Forum vs. Golden Forests (India) Ltd) was preferred before the Punjab & Haryana High Court in 2001. The Company Judge by order dated 18.6.2003 directed that all properties of the company would be managed, controlled, regulated by a provisional liquidator, who shall have power to sell the moveable and immovable property. Further, vide order dated 20.6.2003, Justice R.N. Aggarwal was appointed Provisional Liquidator.

4. The company petition and all other proceedings pending against the GFIL pending in various High Courts throughout the country were transferred to the Supreme Court by order dated 12.9.2003, in a transfer petition filed by SEBI (*Securities and Exchange Board of India Vs Golden Forests (India) Ltd. & Anr. – TP No. 696 of 2002*). CP 60/2001 was also transferred to the Supreme Court and numbered as T.C. (Civil) No. 68 of 2003. The Supreme Court by its order dated

19.08.2004 constituted a committee consisting of Justice K. T. Thomas (Retired Judge of the Supreme Court), an officer to be nominated by the Reserve Bank of India (RBI) and an officer to be nominated by SEBI, and further ordered the committee to take into its custody all assets of the company, wherever they may be, to issue advertisement in Newspapers calling upon all the creditors of the company to submit the claim(s) before the Committee. Mr. Justice K. T. Thomas (Retd.) requested the court to be relieved and accepting that request the Supreme Court on 10-09-2004 appointed Justice R. N. Aggarwal (Retd.) in his stead. Justice Aggarwal was earlier the Provisional Liquidator. RBI appointed Mr. P. K. Arora, DGM, RBI, Chandigarh as its whole time member on the committee. The SEBI appointed Mr. S.K. Sharma as a member on the Committee. Subsequently, the Supreme Court, on 05.09.2006, replaced Mr. P. K. Arora, DGM, RBI and Mr. S.K. Sharma, DGM, SEBI with Mr. H. L. Randev and Mr. B. S. Bedi, both former District and Sessions Judges were appointed Members on the Committee.

5. The Committee had, during pendency of the matters before the Supreme Court, invited claims from the depositors/investors of Golden Forests (India) Ltd by advertisement dated 25.10.2004. As required by the Supreme Court, the period for the receipt of the claims from the investors and creditors was extended by 3 months and this information was widely advertised in leading vernacular newspapers, in all States. Advertisements were published and the period was extended from 19.2.2005 to 20.5.2005. The period fixed in the first advertisement expired on 24.1.2005. Nevertheless, the Committee continued to receive the claims even after the expiry of that period and later the claims were received during the extended period. The Supreme Court in its order dated 05.09.2006 fixed 10.08.2006 as the cut-off date for receiving claims. Since claims from the depositors of GFIL continued, the Supreme Court directed that no deposit accepted by an Agent after 1st January 2001 is to be considered as GFIL had closed business in December 2000 and the Directors of the company were in the Jail in December 2000. The Court also directed that there should be clear proof of

deposit of money with GFIL or its group. The relevant part of the Supreme Court's order of 5-9-2006 is extracted below:-

“The committee should accept the claims of only those claimants, who have original authenticated receipts issued by the GFIL. The committees shall categories the range of investment by depositors and treat the small, medium and big investors in separate categories. Appropriate orders regarding disbursement of the amount among the small, medium and big investors shall be passed at a later date, after the total amount of sale of the properties is received. The committee shall not entertain claims passed on alleged deposits accepted by any agents in the year 2001 till date after the closure of the business of the GFIL. No claim without clear proof of deposit of money with the company shall be considered.”

6. The liabilities were to be discharged by sale of the properties of GFIL and its group. The order of the Supreme Court, dated 05-09-2006, (in T.C.(C). 2 of 2004) inter alia, directed as follows:-

“B. Immovable properties identification, taking possession and removal of encroachments:

31. Directions are sought to be given to the Deputy Commissioners and other Civil and Revenue authorities of the States of Punjab and Uttaranchal to help in ascertaining the details of the properties owned by the GFIL and to extend all help and cooperation to recover the possession of such properties with the help of police, if and wherever required and to demarcate the lands belonging to the companies in accordance with the revenue entries relating to the year 2000 and onwards.

32. The GFIL or any of the other lawyers representing various other claimants have no objection to issuance of the directions sought for by the Committee under this point.

33. Accordingly, the Deputy Commissioner and other revenue authorities in the States of Punjab / Haryana and Uttaranchal are directed to help the Committee in ascertaining the details of properties owned by GFIL and to extend all help and cooperation to recover the possession of such properties even with the help of police, if and when required, and to demarcate the lands belonging to the companies in accordance with the revenue entries relating to the year 1998 and onwards.

34. Chief Secretaries and the DGPs./IGPs. are directed to issue suitable directions to all the Deputy Commissioners, police officers and civil servants to render such help.

35. The civil as well as police authorities are also directed to take action against the illegal encroachments and construction adjoining the Resort at Billa. Revenue authorities of the respective States are also directed to help in removal of such illegal encroachments.

C. Directions regarding sale of properties:

36. Directions for sale are sought in respect of the properties at Jharmari, lands at Village Kot Billa, Jaswant Garh and other adjoining villages and a Resort at Nalagarh, and the mode and procedure for the sale of the properties of GFIL, possession of which has been taken.

37. The Committee is put at liberty to put to sale the properties at Village Jharmari, lands at Village Kot Billa, Jaswant Garh and other adjoining villages and a Resort at Nalagarh and other properties of GFIL, possession of which has already been taken by the Committee, by auction after due publicity. The sale shall be subject to the confirmation by this Court. After the properties are put to sale, the Committee shall report to this Court about the auction sale effected which shall be subject to the final orders of this Court.

D. Setting aside sale of immovable properties:

38. The Committee has sought the following directions :

(a) to issue directions for setting aside the illegal sales of properties of GFIL and its subsidiary and associate companies for the following periods contrary to the orders passed by this Court from time to time and to bring back the status quo ante as of the date of appointment of the Provisional Liquidator:

1. Period prior to the appointment of provisional liquidator in the winding up petition in Punjab High Court / Delhi High Court and their respective restraint orders.

2. Period between the appointment of provisional liquidator and the date of restraint order dated 17th August, 2004 passed by this Court and the appointment of the present Committee; and

3. From 17th August, 2004 till date

39. Insofar as the period prior to the appointment of provisional liquidator in the winding up petition in the Punjab and Haryana High Court and Delhi High Court is concerned, the Bombay High Court in its order dated 23rd November, 1998 had restrained the company, its subsidiary as well as directors not to dispose of the properties of the respondent company or its subsidiaries or its directors till further orders. It would be to the Committee to make appropriate

recommendations to this Court regarding the status of sales made after the restraint order passed by the Bombay High Court on 23rd November, 1998. Any application putting a claim for settlement of properties after the restraint order passed by the Bombay High Court should be made to the Committee which shall be at liberty to make appropriate recommendations to this Court for its consideration.

40. *Insofar as the settlement/sales of immovable properties for the period between the appointment of provisional liquidator passed by the High Court of Punjab and Haryana and the restraint order dated 17th August, 2004 passed by this Court are concerned, any sales/settlement made contrary to the orders passed after the appointment of Provisional Liquidator by the High Court of Punjab and Haryana on 20th January, 2003 and the restraint order passed on 17th August, 2004 by this Court shall be ignored and the Committee would be at liberty to get hold of those properties by taking vacant possession thereof with the help of civil and police authorities and deal with them in accordance with the directions already given.”*

7. The payment to the depositors was to be made after the properties were sold and payment shall depend on the realization of proceeds of sale. The Committee states that there are about 15 Lakh investors who have not been paid. On 15.10.2008 the Supreme Court made the following order:

“.....As regards the sale of properties is concerned, the Committee may make appropriate publication regarding the sale and sufficient notices be issued to the prospective purchasers by publishing the same in the local newspapers having wide circulation in the area where the property is situated. Any sale conducted by the Committee shall be based on valuation made by either by the Committee or by other approved valuer and upset price is fixed before sale is finalized. The sale is, however, subject to the confirmation by this Court. As soon as the sale is over, the details including the purchase price and all the details shall be made over to this Court for the purpose of confirmation. As soon as the bid is over the applicant/the prospective purchaser shall deposit 20% of the amount in a nationalized bank in the account maintained by the Committee. If there is any difficulty in getting the possession of any property owned by the respondents, the matter shall be reported to this Court and/or the Committee can also itself request for police aid or any other assistance from the governmental authorities. On all the pending applications, the Committee shall pass appropriate orders subject to confirmation by this Court. As regards the pending claim of the petitioners/applicants the

Committee may pass appropriate orders and a gist of these orders be made available to this Court for further orders.”

Finally, on 03-02-2010, the Supreme Court disposed of all proceedings pending before it, directing as follows:

“Various Writ Petitions which are pending before different High Courts were transferred to this Court. The main dispute in these cases are that the respondent The Golden Forests (I) Ltd. collected a large amount of money from a large number of depositors/investors and it purchased several immovable properties at different places. The said investors are putting up their claims.

Various transferred cases, interim applications, contempt petition as well as the writ petition are pending in this Court. Some of the properties owned by the respondent were sold in auctions, pursuant to Court orders and in some cases the purchasers have deposited the full amount, and in some cases, purchasers have yet to pay the balance amount.

Having regard to the various claims, it is just and proper that these matters be considered by the High Court of Delhi treating the Transferred Cases as Writ Petitions. Pending winding up proceedings be also heard by the High Court, and proceed with the same for further directions and orders. Various interim orders have been passed by this Court in these cases and the High Court shall have due regard to the same while taking further proceedings. The High Court would be at liberty to pass any appropriate orders in these matters.

The parties shall be at liberty to raise additional contentions they wish and the High Court shall dispose of the claims of investors in accordance with law. If the High Court feels that any further Arbitrator or Commissioner is required to be appointed, the High Court may pass appropriate orders.

All the matters i.e. transferred cases, interim applications, contempt petition as well as the writ petition are directed to be transferred to the Delhi High Court. The parties are directed to appear before the High Court on 15th March, 2010 and thereafter the High Court is requested to pass appropriate orders in these cases.”

8. The applicant relies on an order of this Court, made on 17.01.2012. The said order reads as follows:

“CM NO. 20351/2011

This application is dismissed as not pressed in view of the statement made by learned counsel for the respondent Chairman, Committee of Golden Forests Ltd. & Others, that more than Rs.400 crores have already been collected by the Committee on disposal of various assets of the company. He further informs that another property is sold for Rs.98 crores approximately and the amount shall be realized soon and with this, the collection would swell to about Rs.500 crores. There is a proposal to devise a scheme vide which the Committee shall now start disbursing the said amount to various small investors. It is assured that all these aspects shall be pointed out in the main petition to seek appropriate orders from the Court. The petitioner is satisfied with the proposal.

The application is dismissed as not pressed.

Acting Chief Justice

Rajiv Sahai Endlaw”

9. After notice was issued on the application, seeking directions to disburse amounts collected due to sale of assets of GFIL and its group companies, the Committee filed a status report as a step to assist in framing a scheme for disbursement of amounts. This court had occasion to consider that report on 22-04-2013 when the following order was made:

“After hearing counsel, the Court is of the opinion that the figures mentioned in Annexure A-7 of the revised scheme proposed by the Committee

require to be explained. Prima facie, it is stated in the said document that the total funds as on 31.07.2012 reported to the Court inclusive of the accrued interest was Rs.567 Crores and the amount refunded under orders of the Supreme Court and various orders of this Court was to the tune of Rs.209.75 Crores. In these circumstances, the amount of Rs.441.46

Crores with accrued interest, available with the Committee as on 1.3.2013

appears to be prima facie erroneous.

The complete details of the amounts received by the Committee and lying in deposit in various accounts from time to time for the last two financial years as well as total expenditure undertaken in each financial year, shall be reflected in a consolidated statement. The exact and accurate statement with regard to the funds available with the Committee as on 31.3.2012 shall also be reflected in the statement. Learned counsel submits that, an audited account for this period would be in fact filed. Also the previous years' audited accounts shall be filed.

In other words, the Committee shall file the audited accounts for the years 2011-12. It is open to it to file the true unaudited accounts for the next year 2012-13. The same shall be filed along with the appropriate annexures within six weeks.

The Committee shall also prepare a chart showing assets as on the end of the previous financial year in accordance with its audited balance sheet as well as the assets as on 31.3.2013 along with the affidavit to be filed."

10. In compliance with the above order, the Committee placed relevant materials in the form of affidavits. On 01-05-2013, the Court, after considering the issue of disbursement of the amounts lying with the Committee, was of the opinion that the proposal (for disbursement of funds scheme framed by the Committee), giving preference to 'small' investors in distribution of process, is not entirely equitable. The Court directed the Committee-GFIL as follow:-

"This is to ensure that the amount lying with the Committee are equitably distributed in accordance with non-discriminatory principle. It is, of course, open to the Committee to adopt an approach for reimbursing the depositors beyond Rs.5,000/- or having regard to the quantum of deposits made by them and give a preferential treatment to the small investors. In other words, this Court feels that before sanctioning the scheme which has been proposed, the Committee should work out another scheme which envisions the disbursement by adopting a slab or some such device so that all investors are treated alike in terms of the amounts deposited by them and proportionate, as the case may be."

11. The above revised scheme for disbursement of monies to depositors of the GFIL or its group companies made on 20.05.2013 was further revised; on 20.08.2013, the Committee in its second revision proposed several alternatives. In this proposal, the Committee disclosed that as on 31.03.2013, it had fixed deposits

to the tune of Rs.4,33,41,58,613/-. In the scheme proposed, the Committee states as follows:

“2. The Committee has worked out various alternatives and calculated the total funds required for disbursement in each case. The Committee has prepared a chart (Annexure A-1) showing calculations in terms of different slab of investors, their principal amounts and one time interest amounts. After analyzing the different calculations, the Committee has arrived at, and considered that the calculation-3 (see Annexures A-1 to A-2) (which deals with final payment to the investors who have invested upto Rs.3000/- each and interim payment of Rs.3000/- each to the rest of the investors) is the most suitable alternative in view of the funds available with the Committee. The Committee has also prepared another chart showing 4 proposals based on “calculation-3”. There are different variations of the calculation-3 aforesaid. Copy of the chart of calculations & Chart of Proposals based on “calculation-3” is annexed as **Annexure-A-1 & A-2** respectively.

3. The alternative scheme worked out by the Committee is that the final payment of the principal amount invested along with one time interest @ 30% be paid to the investors who have deposited upto the amount of Rs.3000/- each with the Company. All the remaining investors to be paid a sum of Rs.3000/- each, out of total principal amount invested with the Company. The Committee feels that in the near future more properties to be sold and funds raised, the remaining investors shall also be paid one time interest amount of 30% on Rs.3000/- each as already paid to them, and that will bring them on par with the other group of investors (already paid). Of course, the said category of investors shall in due course be paid the remaining principal amount alongwith one time interest money subject to the availability of funds as directed by the Hon'ble Court.

4. Chart of the funds required for the implementation of the above said scheme has been worked out (Annexure A-2) and it is reproduced as below for consideration of the Hon'ble Court:

Proposal-1

Final payment to investors upto Rs.3000/- with one time 30% interest and interim payment of Rs.3000 to rest of the investors (without interest)

<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1-3000</i>	<i>861654</i>	<i>96.86</i>	<i>30%</i>	<i>29.06</i>	<i>125.92</i>
<i>3001 and above</i>	<i>612261</i>	<i>183.68</i>	<i>0%</i>	<i>0.00</i>	<i>183.68</i>
<i>Total</i>	<i>1473915</i>	<i>280.54</i>		<i>29.06</i>	<i>309.60</i>

Note:

i. The Committee –GFIL is having Rs.433,41,58,613/- available as on 31 March 2013 in the shape of FDR in its Bank Accounts.

ii. There are certain properties of the value Rs.138 crores (actual Bid amount received without interest accrued thereon), sale of which are incomplete, therefore, this amount has to be kept aside in calculating the available funds. So, the Committee is left with Rs.302 crores only. However, the Committee is expecting Rs.10 crore approx. to be added as interest.

Financial Status and mode of distribution:

5. The Committee (GFIL) as on 31.03.2013 has in the Fixed Deposit Rs.433,41,58,613/-. We have in our earlier scheme made certain recommendations, namely for appointment of Disbursing Agency either SEBI or Reserve Bank of India or any other suitable agency for payment of money slab wise, that is, upto Rs.1000/- thereafter, upto Rs. 2000/- and so on. The Committee fears that a large number of cheques may be received back undelivered and arrangement shall have to be made for their being dealt with.

6. The Committee emphasise that all out effort should be made to make the payment to the investors in one go and not by instalments, since heavy expenditure is to be incurred in payment of each instalment. Also payment in instalment would mean, besides incurring heavy expenditure, other problem such as handling of the undelivered post. The committee prays that its last proposed scheme be kept in view while making any order.”

10. Annexure A-1 and A-2 filed along with the proposal, suggesting various alternatives in respect of the disbursement of amounts to depositors, in the form of tabular statements is as follows:

Chart of calculations for Fund Disbursement

Calculation-1					
Final payment to investors upto Rs.1000/- with one time 30% interest and interim payment of Rs.1000 to rest of the investors (without interest)					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1 to 1000</i>	<i>656162</i>	<i>52.89</i>	<i>30%</i>	<i>15.87</i>	<i>68.76</i>
<i>1000 and above</i>	<i>817753</i>	<i>81.77</i>	<i>0%</i>	<i>0</i>	<i>81.77</i>
Total	1473915	134.66	0	15.87	150.53

Calculation-2					
Final payment to investors upto Rs.2000/- with one time 30% interest and interim payment of Rs.2000 to rest of the investors (without interest)					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1 to 2000</i>	<i>795925</i>	<i>78.72</i>	<i>30%</i>	<i>23.62</i>	<i>102.34</i>
<i>2001 and above</i>	<i>677990</i>	<i>135.60</i>	<i>0%</i>	<i>0</i>	<i>135.60</i>
Total	1473915	214.32	0	23.62	237.94

Calculation-3					
Final payment to investors upto Rs.3000/- with one time 30% interest and interim payment of Rs.3000 to rest of the investors (without interest)					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1 to 3000</i>	<i>861654</i>	<i>96.86</i>	<i>30%</i>	<i>29.06</i>	<i>125.92</i>
<i>3001 and above</i>	<i>612261</i>	<i>183.68</i>	<i>0%</i>	<i>0.00</i>	<i>183.68</i>
Total	1473915	280.54	0	29.06	309.60

Calculation-4					
Final payment to investors upto Rs.4000/- with one time 30% interest and interim payment of Rs.4000 to rest of the investors (without interest)					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1 to 4000</i>	<i>897563</i>	<i>110.50</i>	<i>30%</i>	<i>33.15</i>	<i>143.65</i>
<i>4001 and above</i>	<i>576352</i>	<i>230.54</i>	<i>0%</i>	<i>0</i>	<i>230.54</i>
Total	1473915	341.04	0	33.15	374.19

Calculation-5					
Final payment to investors upto Rs.5000/- with one time 30% interest and interim payment of Rs.5000 to rest of the investors (without interest)					
<i>Amount</i>	<i>No. of</i>	<i>Principal</i>	<i>Interest</i>	<i>Interest</i>	<i>Total</i>

<i>deposit – SLAB</i>	<i>investors</i>	<i>Amt./Part Payment (Rs. In crore)</i>	<i>Rate</i>	<i>Amount</i>	<i>Amount to be paid (Rs. In crore)</i>
<i>1 to 5000</i>	<i>1110098</i>	<i>216.25</i>	<i>30%</i>	<i>64.88</i>	<i>281.13</i>
<i>5001 and above</i>	<i>363817</i>	<i>181.91</i>	<i>0%</i>	<i>0</i>	<i>181.91</i>
<i>Total</i>	<i>1473915</i>	<i>398.16</i>	<i>0</i>	<i>64.88</i>	<i>463.03</i>

PROPOSALS ON THE BASIS OF CALCULATION NO.3 AS CONTAINED IN ANNEXURE A-1

Proposal-1					
<i>Final payment to investors upto Rs.3000/- with one time 30% interest and interim payment of Rs.3000 to rest of the investors (without interest)</i>					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1 to 3000</i>	<i>861654</i>	<i>96.86</i>	<i>30%</i>	<i>29.06</i>	<i>125.92</i>
<i>3001 and above</i>	<i>612261</i>	<i>183.68</i>	<i>0%</i>	<i>0.00</i>	<i>183.68</i>
<i>Total</i>	<i>1473915</i>	<i>280.54</i>		<i>29.06</i>	<i>309.60</i>

Proposal-2					
<i>Final payment to investors upto Rs.3000/- with one time 30% interest and interim payment of Rs.3000 to rest of the investors (With 10% interest)</i>					
<i>Amount deposit –</i>	<i>No. of</i>	<i>Principal Amt./Part</i>	<i>Interest</i>	<i>Interest</i>	<i>Total Amount to</i>

<i>SLAB</i>	<i>investors</i>	<i>Payment (Rs. In crore)</i>	<i>Rate</i>	<i>Amount</i>	<i>be paid (Rs. In crore)</i>
<i>1 to 3000</i>	<i>861654</i>	<i>96.86</i>	<i>30%</i>	<i>29.06</i>	<i>125.92</i>
<i>3001 and above</i>	<i>612261</i>	<i>183.68</i>	<i>10%</i>	<i>18.37</i>	<i>202.05</i>
<i>Total</i>	<i>1473915</i>	<i>280.54</i>		<i>47.43</i>	<i>327.96</i>

<i>Proposal-3</i>					
<i>Final payment to investors upto Rs.3000/- with one time 30% interest and interim payment of Rs.3000 to rest of the investors (With 20% interest)</i>					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In crore)</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In crore)</i>
<i>1 to 3000</i>	<i>861654</i>	<i>96.86</i>	<i>30%</i>	<i>29.06</i>	<i>125.92</i>
<i>3001 and above</i>	<i>612261</i>	<i>183.68</i>	<i>20%</i>	<i>36.74</i>	<i>220.41</i>
<i>Total</i>	<i>1473915</i>	<i>280.54</i>		<i>65.79</i>	<i>346.33</i>

<i>Proposal-4</i>					
<i>Final payment to investors upto Rs.3000/- with one time 30% interest and interim payment of Rs.3000 to rest of the investors (With 30% interest)</i>					
<i>Amount deposit – SLAB</i>	<i>No. of investors</i>	<i>Principal Amt./Part Payment (Rs. In</i>	<i>Interest Rate</i>	<i>Interest Amount</i>	<i>Total Amount to be paid (Rs. In</i>

		<i>crore)</i>			<i>crore)</i>
<i>1 to 3000</i>	<i>861654</i>	<i>96.86</i>	<i>30%</i>	<i>29.06</i>	<i>125.92</i>
<i>3001 and above</i>	<i>612261</i>	<i>183.68</i>	<i>30%</i>	<i>55.10</i>	<i>238.78</i>
<i>Total</i>	<i>1473915</i>	<i>280.54</i>		<i>84.16</i>	<i>364.70</i>

12. On 11.09.2013, this Court made an order taking into account the proposal and revised affidavit filed in its report. The Court order dated 11.09.2013 felt that the Committee should place material details as to the extent of assets other than fixed deposits lying with it. To that end, a direction was issued that all details with respect to immovable properties, including lands that were subject matter of surplus orders by the State of Punjab and Uttarakhand ought to be furnished. The affidavit also had to disclose the amount to which the Committee may not have been fully entitled to possibly refund, claims, transactions, sales not confirmed etc. In response to this order, a detailed affidavit was filed on 23.10.2013, articulating certain limitations on the part of the Committee which alleged that the GFIL had not cooperated in disclosing the full expenditure of assets owned by it. It was submitted that the valuation report prepared by one Dr. Namvati was the main source of information with respect to the assets of the companies. That report was in 10 volumes and based upon its reading, the Committee prepared state-wise report of assets. Annexure A-4 to the affidavit of 23.10.2013 of Sh. H.L. Randev, a member of the Committee shows that a total of 6323.9 acres spread over five different States belong to the GFIL. The Committee also stated that apart from the information, it had collected further information with respect to assets not included in the valuation report spread over seven states, i.e. Punjab, Odisha, Karnataka, Andhra Pradesh, Madhya Pradesh, Delhi and Himachal Pradesh otherwise to the extent of 3520.90 acres. Thus, according to the information received by the Committee, the total land of the Golden Forest groups was 9914.90 acres. The Committee revealed that 485.73 acres had been sold and

2476.73 acres were put to sale but the transactions could not be completed. A consolidated chart of all the holdings were disclosed in the form of Annexure A-6. Furthermore, the Committee mentioned that some litigation pertaining to some properties are pending in this Court and in the Supreme Court, notably, SLP No. 24996-97/2013 in respect of property in Mussourie. The affidavit further states as follows:

“FUNDS STATUS

17. *The Committee under the order of the Hon'ble Court filed audited report for the year 2012-13. As per the audited report, the total funds lying in the bank accounts of the Committee were reported to be Rs.433,41,58,613/-. As the banks credit interests on FDRs on quarterly basis, the present status of funds has slightly changed. Moreover, one of the auction-sale of which bid amount is more than Rs.50 crores, has been cancelled by the Hon'ble Court on 30.09.2013, this has reduced the funds to Rs.391 Crores. The Committee has prepared a fresh chart showing the detail of total funds with the Committee, along with the funds, which are to be kept aside being funds related to either incomplete sales (land in Village Dangdheri) or funds related to the sales, which are subject matter of surplus orders passed by the State of Punjab. After deducting this amount, the funds available is Rs.278.30 crores. Copy of the chart along with the Bank Accounts statements of all the three banks is annexed as Annexure A-10 (Colly.).*

18. *The Hon'ble Court, during the course of proceedings, also asked for the information in regard to the investors in each state. The Committee has got it prepared from its vendor and the same is annexed as Annexure A-11.*

19. *As regards progress made in formulating scheme of disbursement of funds to the investors by SEBI, on the request of the Committee, officials of SEBI visited Committee Office on 9th October, 2013 and meeting took place between SEBI officials and Committee Chairman and Members. The SEBI asked for certain documents to study the case which were provided to them. As and when SEBI and Committee shall arrive at any workable solution, the same shall be placed on record for further orders by the Hon'ble Court.”*

13. Yet again on 03.03.2014, in a note prepared to assist the Court, the Committee disclosed that the status of funds as on 31.12.2013 was that a total amount of Rs. 400 crores was lying in fixed deposits in three bank accounts, i.e in

State Bank of Patiala, Oriental Bank of Commerce and UCO Bank. The Committee also disclosed that various sale transactions that were incomplete and in respect of which amounts had been received were four in number and that Rs.65.75 crores had been deposited with auction purchasers. The Committee was of the opinion that such amounts had to be kept aside in case the Court required their refund. Thus, the total funds as on 03.03.2014 available with the Committee stood at Rs.334.25 crores.

14. The applicant in its response and in the submissions urges that a complete picture as to the assets of the GFIL and its group companies has always remained unclear and that in these circumstances, it would be appropriate that an Advisory Board ought to be constituted which consists of one member of SEBI, a member of RBI and a representative of one of the investors. The Board should identify and ascertain the exact number of properties of the company spread throughout the length and breadth of the country and thereafter, every effort should be made to ascertain the actual liabilities of all the investors of GFIL Group of companies. It is suggested that if the Advisory Board fails to take over the assets of GFIL companies spread throughout the country, the Board should hand over the land unit to the willing owners who originally deposited Rs.5,000/- and above and was allotted units of land given in the guarantee-cum-performance deed by the GFIL. It was urged that the investors have waited for more than nine years and do not see any sight to the agony being suffered by them. In respect of SEBI dated 13.12.2013, made pursuant to this Court's directions, in the order of 30.10.2013, it is stated that the body (SEBI) is not legally empowered or competent to comment on the mode of utilisation of properties of GFIL and disbursement of funds to its investors. It is stated that in terms of Regulation 73 of SEBI (Collective Investment Schemes) Regulations, where schemes are to be wound-up by concerned companies or persons even if the winding-up report of the company showing repayment of the amount collected is found doubtful, SEBI insists upon the company certifying the payments to the investors through auditors. This is to ensure transparency and authenticity of actual payments. Without prejudice to its

basic submission, SEBI, however, submits that the complete list of inventory containing immovable and moveable assets of GFIL was not prepared and finalized or identified which is a prerequisite for determining the mode and manner of disbursement of the dues of the parties and claims, as it would depend on the final amount realized by the Committee and available with it in the common bill for reimbursement of expenses and payment of balance amounts to the investors. The SEBI also cites various orders of the Supreme Court where the GFIL or its representatives undertook to disclose details of its but did not do so accurately.

15. From the above narrative of facts, it is evident that one of the important reasons which impelled the Supreme Court to undertake the task of constituting the Committee and monitoring its functions with regard to conclusion and sale of assets of GFIL was to ensure that depositors who had parted with sizeable amounts ought to be refunded their amounts. The Committee has so far been able to collect and put to sale and realize assets to the tune of Rs.400 crores. During the pendency of these applications itself, the availability of funds with the Committee, the Court notices, has fluctuated. From a high of Rs.441 crores, the Committee today states that 433.5 crores would be available for disbursement.

16. The Committee has detailed figures of the amounts invested from depositors in the GFIL and its group companies from different States. According to the figures made available to the Court, the total number of investors whose claims have been verified is roughly 15 lakhs. Of these, those who have invested upto Rs.1000/- are 652088 and those who have invested between Rs.1000 and 2000/- are 139896 in number. 65243 investors deposited between Rs.2000/- and Rs.3000/- and 35762 deposited amounts ranging between Rs.3000/- and 4000/-. Those who invested in the slab of Rs.4000/- and Rs.5000/- are 211761.

17. Given the constraints and limitation as well as the uncertainties associated with the task of applying a uniform principle to ensure fairness to investors, the Court had heard submissions on behalf of the Committee, the SEBI and the

representatives of investors. Initially, the suggestion of the Committee to make slab-wise disbursements to investors, who had deposited/paid Rs.5000/- in a graded manner, did not appeal to the Court because the proposal was premised upon the assumption that those who deposited more than Rs.5000/- (the principal limit proposed to be finally supplied with one-time interest payment) were affluent. In these circumstances, the Court directed the Committee to revise the claim and apply a non-discriminatory principle because it was felt that an assumption that someone who deposited Rs.20,000/- in 1996 or 1997 is more affluent than one who deposited Rs.5,000/- would not be accurate. It is quite likely that those who participated deposited amounts higher than Rs.5000/- have not parted with substantial amounts of their live savings could not ruled out especially because of the nature of claims held out by the GFIL and its group companies. With this objective, the Court examined the feasibility of applying one principle, i.e. for instance, making-up one-time payment to all depositors to the extent of Rs.5,000/- with a one-time interest payment. The Court was informed that this would take care finally of the claims in respect of 1110098 depositors who had paid Rs.216.25 crores. In addition, so far as 363.7 depositors who had paid Rs.5000/- and above were concerned, the Committee outgoings would have been Rs.181.91/- only towards the principal amount.

18. This Court is of the opinion that even though the adoption of one principle is fair, yet, the possibilities of disbursements (specifying investors who have paid Rs.3000/-) regardless of the total amount deposited result in an outgoing of Rs.309.60 crores. As on date, there is uncertainty with respect to the litigation pending in regard to at least three properties; the Committee is facing a possible reimbursement claim to the tune of Rs.65 crores. We were also informed that an income tax payment of Rs.32 crores towards capital gains has been made. Having regard to all these aspects, this Court is of the opinion that at this stage, it would not be appropriate to direct any claim. Instead the Court is of the opinion that an expert ought to be appointed to assist the Committee in its task of ensuring the management of its funds and evolving a method of disbursing the amounts

whenever the position becomes clear. Accordingly, the Court hereby directs the RBI to nominate an expert – not necessarily in its employment and preferably residing in Chandigarh or near that city with sufficient expertise in such matters to advise the Committee in its task of:

- (a) Managing the funds available with it to optimise their returns having regard to the previous orders of the Court;
- (b) To evolve a feasible practicable method for disbursement of various amounts to depositors and investors.

19. For the moment, this Court feels that this would be the most appropriate course given the fluid situation. The Court proposes to consider the question of disbursement at a later stage, after obtaining the report of the expert. Governor, RBI is requested to indicate the name of a suitable professional or individual – preferably including one amongst its former officials who can assist in the task indicated above. A copy of this order is directed to be furnished to the Governor, RBI independently by the Registry of this Court, without process fee. List on 21 May, 2014 at 3:30 PM, for further proceedings.

S. RAVINDRA BHAT
(JUDGE)

R.V. EASWAR
(JUDGE)

APRIL 24, 2014