

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 URO Agro India Limited

In respect of:

S.No	Entity Name	PAN	DIN
1	URO Agro India Limited	AABCU1364K	
2	Shri Biswapriya Giri	AIXPG7534N	02831730
3	Shri Prasun Mondal	ALFPM5139C	06568526
4	Shri Sanjoy Chowhan (address:Protapgarh (W), Silodubi Road, P.S. – Nimta, Kolkata – 700049)	Not available	06568541
5	Shri Sachindra Nath Bhattacharya	AAJPB4769J	00559781
6	Smt Ipsita Das Giri	AILPD1367L	02877459
7	Shri Ajit Kumar Routh	APXPR7152Q	03506274
8	Shri Bibekananda Maiti	AQSPM6019P	03499013
9	Shri Pradip Kumar Maiti	AMABM4674J	Not available
10	Shri Partha Pratim Maity	AYKPM2356F	Not available
11	Shri Nabarun Bhattacharya (addres:Vill – Torapara PO – Midnapur Dist – Paschim Mednipur, Mednipur, Pin – 721443, WB)	Not available	Not available
12	Shri Munsur Ali Mallick	BJXPM3673E	Not available
13	Debenture Trustee, viz. Trustees of Secured	Not available	Not available

	Debentures Trust of URO Agro India Limited (Represented by its Trustees, viz. Shri Ram Sunder Bhattacharya (address: Panihati, 24 Parganas (N), Pin – 700104, WB) and Smt. Pratima Roy (110, Vivekananda Road, Kolkata – 700006, WB))		
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1. URO Agro India Limited (hereinafter referred to as “**UAIL**”/ “**the Company**”) is a Public company incorporated on December 22, 2009 and registered with Registrar of Companies–Kolkata with CIN: U01400WB2009PLC140455. Its registered office is at 94 Matheswartala Road P. S. – Tiljala, Kolkata–700046, West Bengal, India.
2. Securities and Exchange Board of India (hereinafter referred to as “**SEBI**”) received a letter from the Office of the Director: Bureau of Investigation (E.O.), Guwahati- Assam dated September 10, 2012 and complaints from some persons against UAIL in respect of issue of Non-Convertible Debentures (hereinafter referred to as “**NCDs**”) and undertook an enquiry to ascertain whether UAIL had made any public issue of securities without complying with the provisions of the Companies Act, 1956; Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”) and the Rules and Regulations framed thereunder including the Securities and Exchange Board of India (Issue and Listing of Debt Securities), Regulations, 2008 (hereinafter referred to as “**ILDS Regulations**”).
3. On enquiry by SEBI, it was observed that UAIL had made an offer of NCDs in the financial years, 2011-2012, 2012-2013, and 2013-2014 (hereinafter referred to as “**Offer of NCDs**”) and raised an amount of Rs. 74.07 Lakhs from at least 131 allottees. The number of allottees and funds mobilized has been collated from the documents submitted with the complaints received by SEBI. Therefore, it was concluded that the

actual number of allottees and amount mobilized could be more than the above indicated figures. It was also observed that UAIL created a charge for an amount of Rs. 15.46 Crore on February 17, 2010 and appointed *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* as Debenture Trustee for the Offer of NCDs by that company.

4. As the above said *Offer of NCDs* was found *prima facie* in violation of respective provisions of the SEBI Act, 1992, the Companies Act, 1956, and the ILDS Regulations, SEBI passed an interim order dated July 07, 2016 (hereinafter referred to as “**interim order**”) and issued directions mentioned therein against UAIL and its Directors and promoters, viz. Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Pradip Kumar Maiti, Shri Partha Pratim Maity, Shri Nabarun Bhattacharya, Shri Munsur Ali Mallick and its Debenture Trustee, *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* (hereinafter collectively referred to as “**Noticees**”).
5. *Prima facie findings/allegations:* In the said interim order, the following *prima facie* findings were recorded. UAIL had made an *Offer of NCDs* during the financial years , 2011-2012 , 2012-2013 , 2013-2014 and raised an amount of at least Rs. 74.07 Lakhs as shown below:

Year of Issue	Security Issued	Amount raised (Rs.) (in lakh)	Number of allottees
2011-2012	NCDs	22.37	39
2012-2013		40.29	81
2013-2014		11.41	11
Total		74.07*	131*

**^ No. of allottees and funds mobilized has been collated from the documents submitted with the complaints received by SEBI. However, actual no. of allottees and amount mobilized could be more than the above indicated figures.*

6. Further, UAIL created a charge for an amount of Rs. 15.46 Crore on February 17, 2010 and appointed *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* as Debenture Trustee for the Offer of NCDs by the company. *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* was not registered as debenture trustee for the offer of NCDs by that company.
7. The above *Offer of NCDs* and pursuant allotment were deemed public issue of securities under the first proviso to section 67(3) of the Companies Act, 1956. Accordingly, the resultant requirement under section 60 read with section 2(36), section 56, sections 73(1), 73(2) and 73(3) and sections 117B and 117C of the Companies Act, 1956 read with section 27(2) of the SEBI Act and the relevant provisions of the ILDS Regulations were not complied with by UAIL in respect of the *Offer of NCDs*. Further, the Debenture Trustee viz. *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* have prima facie violated section 12(1) of the SEBI Act and regulation 7 of the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993 (hereinafter referred to as "**Debenture Trustees Regulations**").
8. In view of the *prima facie* findings on the violations, the following directions were issued in the said interim order dated July 07, 2016 with immediate effect.
 - i. "UAIL (PAN: AABCU1364K) shall forthwith cease to mobilize fresh funds from investors through the Offer of NCDs or through the issuance of equity shares or any other securities, to the public and/or invite subscription, in any manner whatsoever, either directly or indirectly till further directions;

- ii. UAIL and its present/past Directors and, Promoters, viz. Shri Biswapriya Giri (PAN: AIXPG7534N; DIN: 02831730), Shri Prasun Mondal (PAN: ALFPM5139C; DIN: 02831730), Shri Sanjoy Chowhan (PAN: ; DIN: 06568541), Shri Sachindra Nath Bhattacharya (PAN: AAJPB4769J; DIN: 00559781), Smt Ipsita Das Giri (PAN: AILPD1367L; DIN: 02877459), Shri Ajit Kumar Routh (PAN: APXPR7152Q; DIN: 03506274), Shri Bibekananda Maiti (PAN: AQSPM6019P; DIN: 03499013), Shri Pradip Kumar Maiti (PAN: AMABM4674J), Shri Partha Pratim Maity (PAN: AYKPM2356F), Shri Nabarun Bhattacharya (PAN:), Shri Munsur Ali Mallick (PAN: BJXPM3673E) are prohibited from issuing prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, till further orders;
- iii. UAIL and its abovementioned past and present Directors and Promoters, are restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in the securities market, either directly or indirectly, till further directions;
- iv. UAIL shall provide a full inventory of all its assets and properties;
- v. UAIL's abovementioned past and present Directors and Promoters, shall provide a full inventory of all their assets and properties;
- vi. UAIL and its abovementioned present Directors shall not dispose of any of the properties or alienate or encumber any of the assets owned/acquired by that company, without prior permission from SEBI;
- vii. UAIL and its abovementioned present Directors shall not divert any funds raised from public at large through the *Offer of NCDs*, which are kept in bank account(s)

and/or in the custody of UAIL;

viii. UAIL and its abovementioned past and present Directors and Promoters, shall co-operate with SEBI and shall furnish all information/documents sought vide letters dated November 6, 2012;

ix. The Debenture Trustee, viz. *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* , is prohibited from continuing with its assignment as debenture trustee in respect of the Offer of NCDs of UAIL and also from taking up any new assignment or involvement in any new issue of debentures, etc. in a similar capacity, from the date of this Order till further directions.”

9. The interim order also directed the UAIL and its Directors/promoters to show cause as to why suitable directions/prohibitions under sections 11(1), 11(4), 11A and 11B of the SEBI Act, and section 73(2) of the Companies Act, 1956 read with section 27(2) of the SEBI Act should not be passed against them:

- i. Directing them jointly and severally to refund money collected through the *Offer of NCDs* along with interest, if any, promised to investors therein;
- ii. Directing them not to issue prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, for an appropriate period;
- iii. Directing them to refrain from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities for an appropriate period.

10. Similarly, the Debenture Trustee, viz. *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and*

Smt. Pratima Roy), were advised to show cause as to why suitable directions/prohibitions under Sections 11(1), 11(4), 11A and 11B of the SEBI Act including restraining them from accessing the securities market and further restraining them from buying, selling or dealing in securities, in any manner whatsoever, for an appropriate period should not be issued.

11. Vide the said interim order, UAIL, its abovementioned Directors/promoters along with its Debenture Trustee were given the opportunity to file their replies, within 21 days from the date of receipt of the said interim order. The order further stated the concerned persons may also indicate whether they desired to avail themselves an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.
12. *Service of interim order:* The copy of the said interim order was sent to the Noticees vide letter dated July 11, 2016. The same were delivered to Shri Sachindra Nath Bhattacharya, Shri Nabarun Bhattacharya, Shri Prasun Mondal and Shri Bibekananda Maiti by post. Further, the interim order was delivered to Shri Bibekananda Maiti, Shri Ajit Kumar Routh, Shri Munsur Ali Mallick, Shri Sanjoy Chowhan, Shri Ram Sunder Bhattacharya, Trustees of Secured Debentures Trust of URO Agro India Limited, Smt. Pratima Roy, Uro Agro India Limited and Shri Partha Pratim Maity through hand delivery/affixture. Shri Sanjoy Chowhan and Shri Prasun Mondal vide letters dated August 5, 2016 sought hearing opportunity. Subsequently, vide notification dated November 09, 2016 published in newspaper Times of India and notification dated November 08, 2016 published in newspaper Ananda Bazar Patrika, the Noticees were notified by SEBI, that interim order dated July 07, 2016 was issued against them and they were given a final opportunity to submit their reply in the matter.
13. The interim order was sought to be delivered to the Noticees by various methods including post, hand delivery and affixture followed by newspaper publication and the interim order specifically advised the Noticees to file replies to the order and also indicate whether they desire to avail themselves an opportunity of personal hearing. However, only few of the Noticees filed replies or sought hearing, yet, in the interest of

principles of natural justice, vide notification dated June 10, 2017 published in newspapers *Times of India* and *Ananda Bazar Patrika*, the Noticees were notified by SEBI that they will be given the final opportunity of being heard on July 26, 2017 at the time and the venue mentioned therein. The Noticees were advised that in case they failed to appear for the personal hearing before SEBI on the aforesaid date, then the matter would be proceeded *ex-parte* on the basis of material available on record.

14. *Hearing and submissions*: The Noticees did not avail the opportunity of hearing held on July 26, 2017. Considering that the earlier hearing notice was not issued to Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy), notification dated November 29, 2017 was published in *Times of India*, Kolkata and *Ananda Bazaar Patrika*, providing hearing to them on December 13, 2017. However, none of the said Noticees attended the hearing.
15. Shri Sachindra Nath Bhattacharya replied vide letter dated August 12, 2016 and his submissions in brief are as under:
 - a) He had given his consent to be inducted as a director of the Company from the date of inception on the request of Shri Biswapriya Giri, Managing Director of the Company. That Shri Biswapriya requested him to sign the MOA and AOA and assured that he will induct another person in Shri Sachindra's place.
 - b) He is a senior citizen, suffering from heart diseases and his wife had expired very recently.
 - c) He never held any post of Executive Director, Managing Director or Whole Time Director nor has he taken any part in any board meeting or decision making process of the Company at any point of time.
 - d) When Biswapriya Giri, M.D./Key Managerial Person of the Company deviated from the objects clause, he protested vehemently, however, his protest were unheard of and he offered his resignation in the middle of June, 2011. However,

his resignation was not accepted in 2011 and after lots of hue and cry, his resignation was accepted on February 25, 2013 and Form 32 was submitted before ROC on 20.4.2013.

- e) When he demanded an explanation from Biswapriya why he delayed his resignation for a long time, Biswapriya to save his skin and pacify him swore an affidavit stating, inter-alia, that Shri Sachindranath was appointed as a director considering his age and experience, at Shri Biswapriya's request for a very short period of time and was assured that he would be relieved shortly and that Shri Sachindra never looked into day to day affairs of the Company.
- f) He is unable to provide inventory details of the Company as he was a namelender of a director for a very short span of time and was not involved in the company affairs.

16. Shri Pradip Kumar Maiti replied vide letter dated August 1, 2016 and his submissions in brief are as under:

- a) In reality, he was a hawker and during the pre-incorporation stage of URO Agro India Ltd., he was signing the subscriber form only to fill the criteria of minimum number of members.
- b) Further, even the equity shares column was not filled up by him and later on, he came to know that 40 equity shares have been allotted to him and till date, he has not received the share certificates of the said issued shares.
- c) Even if he has replied to the aforesaid SCN within the specified time, it does not find place in the investigation report.
- d) Actually, he was the first subscriber-shareholder and at any time can't be treated as promoter, so kindly consider his said reply in merit dated 05/06/2015.
- e) He was neither a shareholder of the Company at any point of time due to non-issuance of the shares nor any part of the management of the company, accordingly, he has no knowledge about the offer of NCD.

17. Shri Pradip Kumar Maiti vide the aforesaid reply dated 05/06/2015 has submitted, *inter-alia*, that he was never related to the URO Group of Companies and is working as a hawker. During the year 2009, he met Shri Biswapriya Giri who convinced him to sign in certain paper for a shareholder of a new proposed company to maintain the minimum number to form a public limited company. Further, he submitted that he had signed the document for an exchange of little money and nothing else and has not been allotted any shares so far.
18. Shri Munsur Ali Mallick vide letter dated September 4, 2017 forwarded his documents, *inter-alia*, his PAN, copy of bank passbook and copy of the MOA. Further, Shri Munsur Ali Mallick replied vide letters dated August 2, 2016, August 12, 2016 and August 23, 2016. His submissions in brief are as under:
- a) He has no relation or business of URO Group Company. He has never purchased any share nor done any job of said URO Agro Company.
 - b) The said company shows his signature which is totally false and fabricated.
 - c) He is an un-employed youth from very poor family and he was innocent and law abiding person.
 - d) He never attended any meeting or office of URO Company and did not know who were the directors or promoters of the company.
19. Shri Partha Pratim Maity replied vide letters dated July 28, 2016 and September 6, 2017. His submissions in brief are as under:
- a) He had no knowledge about the said company and has no relation whatsoever directly or indirectly.
 - b) He never put his signature of this said companies' director/promoter form and is completely irrelevant finding his name in the list of director/promoter.
 - c) He was once an employee of Uro Infra Reality India Ltd. submitting all testimonials such as photocopy of pan card, voter card and thereafter, worked for two months only.

On April 5, 2010 he was asked by Shri Biswapriya for resignation from Uro Infra Reality India Ltd. for his inefficiency and that very day he resigned from job tendering resignation letter on 05/02/2010. Shri Biswapriya accepted the letter and released him from job. After 05/04/2010, he had no connection with this company and consciously remember that he had not signed in any piece of paper related director/promoter form. He enclosed his resignation letter dated April 5, 2010.

20. Shri Bibekananda Maiti replied vide letter dated 30.01.2015. His submissions in brief are as under:

- a) He is a private tutor by profession and has got no connection so far as the said company, URO Group is concerned.
- b) During the investigation for the first time it came to light that his name was reflected as one of the directors and he is ignorant of such fact since he has no connection with the company in any manner.
- c) His signature was forged in the affairs of the said business and used the same as genuine.
- d) As per the ROC website, the status of the Company shows as active and nowhere, his name transpires as any of the directors.
- e) He was neither a manager to the said Company nor was he involved with the affairs of the Company in any manner as also evident from the ROC website.

21. I have considered the allegations and materials available on record. On perusal of the same, the following issues arise for consideration. Each question is dealt with separately under different headings.

(1) Whether the company came out with the Offer of NCDs as stated in the interim order.

(2) If so, whether the said issues are in violation of Section 56, Section 60 read with

section 2(36), Section 73 and section 117C of the Companies Act, 1956 read with the ILDS Regulations.

(3) Whether appointment of Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy), as the Debenture Trustee by UAIL is in violation of Section 117B of the Companies Act, 1956 and whether Trustees of Secured Debentures Trust of URO Agro India Limited and Shri Ram Sunder Bhattacharya and Smt. Pratima Roy violated Section 12(1) of SEBI Act and regulation 7 of the Debenture Trustees Regulations

(4) If the findings on Issue No.2 and 3 are found in the affirmative, who are liable for the violation committed?

ISSUE No. 1- Whether the company came out with the Offer of NCDs as stated in the interim order.

22. I have perused the interim order dated July 07, 2016 for the allegation of *Offer of NCDs*. I note that neither the company nor the directors have disputed the same.

23. I have also perused the documents/ information obtained from the 'MCA 21 Portal' and other documents available on records. It is noted, from the investors' complaints received by SEBI in the matter that UAIL has issued and allotted NCDs to at least 131 investors during the financial years, 2011-2012, 2012-2013 and 2013-2014 and raised an amount of at least Rs. 74.07 Lakhs. I also note that the number of allottees and funds mobilized has been collated from the documents submitted with the complaints received by SEBI. Therefore, it is possible that the actual number of allottees and amount mobilized could be more than 131 allottees and Rs. 74.07 Lakhs respectively.

24. *I therefore conclude that UAIL came out with an offer of NCDs as outlined above.*

ISSUE No. 2- If so, whether the said issues are in violation of Section 56, Section 60

read with section 2(36), Section 73 and section 117C of the Companies Act, 1956 read with the ILDS Regulations.

25. The provisions alleged to have been violated and mentioned in Issue No. 2 are applicable to the *Offer of NCDs* made to the public. Therefore the primary question that arises for consideration is whether the issue of NCDs is ‘public issue’. At this juncture, reference may be made to sections 67(1) and 67(3) of the Companies Act, 1956:

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

(2) any reference in this Act or in the articles of a company to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be construed as including a reference to invitations to subscribe for them extended to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner.

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

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

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

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

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

26. The following observations of the Hon'ble Supreme Court of India in *Sahara India Real Estate Corporation Limited & Ors. v. SEBI* (Civil Appeal no. 9813 and 9833 of 2011) (hereinafter referred to as the “***Sahara Case*”**), while examining the scope of Section 67 of the Companies Act, 1956, are worth consideration:-

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

The first proviso to Section 67(3) was inserted by the Companies (Amendment) Act, 2000 w.e.f. 13.12.2000, which clearly indicates, nothing contained in Sub-

section (3) of Section 67 shall apply in a case where the offer or invitation to subscribe for shares or debentures is made to fifty persons or more. ... Resultantly, after 13.12.2000, any offer of securities by a public company to fifty persons or more will be treated as a public issue under the Companies Act, even if it is of domestic concern or it is proved that the shares or debentures are not available for subscription or purchase by persons other than those receiving the offer or invitation.”

27. Section 67(3) of Companies Act, 1956 provides for situations when an offer is not considered as offer to public. As per the said sub section, if the offer is one which is not calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or, if the offer is the domestic concern of the persons making and receiving the offer, the same are not considered as public offer. Under such circumstances, they are considered as private placement of shares and debentures. It is noted that as per the *first proviso* to Section 67(3) Companies Act, 1956, the public offer and listing requirements contained in that Act would become automatically applicable to a company making the offer to fifty or more persons. However, the *second proviso* to Section 67(3) of Companies Act, 1956 exempts NBFCs and Public Financial Institutions from the applicability of the *first proviso*.

28. In the instant matter, I find that NCDs were issued by UAIL to at least 131 investors in the financial years, 2011-2012, 2012-2013 and 2013-2014 and raised an amount of at least Rs 74.07 Lakhs. However, this number is not conclusive as it is based on the documents received by SEBI along with complaints and the actual number of investors could be more than 131. I find that UAIL has mobilized an amount of at least Rs. 74.07 Lakhs over the financial years, 2011-2012, 2012-2013 and 2013-2014 which is not a conclusive value as it is based on the complaints received by SEBI. Further, I find that UAIL has created a charge of Rs. 15.46 Crore on February 17, 2010. The above findings

lead to a reasonable conclusion that the *Offer of NCDs* by UAIL was a “public issue” within the meaning of the first proviso to section 67(3) of the Companies Act, 1956.

29. Neither UAIL nor its directors have contended that the *Offer of NCDs* does not fall within the ambit of first proviso of section 67(3) of Companies Act, 1956.
30. I find that UAIL has not claimed it to be a Non-banking financial company or public financial institution within the meaning of Section 4A of the Companies Act, 1956. In view of the aforesaid, I, therefore, find that there is no case that UAIL is covered under the second proviso to Section 67(3) of the Companies Act, 1956.
31. Therefore, in view of the material available on record, I find that the *Offer of NCDs* by UAIL falls within the first proviso of section 67(3) of Companies Act, 1956. Hence, the *Offer of NCDs* are deemed to be public issues and UAIL was mandated to comply with the 'public issue' norms as prescribed under the Companies Act, 1956.
32. Further, since the offer of NCDs is a public issue of securities, such securities shall also have to be listed on a recognized stock exchange, as mandated under section 73 of the Companies Act, 1956. As per section 73(1) and (2) of the Companies Act, 1956, a company is required to make an application to one or more recognized stock exchanges for permission for the shares or debentures to be offered to be dealt with in the stock exchange and if permission has not been applied for or not granted, the company is required to forthwith repay with interest all moneys received from the applicants.
33. The allegations of non-compliance of the above provisions were not denied by UAIL or its directors. I also find that no records have been submitted to indicate that it has made an application seeking listing permission from stock exchange or refunded the amounts on account of such failure. Therefore, I find that UAIL has contravened the said provisions. UAIL has not provided any records to show that the amount collected by it is kept in a separate bank account. Therefore, I find that UAIL has also not complied with the provisions of section 73(3) which mandates that the amounts received from investors

shall be kept in a separate bank account. Therefore, I find, that section 73(2) of the Companies Act, 1956 has not been complied with.

34. Section 2(36) of the Companies Act read with section 60 thereof, mandates a company to register its 'prospectus' with the RoC, before making a public offer/ issuing the 'prospectus'. As per the aforesaid Section 2(36), "prospectus" means any document described or issued as a prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares in, or debentures of, a body corporate. As the offer of NCDs was a deemed public issue of securities, UAIL was required to register a prospectus with the RoC under Section 60 of the Companies Act, 1956. I find that UAIL has not submitted any record to indicate that it has registered a prospectus with the RoC, in respect of the offer of NCDs. I, therefore, find that UAIL has not complied with the provisions of section 60 of the Companies Act, 1956.
35. In terms of section 56(1) of the Companies Act, 1956, every prospectus issued by or on behalf of a company, shall state the matters specified in Part I and set out the reports specified in Part II of Schedule II of that Act. Further, as per section 56(3) of the Companies Act, 1956, no one shall issue any form of application for shares in a company, unless the form is accompanied by abridged prospectus, containing disclosures as specified. Neither UAIL nor its directors produced any record to show that it has issued Prospectus containing the disclosures mentioned in section 56(1) of the Companies Act, 1956, or issued application forms accompanying the abridged prospectus. Therefore, I find that, UAIL has not complied with sections 56(1) and 56(3) of the Companies Act, 1956.
36. As regards the allegation of section 117C of the Companies Act, 1956, it may be seen that the said provision mandates the company to create a debenture redemption reserve for the redemption of such debentures, to which every year, adequate amounts should be credited out of its profits, until such debentures are redeemed. None of the Noticees denied this allegation. There is no material on record to show that such debenture reserve

was created. Therefore, I hold that the company has violated section 117C of the Companies Act, 1956.

37. ILDS Regulations are applicable to the public issue and listing of debt securities. Regulation 2(e) of the ILDS Regulations defines debt securities to mean non-convertible debt securities which create or acknowledge indebtedness, and include debentures. In view of the finding that UAIL has made a public issue of debt securities, the ILDS Regulations is also applicable to the instant offer of NCDs. Therefore, I find that the Company has violated the following provisions of the aforesaid ILDS Regulations, which contain *inter alia* conditions for public issue and listing of debt securities, viz.

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

38. Further, I note that the jurisdiction of SEBI over various provisions of the Companies Act, 1956 including the above mentioned, in the case of public companies, whether listed or unlisted, when they issue and transfer securities, flows from the provisions of

Section 55A of the Companies Act, 1956. While examining the scope of Section 55A of the Companies Act, 1956, the Hon'ble Supreme Court of India in *Sahara Case*, had observed that:

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

"SEBI can exercise its jurisdiction under Sections 11(1), 11(4), 11A(1)(b) and 11B of SEBI Act and Regulation 107 of ICDR 2009 over public companies who have issued shares or debentures to fifty or more, but not complied with the provisions of Section 73(1) by not listing its securities on a recognized stock exchange"

39. In this regard, it is pertinent to note that by virtue of Section 55A of the Companies Act, 1956, SEBI has to administer Section 67 of that Act, so far as it relates to issue and transfer of securities, in the case of companies who intend to get their securities listed. While interpreting the phrase “intend to get listed” in the context of deemed public issue the Hon’ble Supreme Court in *Sahara Case* observed-

“...But then, there is also one simple fundamental of law, i.e. that no-one can be presumed or deemed to be intending something, which is contrary to law. Obviously therefore, “intent” has its limitations also, confining it within the confines of lawfulness...”

“...Listing of securities depends not upon one’s volition, but on statutory mandate...”

“...The appellant-companies must be deemed to have “intended” to get their

securities listed on a recognized stock exchange, because they could only then be considered to have proceeded legally. That being the mandate of law, it cannot be presumed that the appellant companies could have “intended”, what was contrary to the mandatory requirement of law... ”

40. Even in cases where the allotments are considered separately, reference may be made to Sahara Case, wherein it was held that under Section 67(3) of the Companies Act, 1956, the "Burden of proof is entirely on Saharas to show that the investors are/were their employees/workers or associated with them in any other capacity which they have not discharged." In respect of those issuances, the directors have not placed any material that the allotment was in satisfaction of section 67(3)(a) or 67(3)(b) of Companies Act, 1956 i.e., it was made to the known associated persons or domestic concern. Therefore, I find that the said issuance cannot be considered as private placement. Moreover, reference may be made to the order dated April 28, 2017 of Hon'ble Securities Appellate Tribunal in *Neesa Technologies Limited vs. SEBI (Appeal No. 311 of 2016)* which lays down that "In terms of Section 67(3) of the Companies Act any issue to '50 persons or more' is a public issue and all public issues have to comply with the provisions of Section 56 of Companies Act and ILDS Regulations. Accordingly, in the instant matter the appellant have violated these provisions and their argument that they have issued the NCDs in multiple tranches and no tranche has exceeded 49 people has no meaning".
41. In view of the above findings, I am of the view that UAIL was engaged in fund mobilizing activity from the public, through the offer of NCDs and has contravened the provisions of section 56(1), 56(3), 2(36) read with 60, 73(1), 73(2), 73(3), and 117C of the Companies Act, 1956, and above mentioned provisions pertaining to the Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008.

ISSUE No. 3-Whether appointment of Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy), as the Debenture Trustee by

UAIL is in violation of Section 117B of the Companies Act, 1956 and whether Trustees of Secured Debentures Trust of URO Agro India Limited and viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy have violated Section 12(1) of SEBI Act and regulation 7 of the Debenture Trustees Regulations?

42. I find that UAIL had created a charge of Rs. 15.46 Crore for the Offer of NCDs by the Company. I further find that UAIL had appointed *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* as the debenture trustee.
43. Section 12(1) of the SEBI Act states that: "*No... trustee of trust deed ... shall buy, sell or deal in securities except under, and in accordance with, the conditions of a certificate of registration obtained from the Board in accordance with the regulations made under this Act*". Regulation 7 of the SEBI (Debenture Trustees) Regulations, 1993, states that *only a scheduled bank carrying on commercial activity or, a public financial institution within the meaning of section 4A of the Companies Act, 1956 or, an insurance company or, a body corporate alone are eligible to get a certificate of registration as Debenture Trustee.*
44. *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* are not eligible to obtain a certificate of registration since it does not satisfy the eligibility criteria mentioned in Regulation 7 of the SEBI (Debenture Trustees) Regulations, 1993. None of the Noticees claimed that *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustee, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* had received certificate of registration as per section 12(1) of the SEBI Act. In view of the above, I find that *Trustees of Secured Debentures Trust of URO Agro India Limited and Shri Ram Sunder Bhattacharya and Smt. Pratima Roy* have dealt in the impugned Offer of NCDs as debenture trustees, without having a certificate of registration as Debenture Trustee in violation of Section 12(1) of the SEBI Act, 1992.

45. Under section 117B of the Companies Act, 1956 no company shall issue a prospectus or a letter of offer to the public for subscription of its debentures, unless the company has, before such issue, appointed one or more debenture trustees for such debentures and the company has, on the face of the prospectus or the letter of offer, stated that the debenture trustee or trustees have given their consent to the company to be so appointed. I find that UAIL has appointed *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustee, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* who do not have a certificate of registration. Therefore, the appointment of the same is in violation of section 117B of the Companies Act, 1956. Further, since UAIL has not issued a prospectus with the relevant information and therefore, the requirement of stating the consent of the debenture trustee to be so appointed on the face of the prospectus has not been complied with.

ISSUE No. 4- If the findings on Issue No.2 and 3 are found in the affirmative, who are liable for the violation committed?

46. Shri Sachindra Nath Bhattacharya in his reply has stated, *inter-alia*, that he had given his consent to be inducted as a director of the Company from the date of inception on the request of Shri Biswapriya Giri, Managing Director of the Company and that he never held any post of Executive Director, Managing Director or Whole Time Director nor has he taken any part in any board meeting or decision making process of the Company at any point of time. He has further stated that he offered his resignation in the middle of June, 2011. However, his resignation was not accepted in 2011 and after lots of hue and cry, his resignation was accepted on February 25, 2013 and Form 32 was submitted before ROC on 20.4.2013. He further stated that he is unable to provide details required as he was a namelender of a director for a very short span of time and was not involved in the company affairs. Hon'ble Securities Appellate Tribunal (SAT) Order dated July 14, 2017 in the matter of Manoj Agarwal vs. SEBI, has considered the contentions similar to that of this director that merely lending name to be a director and

noninvolvement in the day to day affairs of the Company and has held that this would not absolve the directors from their obligation to refund the amount to investors in view of specific provisions of the Companies Act. Therefore, the aforesaid submissions of Shri Sachindra Nath Bhattacharya are untenable as Shri Sachindra Nath was a director during the issuance of the NCDs and after accepting the position of director, he cannot wriggle out of his responsibility as director by pleading that he was a mere namelender. As regards Shri Sachindra Nath's submission that he had offered his resignation in June 2011 and was ultimately accepted in February 2013, I find that Shri Sachindra Nath in his letter dated August 22, 2014, states that he approached Shri Biswapriya Giri for relieving him from directorship which was not accepted and that he tendered his resignation ultimately which was accepted on February 23, 2013. Therefore, I find that Shri Sachindra Nath only speaks of asking to be relieved but does not get relieved and as per his own submission tendered his resignation in February 2013. Further, in the affidavit of Shri Biswapriya Giri submitted by Shri Sachindra Nath, it is stated that Shri Sachindra Nath has submitted his resignation letter in 2011, however, the same is not enclosed neither in the affidavit nor in any of the previous communications of Shri Sachindra Nath. The copy of resignation letter dated 2011 was not submitted even after SEBI vide its letter dated August 17, 2017 specifically sought documentary evidence in support of his submissions. Therefore, there is no evidence to substantiate that Shri Sachindra Nath has resigned in 2011. On the contrary, as claimed by Shri Sachindra Nath as corroborated by MCA records, I find that Shri Sachindra Nath had joined as a director of the Company on December 22, 2009 and resigned on February 25, 2013, therefore was a director during the issuance of the NCDs. In view of the above, I am unable to accept the aforesaid submissions and hold that Shri Sachindra Nath Bhattacharya was the director of UAIL during the relevant time i.e. when UAIL made the issuance of NCDs under consideration.

47. Shri Bibekananda Maity in his reply has stated, *inter-alia*, that he was a private tutor by profession and has no connection with the Company. He further stated that in the course

of investigation, it came to light for the first time that his name is reflecting as one of the director of the said URO group of Companies whereas he has no connection with the said company in any manner. He further stated that his signature was forged in the affairs of the business and that as per the official website of ROC, the status of the company shows as active with names of directors, however, his name was nowhere present as a director. He further stated that he was neither a manager to the said company nor involved in any way. I find that SEBI letter dated August 17, 2017 was sent to Shri Bibekananda Maity to provide documentary evidence in support of his submissions, however, he has failed to provide proof in support of his submission that his signature was forged. Further, I find it difficult to accept his submissions on the basis of material available on record. As per the MCA records, I find that he joined as a director of the Company on February 4, 2013 and resigned on April 29, 2013, therefore, was a director during the issuance of the NCDs. Therefore, he cannot be absolved of his obligations as director of the Company.

48. Shri Pradip Kumar Maiti in his reply has stated, *inter-alia*, that he is a hawker and was signing the subscriber form only to fill the criteria of minimum number of members and that he was the first subscriber-shareholder and at any time can't be treated as promoter. Further, he has stated that he was neither a shareholder of the Company at any point of time due to non-issuance of the shares nor any part of the management of the company. I find that Shri Pradip Kumar Maiti was one of the first subscribers to the Memorandum of Association of the Agro India Limited, therefore, his submissions regarding signing the subscriber form only to fill the criteria of minimum number of members and in exchange of little money are untenable and that cannot absolve him from his obligations as a promoter.
49. Shri Munsur Ali Mallick in his reply has stated, *inter-alia*, that he has no relation or business of URO Group Company and that the said company shows his signature which is totally false and fabricated. Further, he has submitted that he never attended any meeting or office of URO Company and did not know who were the directors or

promoters of the company. As regards Shri Munsur Ali Mallick's submission that he has no relation with URO company and his signature is fabricated, I find that SEBI letter dated August 17, 2017 was sent to him to provide documentary evidence in support of his submissions and he has sent reply dated September 4, 2017 forwarding copy of his PAN card and copy of the extract of MOA of the Company showing signatures of the subscribers to the MOA. On perusal of the said two documents, there is perceptible difference in the signatures, I am inclined to give benefit of doubt to Shri Munsur Ali Mallick that his signature was forged.

50. Shri Partha Pratim Maity in his reply has stated, *inter-alia*, that he had no knowledge about the said company and has no relation whatsoever directly or indirectly and that he never put his signature of this said companies' director/promoter form. I find that SEBI letter dated August 17, 2017 was sent to Shri Partha Pratim Maity to provide documentary evidence in support of his submissions and he has forwarded, *inter-alia*, copy of his offer of appointment as Accounts Officer in URO Infra Reality India Ltd. and his letter of resignation from URO Infra Reality India Ltd. dated April 5, 2010. On perusal of these documents as well as the copy of MOA showing signatures of the subscribers, there is perceptible difference in the signatures. Hence, I am inclined to give benefit of doubt to Shri Partha in regards his submission that he never put his signature of this said companies' director/promoter form.

51. From the documents available on record, I find that the present Directors in UAIL are Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan. I also note that, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, who were earlier Directors in UAIL, have since resigned. The details of the appointment and resignation of the directors are as following:

Name of the directors	Date of appointment	Date of cessation
Shri Biswapriya Giri	December 22, 2009	Continuing

Shri Prasun Mondal	April 29, 2013	Continuing
Shri Sanjoy Chowhan	April 29, 2013	Continuing
Shri Sachindra Nath Bhattacharya	December 22, 2009	February 25, 2013
Smt Ipsita Das Giri	December 22, 2009	February 25, 2013
Shri Ajit Kumar Routh	February 04, 2013	April 29, 2013
Shri Bibekananda Maiti	February 04, 2013	April 29, 2013

I find that Shri Pradip Kumar Maiti, Shri Partha Pratim Maity, Shri Nabarun Bhattacharya, Shri Munsur Ali Mallick are promoters of UAIL. Further, I find that Shri Biswapriya Giri, is promoter and director of the Company and Smt Ipsita Das Giri and Shri Sachindra Nath Bhattacharya are promoter and director who have since resigned.

52. Section 56(1) and 56(3) read with section 56(4) of the Companies Act, 1956 imposes the liability on the company, every director, and other persons responsible for the prospectus for the compliance of the said provisions. The liability for non-compliance of Section 60 of the Companies Act, 1956 is on the company, and every person who is a party to the non-compliance of issuing the prospectus as per the said provision. Therefore, UAIL and its directors are held liable for the violation of sections 56(1), 56(3) and 60 of the Companies Act, 1956.

53. As far as the liability for non-compliance of section 73 of Companies Act, 1956 is concerned, as stipulated in section 73(2) of the said Act, the company and every director of the company who is an officer in default shall, from the eighth day when the company becomes liable to repay, be jointly and severally liable to repay that money with interest at such rate, not less than four per cent and not more than fifteen per cent if the money is not repaid forthwith. With regard to liability to pay interest, I note that as per section 73 (2) of the Companies Act, 1956, the company and every director of the company who is

an officer in default is jointly and severally liable, to repay all the money with interest at prescribed rate. In this regard, I note that in terms of rule 4D of the Companies (Central Governments) General Rules and Forms, 1956, the rate of interest prescribed in this regard is 15%.

54. From the material available on record and the details of the appointment and resignation of the directors of UAIL as reproduced in paragraph 51 of this Order, it is noted that, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan were directors at the time of the issuance of NCDs. Since these persons were acting as directors during the period of issuance of NCDs, 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 UAIL 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 UAIL, 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. Though, Shri Sachindra Nath has stated that he is not liable to refund any money of the Company deposits as he was a namelender and not involved with the Company, it cannot be accepted. 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 UAIL and its Directors, viz., Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya

Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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.

55. I note that during the financial years, 2011-2012, 2012-2013, and 2013-2014 , UAIL through Offer of NCDs, had collected at least an amount of Rs. 74.07 Lakhs from at least 131 allottees. I note that Shri Biswapriya Giri was director of UAIL during financial years, 2011-2012, 2012-2013, 2013-2014 till present date. I note that Shri Prasun Mondal was director of UAIL during financial years, 2013-2014 till present date. I note that Shri Sanjoy Chowhan was director of UAIL during financial year, 2013-2014 till present date. I note that Shri Sachindra Nath Bhattacharya was director of UAIL during financial years, 2011-2012, 2012-2013. I note that Smt Ipsita Das Giri was director of UAIL during financial years, 2011-2012, 2012-2013. I note that Shri Ajit Kumar Routh was director of UAIL during financial years, 2012-2013, 2013-2014. I note that Shri Bibekananda Maiti was director of UAIL during financial years, 2012-2013, 2013-2014. 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 UAIL and other directors are limited to the extent of amount collected during his/her tenure as director of UAIL.
56. As far as the liability under sections 117B and 117C of the Companies Act, 1956, is concerned, the liability is on the company to comply with the said provisions. Therefore, UAIL is liable for the violation of sections 117B and 117C of the SEBI Act. In respect of the liability under section 12(1) of the SEBI Act, the liability is on the Trustee who act as the debenture trustee without the Certificate of Registration from SEBI as debenture trustee. In view of the above, I find that *Trustees of Secured Debentures Trust of URO Agro India Limited (represented by its trustee, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy)* are liable for the violation of section 12(1) of the SEBI Act read with regulation 7 of the Debenture Trustee Regulations.

57. With respect to the provisions of the respective regulations of the ILDS Regulations enumerated on paragraph 37 of this order, the liability is on the Company to comply with the requirements therein.
58. I find that Shri Biswapriya Giri, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri who are also a director, Shri Pradip Kumar Maiti, Shri Partha Pratim Maity, Shri Nabarun Bhattacharya, Shri Munsur Ali Mallick are the promoters of UAIL. However, I have given benefit of doubt to Shri Partha Pratim Maity and Shri Munsur Ali Mallick in regards their role as promoters in the Offer of NCDs by the Company. Therefore, I find that Shri Biswapriya Giri, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri (who are also directors) in their capacity as promoters, Shri Pradip Kumar Maiti and Shri Nabarun Bhattacharya as promoters are liable for the *Offer of NCDs* against the norms of deemed public issue. The said Noticees have not taken any due diligence steps to prevent the deemed public issue. The public interest requires that the said promoters be made accountable to the investors. From the material available on record, I do not find that the aforesaid Noticees were not active as promoters of the Company during the issue of NCDs. Therefore, the said Noticees are liable to be debarred for an appropriate period of time.
59. In view of the foregoing, the natural consequence of not adhering to the norms governing the issue of securities to the public and making repayments as directed under section 73(2) of the Companies Act, 1956, is to direct UAIL and its Directors, viz., Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan to refund the monies collected, with interest to such investors. Further, in view of the violations committed by the Company and its Directors and promoters, to safeguard the interest of the investors who had subscribed to such NCDs issued by the Company, to safeguard their investments, and to further ensure orderly development of securities market, it also becomes necessary for SEBI to issue appropriate directions against the Company and the other Noticees.

60. I also note that, vide the interim order dated July 07, 2016, UAIL was directed to provide a full inventory of all the assets and properties belonging to the Company. Similarly, the Directors/promoters of UAIL were also directed to provide an inventory of assets and properties belonging to them. The above inventories were required to be filed within 21 days of the receipt of the order. However, I find that upto date inventory has not been provided either by UAIL or the other Noticees despite the notifications of issuance of the interim order through newspaper publications as stated in paragraph 12 of this Order.
61. In view of the discussion above, an appropriate action in accordance with law needs to be initiated against UAIL and its Directors and promoters, viz. Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Pradip Kumar Maiti, Shri Nabarun Bhattacharya and Debenture Trustee, viz. Trustees of Secured Debentures Trust of URO Agro India Limited (Represented by its Trustees, viz. Shri Ram Sunder Bhattacharya and Smt. Pratima Roy).
62. 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) UAIL, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan shall forthwith refund the money collected by the Company, during their respective period of directorship through the issuance of NCDs 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”.

- (c) Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti are directed to provide a full inventory of all their assets and properties and details of all their bank accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form.
- (d) UAIL and Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan are directed to provide a full inventory of all the assets and properties and details of all the bank accounts and holdings of mutual funds/shares/securities, if held in physical form and demat form, of the company and their own.
- (e) UAIL, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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.
- (f) UAIL, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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.
- (g) UAIL, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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.

- (h) After completing the aforesaid repayments, UAIL, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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")
- (i) In case of failure of UAIL, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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 62(a) of this Order, in accordance with section 28A of the SEBI Act including such other provisions contained in securities laws.
- (j) UAIL, Shri Sachindra Nath Bhattacharya, Smt Ipsita Das Giri, Shri Ajit Kumar Routh, Shri Bibekananda Maiti, Shri Biswapriya Giri, Shri Prasun Mondal, Shri Sanjoy Chowhan 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.

(k) Shri Pradip Kumar Maiti and Shri Nabarun Bhattacharya 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 for a period of 4 (four) years from the date of this Order. The above said persons 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 for a period of 4 (four) years from the date of this Order.

(l) In view of my findings recorded at paragraphs no. 49 and 50, I revoke the directions issued in respect of Shri Munsur Ali Mallick and Shri Partha Pratim Maity in the matter of Uro Agro India Limited vide interim order dated July 7, 2016.

(m) Trustees of Secured Debentures Trust of URO Agro India Limited represented by its trustees, viz., Shri Ram Sunder Bhattacharya and Smt. Pratima Roy are restrained from accessing the securities market and are further restrained from buying, selling or dealing in securities, in any manner whatsoever, for a period of 4 (four) years from the date of this order.

(n) The above directions shall come into force with immediate effect.

63. Hon'ble Calcutta High Court has passed an order dated April 4, 2017 in WP No. 1248(W) of 2016 – Parboti Singh & Anr v. Union of India & ors. in respect of the Company and its directors. Therefore, the effect and implementation of the aforesaid directions stated in paragraph 62 shall be subject to the directions passed by the Hon'ble High Court in its Order dated April 4, 2017.

64. Copy of this Order shall be forwarded to the recognised stock exchanges and depositories and registrar and transfer agents for information and necessary action.

65. 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/ restraint imposed above against the Company and the individuals.
66. A copy of this Order shall also be forwarded to the Local Police/State Government for information.

-Sd-

DATE: December 18 , 2017

PLACE: Mumbai

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