

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTIONS 11(1), 11(4) and 11B OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH REGULATION 65 OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999

IN THE MATTER OF GOLDEN TREES PLANTATION LIMITED

IN RESPECT OF:

SL. NO.	NOTICEE(S)	PAN
1	GOLDEN TREES PLANTATION LIMITED	AABCG5441R
2	SHAILESHKUMAR DHAIYALAL PATEL	AYEPP6275A
3	DINESHBHAI PRAHLADBHAI PATEL	BAEPP5589A
4	USHABEN DIPAKKUMAR PATEL	ASZPP4304P

BACKGROUND

- 1) Securities and Exchange Board of India (SEBI) had found that Golden Trees Plantation Limited (“**the Company**”) was operating schemes which were in the nature of Collective Investment Schemes (“**CIS**”), as defined under Section 11AA of the SEBI Act, at the time of coming into effect of the SEBI (Collective Investment Schemes) Regulations, 1999 (“**CIS Regulations**” in short). From

the documents submitted by the Company to SEBI, it was noted that the Company was running two kinds of CIS, i.e. teak membership scheme and mango membership scheme. However, the Company had failed to obtain registration from SEBI, as required under the provisions of the CIS Regulations read with SEBI Act, 1992. The Company was found to have violated the provisions of Section 12(1B) of the SEBI Act, 1992 and Regulation 5(1) read with regulations 68 (1), 68(2), 73 & 74 of the CIS Regulations. Accordingly, SEBI issued an order dated March 14, 2003, directing the Company to wind up its existing scheme(s) and refund the money collected under the scheme(s) with returns which were due to the investors as per the terms of offer within a period of one month from the date of the said order, failing which the following actions were to kick in:

- (a) Initiation of prosecution proceedings, under Section 24 of the SEBI Act, 1992, against the company / its promoters / directors / managers / persons in charge of the business of its scheme(s).
- (b) Debarring the company / its promoters/directors / managers / persons in charge of the business of its schemes (s) from operating in the capital market and accessing the capital market for a period of 5 years.
- (c) Writing to the State Government / local police to register civil /criminal cases against the company and its promoters / directors for apparent

offences of fraud, cheating, criminal breach of trust and misappropriation of public funds.

- (d) Writing to the department of company affairs, to initiate the process of winding up of the company.

2) The Company filed a Special Leave Application (No. 4895 of 2003) before the Hon'ble High Court of Gujarat at Ahmedabad whereby it *inter alia* challenged the constitutional validity of the provisions of Sections 11(2)(c), 11AA and 12(1B) of the SEBI Act, 1992 and the CIS Regulations and prayed for withdrawal of the SEBI Order against the Company. The Hon'ble High Court vide its order dated 21/04/2003 read with order dated 21/07/2003 stayed the SEBI Order. Subsequently, the Hon'ble High Court vide its order dated 23/03/2017 vacated the stay on the SEBI Order granted earlier.

3) Pursuant to the above, SEBI vide letter dated December 05, 2017 asked the Company to clarify its position and offer its explanation along with supporting documents, with regard to compliance with SEBI order dated March 14, 2003 within 7 days from the date of receipt of the letter. In response to the same, the Company vide letter dated 05/01/2018 submitted *inter alia* the following:

- (a) The Company has not accepted any amount from any individual after the year 1997, hence there is no violation of rules of SEBI.
- (b) The Company was incorporated with a view to help the nature by growing trees. Keeping the said fact in mind, the Company had introduced the scheme of tree plantation and cultivation. It was explained to investors in the brochure that the scheme of plantation of teak being an agricultural scheme, was totally reliant upon the nature and income from such plantation could fluctuate. Further, there could be natural calamities also, for which the Company could not be responsible. Further, even as per conditions mentioned in the form submitted by the tree holders, the allotment letters given to the tree holders and the sale certificate, 'receipt holder' (tree holder) is deemed to have joined the scheme with full knowledge that it being an agricultural plantation, vis major might affect the ultimate returns. An amount of Rs.550 per teak sapling was being collected from tree holders towards expenditure for nurturing, cultivating and maintaining the teak sapling for a period of 15 years on their behalf. The tree holder was given the sale certificate as the owner of the plant. The Company has used its energy and resources to maintain and grow the trees since November 1992 and incurred a total expense of Rs.11.40 Crores till date in maintenance of trees.

- (c) Near the end of 15 years' term, the company vide its communication dated 21/10/2007 requested the concerned authorities (Forest Department of Gujarat) to give permission to cut the teak trees. However, the said authority vide reply dated 06/11/2007 informed the Company that such permission would be given after three years when the teak trees get matured. The Company repeatedly sought permission for cutting trees since 2008 to 2011. Finally, vide communications dated 13/12/2011 and 09/04/2012, the concerned authority granted permission to the Company for cutting the trees and selling the same.
- (d) Thereafter, the Company engaged two different government approved valuers for valuing the trees. As per the valuation reports dated September 26, 2011 and April 08, 2012 given by them, the average value of one teak tree was Rs.547.15 and Rs.539 respectively. The said reports have been furnished to SEBI.
- (e) Thereafter, the Company issued public notices in various newspapers from time to time for holding public auction of trees. On the basis of the public notices dated 09/11/2011, 12/04/2012, 15/04/2012, 03/05/2012 and 07/06/2012, auction was held on 28/04/2012, 19/05/2012 and 23/06/2012. Thus, by making public auction, the Company tried to get maximum price for the trees for the investors.

- (f) On the basis of the valuers' reports and the amount received from auction, the Company decided to repay the amount of Rs.550/- paid by the unit holder and additional amount of Rs.550/- as the value of one teak tree arrived at by the government approved valuers (i.e. total amount of Rs.1100 per teak tree unit), thereby complying with the SEBI Order dated 14/03/2003. For this, advertisements were issued in various newspapers on 01/06/2012 and the unit holders were asked to send their documents to the company. On receipt of original documents, the Company issued cheques with forwarding letters. The company had sent such cheques totaling to Rs.10,97,50,300 to 57491 unit holders and in most of the cases, the cheques were encashed by the unit holders. The unit holders have accepted the said amount because they were aware about the objects of the schemes of the Company.
- (g) After the vacation of stay on the SEBI Order by the Hon'ble High Court, the company had immediately given advertisements in newspapers on 30/03/2017, asking the investors to submit original documents for repayment. The Company had also sent individual letters through registered post to allottees to submit the documents. The Company had paid Rs.23,20,900 to 1525 allottees after the order of the Hon'ble High Court. The Company was ready and willing to pay other allottees who had

still not submitted their documents, upon receipt of the same. The Company continued with the process of issuing more letters to tree holders.

- 4) Subsequently, vide letter dated 30/01/2018, the Company submitted certificate dated 22/01/2018 issued by J.M. Patel & Brothers, Chartered Accountant certifying that the Company had distributed cheques valued at Rs.11,26,04,700/- to 59,339 tree holders from FY 2012-13 to FY 2017-18 (up to 20.01.2018) and out of the same, cheques valued at Rs.9,66,47,600/- were realized by 48,000 tree holders. The Company further submitted that it would complete the refund process by paying the balance amount to the remaining tree holders during March 2018 to February 2020 by sending to them 2766 cheques per month by registered post. The same would be done without obtaining original documents, since it wanted speedy payments to tree holders.
- 5) Thereafter, SEBI vide letter dated November 11, 2019 *inter alia* asked the Company whether it had mobilized any amount of money during the last five years through any scheme. The Company was also asked to submit its bank account statements of last five financial years. In response to the same, the

Company vide its letter dated November 21, 2019 again submitted that it had not mobilized any amount of money through any scheme during last five years. The Company also furnished copies of its bank account statements along with the letter.

- 6) As the company's abovementioned letters dated January 05, 2018 and January 30, 2018 showed that it had failed to complete the refund within one month from the date of the SEBI Order and had failed to submit a wind up and repayment report (WRR) as required under Regulation 73 of the CIS Regulations, SEBI issued a show cause notice (SCN) dated May 27, 2020 to the company and its directors, namely Shaileshkumar Dhaiyalal Patel, Dineshbhai Prahladbhai Patel and Ushaben Dipakkumar Patel (all four together referred to as "**the Noticees**") asking them to show cause as to why the directions debarring the company / its promoters / directors / managers / persons in charge of the business of scheme(s) from the securities market for a period of 5 years, as recommended in para 29(2) of the SEBI Order dated March 14, 2003 should not be issued. The SCN also stated that by failing to submit the WRR, as mentioned above, the Company had been continuing with the scheme without obtaining certificate of registration, which was in violation of Regulations 5(1), 68(1) & (2), 73 and 74 of the CIS Regulations. The Noticees

were therefore called upon to show cause as to why suitable directions debarring them should not be issued in terms of Regulation 65 and 73 of the CIS Regulations.

- 7) The Company replied to the SCN vide letter dated June 17, 2020 and submitted *inter alia* that the Noticees had not violated the SEBI Order since there was a stay on the same by Hon'ble High Court of Gujarat from 2003 to 2017. Immediately after the disposal of the company's petition by the Hon'ble High Court, the Company had given advertisements in daily newspapers and informed the public at large about the procedure for payment. The Company also reiterated its submissions made vide letter dated January 30, 2018. It further submitted that it had periodically informed the public through newspaper advertisements to submit documents for processing of refunds, since a number of tree holders had changed their addresses in the last 20 years. It had also issued number of letters to the teak tree holders for claiming refunds.
- 8) Subsequently, the Noticee no. 4 (Ushaben Dipakkumar Patel) vide letters dated December 16, 2020 and January 07, 2021 submitted her reply to the SCN and *inter alia* submitted that she was a housewife and presently not involved

in any kind of business activity. She was appointed as a director in the Company on August 28, 1992 and she resigned from the directorship on November 01, 2007, which is evident from Form-32 filed with RoC. During the tenure of her directorship, she was not involved in the day-to day- affairs of the management of the company. After her resignation, she was not involved with the affairs of the company and was not in charge of refund to investors as directed in SEBI Order. Hence, the liability to refund as per SEBI Order does not arise in her case. She also referred to various case laws in support of her contentions.

9) Further, the other Noticees vide letters dated January 07, 2021 and February 06, 2021 made further additional written submissions vide which they reiterated the submissions made earlier. Some of the submissions are as follows:

(a) The company had incurred a total expenditure of Rs.11,40,04,615 for nurturing and maintenance of saplings / trees during the FYs 1992-93 to 2011-12. The same is also certified by a CA Certificate.

(b) After receiving the consent of the Forest Department to cut the trees and after getting the valuation reports, the Company issued newspaper advertisements and carried out auction of the trees during the period

November 14, 2011 to June 23, 2012. The total value of tenders was Rs.5,71,60,216 against which the Company received a total of Rs.5,69,27,104.

- (c) In the year 2012, despite there being no obligation on part of the Company to refund the amount collected by it, the Company initiated the process of refunding an amount of Rs.1100 per teak tree and published public advertisements on June 01, 2012 in all the local leading newspapers i.e. Sandesh Gujarati, Divya Bhaskar (Gujarati), Gujarat Samachar (Gujarati), Rajasthan Patrika (Rajasthani) and Sakal (Marathi), since most of the investors were from Gujarat, Rajasthan and Maharashtra only, calling upon the investors to submit documentary proof of investment with the Company to get the refund. The Company refunded a total of Rs.9,92,57,500 to 34,792 investors during the FY 2012-13.
- (d) Despite the Company incurring expenditures of around Rs.11 crores, the Company has paid Rs.1100 per tree, which includes amount collected from the investor and the amount of return as per the SEBI Order, out of its pocket by borrowing funds, so that the investors get the maximum return on investment.
- (e) During the period 2012-13, the Company had sent 60000 inland letter cards to all the investors and had requested them to provide relevant documents,

so that cheques could be issued to them. Out of the same, 5000 letters had returned undelivered. The Company had incurred a total cost of around Rs.3 Lakh for sending the said letters to investors.

(f) Before the final outcome of the Noticee's petition before the Hon'ble High Court, the Company was continuously following up with the investors for refunds by way of public advertisements, personalized letters and calls. Immediately after the High Court Order dated March 23, 2017, the Company issued advertisements on March 30, 2017 in leading local newspapers and called upon the investors to collect their monies. In 2017, the Company also sent letters to unclaimed investors through Registered Post and requested them to collect their dues, thereby incurring an expense of Rs.1,24,000. Even after the Company's best efforts in issuing advertisements and letters, there are many investors who are yet to claim the refund. The failure to refund to such investors should not be attributed to the Company.

(g) After receiving SEBI's letter dated December 05, 2017 regarding compliance of SEBI Order, the Company has again given newspaper advertisements and has paid to investors who had responded. Further, even after the receipt of the SCN dated May 27, 2020, the Company had

given advertisements in Sandesh Newspaper and Gujarat Samachar on June 15, 2020 calling the investors to get their refund.

- (h) Further, as per the advice of legal experts, in November 2020, the Company went one step ahead and showed its bona fide by reinstating the refund process to the unclaimed investors by directly sending cheques at their addresses. As on February 06, 2021, the Company during the FYs 2012-13 to 2020-21 had refunded a total of Rs.14,02,66,200 to 45,283 investors and in most of the cases, the cheques were encashed.
- (i) Since the Company had incurred a total expense of Rs.11,40,04,615 on nurturing and maintenance of teak plants and had received only Rs.5,69,50,000 on auction of teak trees, the refunds were made through borrowed funds. The Noticee directors had given a total of Rs.7,39,16,034 to the Company during the years 2012 to 2020 for refund to investors.
- (j) From 2012, when the Company initiated the refund process, there was no investor complaint with respect to the refund on investment.
- (k) As regards the alleged failure to submit a WRR and alleged continuation of scheme(s) by the Company as referred to in the SCN, the Company is not aware of any specific format of WRR. However, as per its understanding, it has provided the CA Certificate certifying that it had not taken any amount from investors after 1997 and had made refund to the

investors. Hence, the alleged violation of Regulation 73 of the CIS Regulations is merely technical in nature.

(l) The Noticee directors have not made any disproportionate gains nor received any unfair advantage from the alleged schemes.

10) Thereafter, the Noticees were granted an opportunity of personal hearing on February 09, 2021 which was attended on their behalf by Shri Saurabh Soparkar (Advocate) and others through video conferencing. During the hearing, the Noticees submitted that despite best efforts, they have not been able to complete the refund process since they didn't have addresses of some investors and also because they were lacking funds. For arranging funds, they were in the process of selling a parcel of land owned by the directors. During the hearing, the Noticees undertook to complete the refund process by March 31, 2021. The Noticees were then advised to submit a status report on the refund process as on March 31, 2021 by April 10, 2021. Thereafter, vide letter dated April 10, 2021, the Company submitted *inter alia* that it had completed the refund process by dispatching cheques amounting to Rs.18,15,32,050 to 61,786 investors for 1,58,579 units. The Company furnished to SEBI copy of purported ledger statements of the Company showing refund to investors and

copies of RPAD Slips. The Company provided the following information in tabular form:

Sl. No.	Name of alleged Scheme	No. of Investors	Total No. of Units	Amount Collected (Rs.)	Refund Amount
1.	Teak	61,549	1,58,056	9,30,06,100	17,99,26,900
2.	Mango	237	523	8,36,800	15,95,150
3.	Total		1,58,579	9,38,42,900	18,15,32,050

- 11) Along with the abovementioned letter dated April 10, 2021, the Company also submitted CA Certificates from two auditors certifying the information as provided in the Table under para 11(a) above. Thereafter, the Company vide letter dated August 12, 2021 submitted *inter alia* that out of Rs.18,15,32,050/- for which cheques were sent to investors till April 10, 2021, cheques amounting to Rs.17,05,04,950 had been accepted by the investors and cheques amounting to around Rs.13,06,10,800 had been realized by the investors till August 10, 2021. Further, cheques amounting to Rs.1,10,27,100 sent through RPAD to some investors had returned back. The Company submitted copies bank statements and certificates from CA in this regard and further contended that since 2012, there were no investor complaints with respect to refund on investment. The details of the refunds are as follows:

Sl No.	Name of alleged Scheme(s)	No. of Investors	Total no. of Units	Amount Collected (Rs.)	Refund made till April 10, 2021 (Rs.)	Cheques accepted by investors till August 10, 2021 (Rs.)	Cheques not accepted / RPAD return (Rs.)
1	Teak	61,549	1,58,056	9,30,06,100	17,99,36,900	16,89,09,800	1,10,27,100
2	Mango	237	523	8,36,800	15,95,150	15,95,150	
	Total		158,579	9,38,42,900	18,15,32,050	17,05,04,950	1,10,27,100

- 12) The Noticees were again granted an opportunity of personal hearing on August 13, 2021 during which they reiterated the abovementioned submissions. Subsequently, the Company, in response to queries sent on August 13, 2021 submitted that there was a typographical error in its letter dated 30/01/2018 regarding the total number of investors. The Company confirmed the figures given in its reply dated August 12, 2021 regarding number of investors, tree units and amount mobilized. It further submitted that during the period between 1992 to 1997, it offered teak saplings for Rs.550/- per unit and mango saplings for consideration of Rs.1600/- per unit. Under the said schemes, ownership of saplings was transferred to the person paying consideration for saplings to the Company. The owner of the sapling was entitled to either ownership of tree of teak sapling or mango sampling respectively or take the return of consideration in accordance to the market

value of the tree of teak sapling or mango sapling respectively at the end of 15 years. The Company further confirmed that it had not received any money from the investor after 1997. The Company further submitted that, there was no immovable property in the name of the Company and that it had taken several parts of the land on a rental basis for growing and irrigating the teak plants for a period of fifteen years (15) years, the details of which are mentioned in the valuation reports.

- 13) In the meantime, while the current proceedings were underway, SEBI had initiated recovery proceedings under Section 28A of the SEBI Act, 1992 against the Company and its current directors for failure to refund the moneys collected from investors, within one month from the date of SEBI Order dated March 14, 2003. The amount to be recovered was calculated as Rs.10,68,64,56,000/- (Rs.1,068.64 Crores) by taking into consideration the total number of tree holders as 1,25,723 (as noted from the Company's letter dated 30.01.2018) and the refund amount of Rs.85,000 per tree holder, which was the amount mentioned as per unit expected realizable value in the Tree Holders Certificates. Accordingly, a recovery notice dated November 05, 2020 was issued by the Recovery Officer, SEBI to the current directors. The Company challenged the said notice before the Hon'ble High Court of Gujarat at

Ahmedabad (R/Special Civil No. 15131 of 2020). The Hon'ble High Court vide its order dated September 06, 2021 quashed and set aside the said recovery notice and remitted the matter to the Recovery Officer. The Recovery Officer was directed to issue notice to the Noticees and give an opportunity of hearing to the Noticees and thereafter determine the amount to be paid by the Noticees to the depositors in accordance with law. The court further clarified that it shall be open to the writ-applicants to point out to the authority concerned that they have discharged their liabilities and nothing is to be paid to the depositors. The court further directed that the authority concerned shall take into consideration all the relevant aspects that may be pointed out by the writ-applicants and decide the matter afresh. In the meantime, the recovery notice dated November 05, 2020 against the directors was withdrawn.

- 14) In view of the aforesaid developments, another opportunity of personal hearing was held on September 24, 2021 during which on being asked about the expenses incurred by the Company out of the funds raised through its schemes, the Noticees' representative referred to the yearly figures of expenses mentioned in the Company's reply dated January 07, 2021 and submitted that apart from the same, the Company had incurred other expenses as well. The representative further submitted that the Company's directors had personally

borrowed money for the purpose of refunds by the company to the customers. During the hearing, the Company was advised to submit details of its year wise collections, total expenses and surplus left out of the funds collected under its schemes. Further, the Company was also advised to submit its balance sheet, cash flow statements and any other document available, for the period since the start of fund mobilization by the company till today and the details of money purportedly borrowed by the directors for the purpose of repayment by the company along with supporting documents and records. The Company was also asked to submit the details of each individual investor and the status of their repayment in excel sheet by October 08, 2021.

- 15) Further, in response to certain queries raised by SEBI vide email dated September 21, 2021, the Company vide email dated September 24, 2021 *inter alia* submitted that there was no immovable property in the name of the Company and that no land had been purchased by the Company or its Director, out of the funds collected under the alleged schemes. It further submitted that the immovable property on which teak plantation was situated was jointly acquired by the director namely Shri Dinesh Patel with other people, prior to the floating of the alleged schemes in the year 1992. However, the Company did not provide the details regarding the date of acquisition and

extent of land acquired by the director which was leased to the Company despite a reminder. Subsequently, the Company vide letter dated October 01, 2021 submitted copies of its balance sheets and cash flow statements for year 1992-93 to 2019-20. It also submitted copies of ledgers of loan accounts of its director, Dinesh Patel, and letters from banks showing credit facility to director. The Company also submitted an affidavit by a director reiterating some of the submissions made vide email dated September 24, 2021. Subsequently, the Company vide email dated October 11, 2021 submitted an excel sheet as Annexure A containing yearly collections, expenses and surplus funds in respect of its schemes. The Company vide emails dated September 21, 2021 and October 13, 2021 was asked to additionally provide the date of acquisition and extent of land acquired by the other related person(s)/entity(ies) (of the directors) which was leased to the Company. Further, pursuant to the examination of balance sheets and other documents submitted by the Company, certain clarifications were sought from the Company vide a separate email dated October 13, 2021, to which it replied vide email dated October 25, 2021 and November 02, 2021. The same have been referred to later in this order. Further, the Company vide email dated October 18, 2021 provided the excel sheet containing the master-data of investor wise refund status for the teak holder, which includes investor name and address,

allotment no., no. of trees, the amount paid, amount refund, cheque no. and status of the cheque.

Consideration:

- 16) I have examined the facts of the case, the allegations against the Noticees, the submissions of the Noticees in response to the allegations and other material available on record. I note that the Company has claimed to have completed the refund process by issuing cheques to each and every investor who had purchased Teak Tree unit or Mango Tree Unit. The Company has also submitted certificates from Chartered Accountants in support of its contentions. However, I note that before looking into the question of whether refund process has been completed or not, the crucial issue to be decided is whether the amount of refund for each teak / mango tree unit decided by the company is just and reasonable in the facts and circumstances of the case.
- 17) I note that the Company in its various submissions has submitted that it had collected a total of Rs.9,30,06,100 from 61,549 investors who were allotted a total of 1,58,056 teak tree units and a total of Rs.8,36,800 from 237 investors who were allotted a total of 523 mango tree units during the period from 1992 to 1997. Thus, the total fund mobilized, as per the Company, was to the tune

of Rs.9,38,42,900. Further, the Company claims to have incurred a total expense of Rs.11,40,04,615 during the financial years 1992-92 to 2011-12. The Company has also submitted that it had obtained valuation of its plantations by two government authorized valuers, namely P.K. Desai and Jayantibhai A. Patel, who had submitted their reports dated 26/09/2011 and 08/04/2012 respectively. As per the said valuation reports, the average value of one teak tree standing on the plantation was Rs.547.15 and Rs.538.97 respectively. The company has claimed that the entire money raised by the Company under its schemes was utilized for the purposes of the schemes. Further, it has also submitted that it had not utilized any money out of the said funds for purchasing any land either in the name of the company or its directors. As per the Company, the land on which the plantation was developed was leased from the directors and their relatives who had purchased these lands prior to the start of fund mobilization by the company. The Company has further stated that even though the company had fully utilized the funds raised under the schemes and the valuation of one teak tree has come to around Rs.550 per teak tree, it has paid a total of Rs.1100 (Rs.550 principal amount + return of Rs.550 per teak tree which is the approximate average value of each teak tree as per the abovementioned valuation reports) to each tree holder. The Company has further submitted that it has borrowed funds from directors for

repayment to investors since the Company did not have sufficient funds. The directors have arranged funds by personally borrowing money from the banks.

18) I have considered the abovementioned contentions of the Company. However, upon examination of the financial statements of the company, including the balance sheets and cash flow statements for various years, submitted vide letter dated October 01, 2021 as well as other submissions of the Company, the following are noted:

- (a) Despite specific queries from SEBI, the Company failed to provide the following critical information and/or supporting documents:
- Copy of ledgers of expenses / other outgoings paid (expenses head wise break-up) by the Company to the Directors/ its relatives and the corporate entities in which such directors/relatives were interested.
 - Copy of ledgers of all loans and advances granted by the Company to the Directors/ their relatives and the corporate entities in which such directors/relatives were interested.
 - Detailed explanation for debiting an amount of Rs. 59 Lakhs to the scheme account as payment of income tax

- Explanation for debiting rather than crediting the scheme account by an amount of Rs. 30,87,147/- towards total interest earned between FY 1994-95 and FY 1997-98.
 - Details of dates of acquisition and extent of land acquired by the directors and other related person(s)/entity(ies) (of the directors) which was leased to the Company. (Originally sought on September 21, 2021 and was sought once again on October 13, 2021)
- (b) The Company vide email dated September 21, 2021 and October 13, 2021 was asked whether the land on which the plantation was carried out or any other land was purchased out of the funds collected under the scheme(s). The Company in its submissions on Sept 24, 2021 has *inter-alia* stated that “...there is no immovable property running into the name of the Company or no land has been purchased by the Company or its Director, out of the funds collected under the alleged schemes”. As regards the immovable property on which teak plantation is situated, the Company has stated that “... the land was jointly acquired by the director namely Shri Dinesh Patel with other people, prior to the floating of the alleged schemes in the year 1992...”. However, based on a Search Report obtained capturing all transactions (based on registered documents) carried out during last 35 years for the survey numbers indicated in the valuation report provided

by the Company, it appeared that the below mentioned land plots were purchased (25.18 hectare out of the total plantation area of 58.18 hectare) by the relatives of the director i.e., Mr. Dineshbhai Prahladbhai Patel – Ms. Sumitraben Dineshkumar Patel, Mr. Dipakkumar Prahladbhai Patel, Ms. Ushaben Dipakkumar Patel, and Ms. Sakriben Prahladbhai Patel) in the year 1994 & 1998 (money mobilisation period was from FY 1992-93 to July 30, 1997):

Survey / Block No.	Date of Transaction	Area (in Hectare)	Amount of Consideration in INR	Buyer of Land as per records
Vrundavan Farm No. - 1 - Harkhajina Muvada				
610	05.03.1994	2.7216	Not available	Ushaben Dipakkumar Patel
Vrundavan Farm No. - 2 - Dharisana				
557/A, 557/B, 566 & 574	18.04.1995	6.1855	1,99,999	Sakriben Prahladbhai Patel
558, 570, 583/A, 583/B	18.04.1995	2.0691	80,000	Sakriben Prahladbhai Patel
Vrundavan Farm No. - 3 Dharisana				
528	30.12.1997	1.32	25,000	Sumitraben Dineshkumar Patel
Vrundavan Farm No. - 4 - Vadvasa				
845	4.04.1996	0.3924	14,000	Dipakkumar Prahladbhai Patel
846/1	03.04.1997	0.2423	Not available	Sumitraben Dineshkumar Patel
846/2	25.04.1996	0.2428	46,000	Dipakkumar Prahladbhai Patel
846/3	08.04.1996	0.4538	16,000	Dipakkumar Prahladbhai Patel
848	25.04.1996	0.7135	21,000	Dipakkumar Prahladbhai Patel
849	25.04.1996	0.9394	46,000	Dipakkumar Prahladbhai Patel
851	18.05.1996	0.4876	18,500	Patel Sumitraben Dineshkumar
852/1	08.04.1996	0.2438	25,000	Dipakkumar Prahladbhai Patel

855	25.04.1996	0.7254	25,000	Dipakkumar Prahadbhai Patel
856	08.04.1996	0.6124	20,000	Dipakkumar Prahadbhai Patel
857/2	25.04.1996	0.8265	46,000	Dipakkumar Prahadbhai Patel
876/2	21.05.1997	0.6576	30,000	Sumitraben Dineshkumar Patel
884/2	19.06.1998	0.5352	20,000	Sumitraben Dineshkumar Patel
886	03.04.1997	0.8562	Not available	Sumitraben Dineshkumar Patel
887	03.04.1997	0.6768	Not available	Sumitraben Dineshkumar Patel
888	08.04.1996	0.6619	65,000	Dipakkumar Prahadbhai Patel
890	29.04.1997	0.8096	37,000	Dipakkumar Prahadbhai Patel
892	01.01.1998	0.547	12,500	Dipakkumar Prahadbhai Patel
900	08.04.1996	0.5351	48,000	Professor Dipakkumar Prahadbhai Patel
902	29.04.1997	1.0584	60,000	Dipakkumar Prahadbhai Patel
914	29.04.1997	0.4876		Dipakkumar Prahadbhai Patel
915	08.04.1996	0.1784	48,000	Professor Dipakkumar Prahadbhai Patel
Total		25.18	9,02,999	

- (c) From the table above, it is noted that a total of 20.6831 (consideration amount not available for some land parcels) hectares of land was acquired for a total consideration of Rs. 9,02,999. An extrapolation based on same rates would mean that the entire land on which plantation was claimed to have been carried out (i.e., 58.122 Hectares) would only be about Rs. 25.4 Lakhs. This would mean that on the plantation land worth only Rs.25.4 Lakhs, the outgoings of Rs.2.43 Crores (up to March 2000) by way of lease rentals to the directors and related entities appear highly exaggerated. It appears that the Company has employed this route to divert the investors' funds to directors and related entities.

- (d) Further, contrary to the submissions of the Company that the land on which plantation is situated was acquired by directors prior to floating of schemes in 1992, it is noted that one of the lands on which plantation cropping was claimed to have been carried out (Survey No. 889, as included in the valuation reports provided by Company) was acquired only in 2004.
- (e) Though SEBI vide emails dated September 21, 2021 and October 13, 2021 had sought information regarding date of acquisition of land by directors and relatives, the Company has failed to submit the same. In this regard, the Company has merely submitted a copy of letter dated October 23, 2021 submitted to land registrar seeking records of land purchased by the director Mr. Dineshbhai Prahladbhai Patel during the year 1991-92 without providing any details of the land/ documents. While it is expected that the title documents of the land parcels would be available with the landowners, the copy of letter addressed to the land registrar appears to have been submitted to SEBI with an intent to evade the submission of exact information sought by SEBI.
- (f) From a quick analysis of the investor wise data provided by GTPL with the bank statement on the basis of Cheque Number, significant discrepancies were observed. It is noted that several investors have been

repaid Rs. 2,200 per tree as against the amount of Rs. 1,100 claimed to have been refunded to the respective investors. For example, for certificate Number 102982 for 6 teak trees, an amount of Rs. 3,300 was collected by the Company and against the same, Company claimed to have refunded Rs. 6,600 vide Cheque Number 638 dated May 30, 2017. However, the amount debited to the bank account against the same investor's name and cheque number on June 6, 2017 was Rs. 13,200. There are at least 600 such discrepancies. Apart from the above, few instances of cheques claimed to have been cleared are not reflecting in the bank statement as debit transactions. Therefore, the Company is required to ensure that each investor is repaid in a just manner and as per the directions in this order.

(g) Further, from a reading of the financial statements of the Company, several discrepancies are noted. An illustrative list of discrepancies are as follows:

- From the Financial Statements for FY 1993-94, three different figures for Capital Work in Progress ('CWIP') are observed. The actual summation of individual items at Schedule 4 adds up to Rs. 94,44,076 however the total mentioned there is Rs. 64,44,086/- and the value of CWIP shown as asset in the balance sheet is Rs. 70,18,468/-.

- From the financial statements, it is observed that several figures pertaining to FY 1993-94 mentioned in the FY 1994-95 for comparative purpose are at stark variation to what was shown in the FY 1993-94.
- (h) In addition to the above, several figures in the Cash Flow Statements provided by the Company vide its submissions dated October 25, 2021 have been revised (as against what was submitted by it vide its submission dated October 1, 2021) when it was asked to explain the discrepancy regarding the cash flows on sale of trees and payments to investors. The figures relating to Trade and other receivables, Other payables, GTP Sale Proceeds of Teak Trees, Long Term Borrowings and Repayment to members of GTP Scheme substantially differed in the two submissions.
- (i) With regard to the Commission Expenses, it is noted from the Financial Statements that the amount of Commission has been netted off from the money mobilized. However, the Company subsequently submitted that “Commission expenses were debited to Agricultural Expenses from FY 1994-95 to 1997-98”. A comparison of the amount of agricultural expenses credited to the directors/ related parties until FY 1994-95 against the total amount of agricultural expenses (with/ without adjusting the Commission) reveals that amount of agricultural expenses credited to the directors/ related parties is far in excess

of the total agricultural expenses as per the financials submitted by the Company.

- (j) Also, from the yearly mobilization amounts as per the submissions of the Company, it is observed that the amounts under no permutation/ combination matches with the denomination of issue price i.e., 550/850 or 1600 per tree for 5 out of 6 financial years.
- (k) In addition to the above, the company has charged an amount of Rs. 22,02,473/- as Service Charges between FY 1992-93 to FY 1997-98 from the Scheme account and also no explanation has been provided for debiting Income Tax amount of Rs. 59 Lakhs to the Scheme account. Therefore, the financial statements submitted by the Company do not look reliable.
- (l) Further, at different points in time, significant amounts of interest free loans amounting upto 4.2 Crores were advanced to directors/ their relatives or entities connected to the directors. While the Company has provided explanation with regard to interest free advances to a related party i.e., Gauraj Builders and Developers Private Limited (GBDPL), it has not provided any explanation with regard to loans and advances granted to other related parties.

(m) Further, with regard to the explanation offered by the Company for money advanced to GBDPL, it claims to have had an agreement to provide free resort facilities to the teak holders of GTPL and had given interest-free loans and advances in respect of the same and the amount advanced was as high as Rs. 3.81 Crores as against the net mobilization of Rs. 8.42 Crores (net of commission). However, copies of ledger sought were not provided.

- 19) Considering all the above-mentioned observations in totality, the submissions of the Company regarding utilization of the funds mobilized under its plantation schemes from the investors do not appear to be credible. Further, it is noted that Company has been constantly revising its submissions to fill gaps in its submissions and also several inconsistencies are observed at various places relating to Amount of Mobilization, realized consideration from sale of trees, period of repayment to investors etc. It appears that the money mobilized by the Company has been diverted for other purposes and for the benefit of its directors and their relatives. In these circumstances, the amount of refund arrived at by the Company cannot be said to be justified. Further, providing a paltry return of Rs.550 per tree unit on the principal amount of

Rs.550 / Rs.850 over a period of 15 years by the Company cannot be accepted as reasonable proposition by the Company in these facts and circumstances.

- 20) I note that besides the Company calculating the amount of refund per tree unit, SEBI has independently calculated the total amount due to be paid by the Company to investors, for which a recovery notice dated November 05, 2020 was drawn. In this regard, I note that the calculation by SEBI relied upon for the purpose of refund had proceeded on the assumption that the total number of tree holders of the Company stood at 1,25,723 and the realizable value per unit of tree was Rs.85,000. SEBI had taken the said value of Rs.85,000 per teak tree since the same found mention in the application forms and tree certificates issued by the Company. By reckoning that each teak tree holder was due to be paid an amount of Rs.85,000 per tree, the figure of Rs.1068 Crores was arrived at as the amount recoverable from the Company. It is this figure which has been challenged by the Company before the Hon'ble High Court.
- 21) As regards the refund amount of Rs.85,000 per tree holder arrived at earlier, I note from the Company's petition before the Hon'ble High Court of Gujarat, challenging the notice issued by the Recovery Officer, that it had submitted that under the Company's scheme, ownership of saplings was transferred to a

person paying consideration for sapling to the Company. As per the Company, the owners of sapling were entitled to either ownership of tree or return of market value of tree at the end of 15 years, subject to terms and conditions of allotment letter and that it did not grant any assurance to any person for return of any monies or profits.

- 22) I note that regardless of the contentions of SEBI or the Company made in this regard, a return of Rs.85,000 as expected realizable value on an investment of Rs.550/- within a period of 15 years, as mentioned on the Company's brochures, does look like a tall claim designed to lure gullible investors. Given that a teak tree generally takes around 25 years to attain full grown maturity, the mention of Rs.85,000 as expected realizable value in the Company's brochures appears highly unrealistic, since it amounts to a return of more than 150 times on the principal amount in 15 years i.e. annual return (simple interest) of more than 1000% on the investment. In my view, such astronomical and impractical returns cannot be said to be justified and do not satisfy the test of reasonableness. Thus, while the calculation of amount of refund done by the Company cannot be accepted for the reasons stated in para 19 above, the basis of calculation of refund amount done by SEBI (although based on the figures quoted in the Company's brochures) also does not stand the test of

reason. In these circumstances, I deem it appropriate to adopt a more reasonable method of calculation of refund amount which appears just and adequate in the facts and circumstances of the case. In my view, it would be appropriate if the Company is directed to pay a simple interest of 15% per annum on the investment amount since the date of actual mobilization till October 31, 2021 (this date has been taken for arriving at a lump sum figure since it is close to the date of this order). The calculation of interest in the above manner is more or less in line with the refund provisions provided under Section 73(2) of the Companies Act, 1956, which provides for payment of interest not exceeding 15% on the amount mobilized in violation of provisions applicable to deemed public issue of securities. In my view, providing a return of such nature would be in the interest of all stakeholders and would meet the ends of justice. Keeping the same in mind, for interest calculations, the principal amount (money mobilized) for each financial year has been taken as the total funds mobilized till the end of the preceding financial year and calculating simple interest at 15% per annum on such amount from April 01, 1993 to October 31, 2021, the interest on such amount comes to Rs.36.07 Crores approximately. Thus, the total amount expected to be refunded by the Company (principal + interest) comes to Rs.45.45 Crores (i.e. principal amount of Rs.9.38 Crores + cumulative interest of Rs.36.07 Crores). However, since the

Company has already made refunds as per its own calculation and cheques amounting to Rs.13.06 Crores approx. have already been realized by investors as on August 10, 2021 (as per the CA certificate dated August 10, 2021 enclosed with Company's submissions dated August 12, 2021), the same shall be set off against the refund amount due to be paid to investors. Considering the same, the total amount still due to be refunded is Rs.32.39 Crores approximately. A summary of such calculation is provided below:

Financial Year ended	Cumulative Mobilization*	Principal considered for Interest calculation	Simple Interest at 15% on the opening balance for FY
31-Mar-93	7,47,520	7,47,520	-
31-Mar-94	1,05,65,661	1,05,65,661	1,12,128
31-Mar-95	2,66,66,056	2,66,66,056	15,84,849
31-Mar-96	6,97,41,820	6,97,41,820	39,99,908
31-Mar-97	8,37,23,269	8,37,23,269	1,04,61,273
31-Mar-98	9,38,42,912	9,38,42,912	1,25,58,490
31-Mar-99	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-00	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-01	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-02	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-03	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-04	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-05	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-06	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-07	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-08	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-09	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-10	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-11	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-12	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-13	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-14	9,38,42,912	9,38,42,912	1,40,76,437

31-Mar-15	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-16	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-17	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-18	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-19	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-20	9,38,42,912	9,38,42,912	1,40,76,437
31-Mar-21	9,38,42,912	9,38,42,912	1,40,76,437
April 2021 to 31-Oct-21	9,38,42,912	9,38,42,912	82,11,255
Total Interest up to October 31, 2021			36,06,85,950
Add: Amount Mobilized			9,38,42,912
Less: Amount claimed to be repaid until August 10, 2021			-13,06,10,800
Balance amount to be refunded			32,39,18,062

** Amount appearing in various submissions of the Company*

- 23) While the above figures have been arrived at as lump sum amounts, the Company shall calculate the exact amount due to be refunded to each individual investor as per the above method, after making due adjustments for the refunds made to the investors.
- 24) I note that the Noticee no. 4 (Ushaben Dipakkumar Patel) vide her letter dated December 16, 2020 has *inter alia* submitted that she had resigned from the directorship of Company on November 01, 2007 and is no longer a director. She has pleaded for quashing the proceedings against her. In this regard, I note that the said Noticee was appointed as a director of the Company on August 28, 1992 and continued to hold the directorship till November 01, 2007, which covers the entire period during which the Company had mobilized funds from

the investors, the period of fundraising being 1992 to 1997. In this backdrop, the liability of refund to investors also falls on the Noticee. Considering the same, I do not find merit in the contentions of the Noticee.

Order:

25) In view of the foregoing, I, in exercise of the powers conferred upon me in terms of section 19 read with sections 11(1), 11(4), 11B of the SEBI Act, 1992, read with Regulation 65 of the CIS Regulations, issue the following directions:

- (a) The Noticees shall, jointly and severally, within a period of six months from the date of this order, refund the money collected from investors under its plantation schemes which were in the nature of CIS, along with simple interest @ 15% per annum, calculated from April 01, 1993 till October 31, 2021. However, the amount already refunded, if any, to individual investors by the Company, as on October 31, 2021, shall be set off against the due amount calculated as per the abovementioned direction.
- (b) In case the refund is not completed within the stipulated period of six months from the date of this order, the Noticees shall be liable to pay the interest at the rate mentioned above till the date of actual refund.

- (c) The Company shall issue public notices in two widely circulated national dailies (one Hindi and one English) and in one widely circulated local language newspaper each in the states of Gujarat, Maharashtra and Rajasthan, inviting claims from the investors for the refunds as directed above and informing about the modalities of the refund, within a period of one month from the date of this order. A minimum period of one month from the date of publication of the notices in the newspapers shall be provided to the investors for submitting their claims.
- (d) The repayments to the investors shall be effected only through Bank Demand Draft or Pay Order or electronic fund transfer or through any other appropriate banking channels, in order to ensure audit trails to identify the beneficiaries of repayments.
- (e) In case of those investors who are untraceable or to whom the Company is unable to make refunds for any reason whatsoever, the amount of refund due to be made to such investors shall be transferred by the Company in an interest bearing escrow account opened with a nationalized bank and a lien would be marked over such account in favour of SEBI. The Bank shall allow debits from the said account only for making refunds to the investors referred to above in this sub-paragraph.

- (f) After completing the aforesaid refund within the stipulated time of six months or before, the Noticees shall file a report of completion of refund with SEBI addressed to the Regional Director, SEBI Bhavan, Western Regional Office, Panchvati 1st Lane, Gulbai Tekra Road, Ahmedabad - 380006, Gujarat. Such report shall be filed within 15 days of completion of refund, duly certified by two peer reviewed independent Chartered Accountants, after verification of the refunds made by the Company, pursuant to this order.
- (g) The Noticees are prevented from selling or disposing off their assets, properties (including immovable properties) and mutual funds/shares/securities held by them in demat and/or physical form, till such time the entire refund as directed at sub-para (a) above has been effected, except for the purposes of making such refunds.
- (h) The Noticees are directed to provide a full inventory of their assets and properties and details of all the bank accounts, demat accounts and holdings of mutual funds / shares / securities in physical or demat forms, within 21 days from the date of this order.
- (i) The Depositories shall not allow debits from the demat accounts (joint or otherwise) of the Noticees except for the purposes of compliance with the direction at sub-paragraph (a) above.

- (j) The banks shall freeze the bank accounts of the Noticees with immediate effect to the extent of money still due to be refunded i.e. Rs.32.39 Crores, till the refund as directed at sub-para (a) above is completed. The Banks shall not allow debits from the bank accounts (joint or otherwise) of the Noticees except for the purposes of compliance with the direction at sub-paragraph (a) above. Credits however, if any, into the accounts of the aforementioned Noticees may be allowed.
- (k) The restraint on sale of assets in sub-paragraph (g) above shall cease to operate once the refund to the investors is complete and the report as mentioned in sub-paragraph (f) above is filed, to the satisfaction of SEBI.
- (l) The Noticees shall be restrained from accessing the securities market, and further prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, and associating with the securities market in any manner, whatsoever, for a period of 5 years from the date of this order or till such time the refunds as directed above are completed and the abovementioned repayment report as mentioned in sub-para (f) above is received to the satisfaction of SEBI, whichever is later.
- (m) The Noticee nos. 2 to 4 shall further be restrained from holding position as directors or key managerial personnel of any listed company for a period of 5 years from the date of this Order.

- 26) In case the Noticees fail to refund the due amount to the investors within the stipulated time as directed above, SEBI shall initiate recovery proceedings against the Noticees under Section 28A of the SEBI Act, 1992.
- 27) This order is without prejudice to any other action which SEBI may take against the Noticees in this matter.
- 28) A copy of this Order shall be forwarded to all the recognized Stock Exchanges, registered Depositories, Banks and Registrar and Transfer Agents for necessary compliance with the above directions. A copy of this Order shall also be forwarded to the Government of Gujarat; for information.

Place: Mumbai

Date: November 03, 2021

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA