National Stock Exchange of India
Circular

Department: Investigation	
Download Ref No: NSE/INVG/57432	Date: July 04, 2023
Circular Ref. No: 166/2023	

To All NSE Members

Sub: **SEBI Order in the matter of Dhanolty Developers Limited**

This has reference to NSE circular no. NSE/INVG/31079 dated November 04, 2015 wherein SEBI vide its Order No. WTM/PS/82/ CIS-NRO/NOV/2015 dated November 04, 2015 and NSE circular no. NSE/INVG/44234 dated April 24, 2020 in reference to SEBI Order no. WTM/GM/DRA-3,EFD-1/ 04/ 2020-21 dated April 24, 2020.

SEBI vide order no. WTM/AN/EFD1/EFD1_DRA3/27932/2023-24 dated July 04, 2023 directed that Dhanolty Developers Limited [PAN: AADCD8142Q] and Sanjay Walia [PAN: AAKPW0221H]; Siddharth Walia [PAN: AALPW3988]; Anita Malik [PAN: ASYPM1031D]; Raksha Kumari [PAN: AKZPK5102G]; Shiv Pratap Singh [PAN: AVPPS2160P]; Shefali Walia [PAN: AAOPW1693H] and Pankaj Bakshi [PAN: AEGPB9921H] shall be prohibited from accessing the securities market and restrained from buying, selling or dealing in the securities market for a period of 4 years with effect from the date of submission of the certificate/ report referred to in paragraph 34.2 or completion of recovery proceedings referred to in paragraph 6 of above SBEI order dated July 4, 2023, whichever is earlier.

The detailed order is available on SEBI website (http://www.sebi.gov.in).

Further, the consolidated list of such entities is available on the Exchange website http://www.nseindia.com home page at the below link:

https://www.nseindia.com/regulations/member-sebi-debarred-entities

Members are advised to take note of the above and ensure compliance.

In case of any further queries, members are requested to email us at dl-invsg-all@nse.co.in

For and on behalf of

National Stock Exchange of India Limited

Sandesh Sawant
Senior Manager

ANNEXURE: SEBI Order in the matter of Dhanolty Developers Limited

WTM / AN / EFD1 / EFD1_DRA3 / 27932 / 2023-24

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ANANTH NARAYAN G., WHOLE TIME MEMBER

ORDER

Under Sections 11, 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999 and Regulation 4(2)(t) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003

In respect of:

Sr. No.	Name of the Entity	PAN
1	Dhanolty Developers Limited	AADCD8142Q

In the matter of Dhanolty Developers Limited

BACKGROUND:

1. Dhanolty Developers Limited (hereinafter referred to as **"DDL" / "The Company"**) and its directors/promoters were found to be engaged in illegal fund mobilizing activities from the public, which was in the nature of a Collective Investment Scheme (hereinafter referred to as **"CIS"**) as defined in Section 11AA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as **"the SEBI Act"**).

2. An Interim Order dated July 30, 2014 bearing reference no. WTM/SR/CIS-NRO/37/07/2014 (hereinafter referred to as **"Interim Order"**) was passed by Securities and Exchange Board of India (hereinafter referred to as **"SEBI"**) against DDL and its directors (7 in number), for floating a CIS without obtaining a certificate

of registration as required under Regulation 3 of the SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as **"CIS Regulations"**) and Section 12(1B) of the SEBI Act. The Interim order also *prima facie* found that the illegal mobilization of funds from the public was a fraudulent practice in terms of Regulation 4(2)(t) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practice Relating to Securities Market) Regulations, 2003 (hereinafter referred to as **"PFUTP Regulations"**).

3. Thereafter, a Final Order dated November 04, 2015 bearing reference no. WTM/PS/82/CIS-NRO/NOV/2015 (hereinafter referred to as **"Final Order"**) was passed by SEBI against DDL and its directors/promoters wherein it was held that the CIS launched by DDL without obtaining a certificate of registration from SEBI was in contravention of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations. The Final order also held that by mobilizing public monies through a CIS, without obtaining registration from SEBI, DDL and its directors had contravened the provisions of Regulation 4(2)(t) of PFUTP Regulations. Vide the Final Order, DDL and its directors were *inter alia:*
   3.1. directed to wind up the existing Collective Investment Schemes and refund the money collected by the said company under the schemes with returns which are due to its investors as per the terms of offer within a period of three months from the date of this Order; and
   3.2. restrained from accessing the securities market and prohibited from buying, selling or otherwise dealing in securities market for a period of four (4) years.

4. Subsequently, Final order was challenged in appeal by DDL and its director Sanjay Walia before the Hon'ble Securities Appellate Tribunal (hereinafter referred to as **"SAT"**). Hon'ble SAT vide its order dated October 06, 2017 read with order dated January 30, 2018 *inter alia* directed as under:

   "3…..the appellants to make a representation before SEBI within four weeks from today setting out in detail the amount already refunded to the investors and also

the mode and the manner in which the balance amount would be refunded to the investors……

5. The appellants are also directed to furnish to SEBI, relevant copies of balance sheets of the company and details of the total amount collected by the company from the investors under the schemes which are held to be CIS as are available with the appellant within a period of 45 days from today….."

5. Pursuant to the Hon'ble SAT's directions and after providing an opportunity of hearing, SEBI vide order dated March 29, 2019 disposed of the representation submitted by DDL. The said Order held as follows - *"……during the course of the personal hearing granted to the noticees, it was submitted that approximately ₹ 2.5 crore had been raised from around 250- 300 investors……..the noticees have not complied with the specific directions of SAT regarding furnishing of balance sheets of the company and details of the total amount collected by the company from the investors. The list of assets owned by them are also not supported with any evidence. Accordingly, in the absence of any other information arising from the SEBI Final Order, the aforesaid amount (i.e. ₹ 2.5 crore) shall be treated to be the minimum amount liable for refund by the noticees to the SEBI Final Order, to the investors of the illegal CIS."* The said order also held that the directions consequent to SEBI's Final order dated November 04, 2015 shall take effect.

6. Since the direction of refund to the investors in terms of order dated November 04, 2015 read with order dated March 29, 2019 was not complied with, SEBI had initiated recovery proceedings against DDL and its directors vide the Recovery Certificate No. 2390 of 2019 dated July 11, 2019. Pursuant to the initiation of recovery proceedings, bank accounts and demat accounts of DDL and its directors were attached vide notices of attachment no. 4627 of 2019 and 4628 of 2019 dated July 11, 2019. Further, vide prohibitory order no. RO/NRO/198/2021 dated September 23, 2021, the defaulters mentioned therein were prohibited from disposing, transferring, alienation

or creating charge in respect of properties mentioned therein under the Recovery Certificate No. 2390 of 2019 dated July 11, 2019.

7. Subsequently, a writ petition bearing number W.P. (C) No. 4174 of 2019 was filed before the Hon'ble High Court of Jharkhand by DDL and its director Sanjay Walia praying *inter alia* for the quashing of the notice of attachment of bank accounts dated July 11, 2019 and the notice of attachment of demat accounts dated July 11, 2019 under the attachment proceeding no. 4628 of 2019 in recovery certificate no. 2390 of 2019. Hon'ble High Court of Jharkhand vide order dated October 15, 2019 directed SEBI to dispose of the application dated April 23, 2019 submitted by DDL in the said writ petition.

8. Pursuant to the directions of Hon'ble High court of Jharkhand, SEBI vide order dated April 24, 2020 had disposed of the application of DDL with following *inter alia* directions:

   "…..

   (i) The Noticee Company and its directors/promoters namely, Sanjay Walia; Siddharth Walia; Anita Malik ; Raksha Kumari; Shiv Pratap Singh; Shefali Walia and Pankaj Bakshi shall obtain a certificate from a peer reviewed Chartered Accountant to the effect that the amounts shown in paragraph 4.8 of this order along with other amounts if any, shown by the company to be traceable to any investor, has been repaid by the Company, and furnish the same to SEBI within a period of 45 days from the lifting of the nation-wide COVID-19 lockdown.

   (ii) The Noticee Company and its directors/promoters shall cause to effect a newspaper publication in one widely circulated newspaper, in English and Hindi each, inviting complaints/claims from any investor in respect of the collective investment schemes (carried on in the current name of the noticee company or in any other name it was previously known) that are still outstanding, within a period of one month from the lifting of the nation-wide COVID-19 lockdown. The newspaper publication shall also contain an

advisory, informing the investor to forward a copy of such complaints/claims, with the superscription "Complaints / Claims in the Matter of Dhanolty Developers Ltd.", to SEBI …..

A period of one month from the date of the advertisement shall be provided to complainants for submitting any complaint as stated aforesaid. The Company and its directors/promoters shall submit to SEBI, a Compliance Report along with information on complaints received and monies refunded, within a period of ***three months*** *from the lifting of the nation-wide COVID-19 lock-down.*

(iii) In the event the Company fails to carry out the directions at sub-paragraph (i) and (ii) above or the complaints received reveal that the Company has failed to pay all dues to investors, directions consequent to SEBI's final order dated November 04, 2015 shall accordingly take effect and the Company and its directors shall be jointly and severally liable to wind up its existing collective investment schemes and refund the money collected by it under the schemes with returns which are due to the investors as per the terms of offer within a period of three months from the due date of submission of the Compliance Report.

(iv) In the event that there are no complaints regarding failure to pay dues to investors and upon receipt of the CA certificate and Compliance Report as directed in sub-paragraph nos. (i) and (ii) above, an order shall be passed vacating the directions in the SEBI Final Order dated November 04, 2015 as well as the attachment order initiated by the Recovery Division, within a fortnight from the date of receipt of such Compliance Report. However, the Noticee company, Dhanolty Developers Limited [PAN: AADCD8142Q] and Sanjay Walia [PAN: AAKPW0221H]; Siddharth Walia [PAN: AALPW3988]; Anita Malik [PAN: ASYPM1031D]; Raksha Kumari [PAN: AKZPK5102G]; Shiv Pratap Singh [PAN: AVPPS2160P]; Shefali Walia [PAN: AAOPW1693H] and Pankaj Bakshi [PAN: AEGPB9921H] shall be prohibited from accessing the securities market and restrained from buying, selling or dealing in the securities

market for a period of 4 years with effect from the date of the aforesaid Compliance Report submitted to SEBI……"

(Emphasis supplied)

9. Subsequently in the year 2022, DDL vide representation dated 19.04.2022 had *inter alia* informed SEBI that in compliance with SEBI order dated April 24, 2020 advertisements / public notices were issued / published in various News Papers in April 2022 and copy of the same were submitted to SEBI. Further, DDL vide representation dated 11.05.2022 has submitted a certificate dated May 06, 2022 from a peer reviewed Chartered Accountant showing the repayments made by them to the investors. Therefore, DDL requested for vacation of directions in the SEBI Final order dated 04.11.2015 as well as attachment order initiated by Recovery Division, SEBI-NRO. Thereafter, DDL through multiple representation dated 10.06.2022, 30.07.2022, 06.10.2022, 21.11.2022, 25.11.2022, 09.01.2023 and 15.03.2023 had *inter alia* reiterated the aforesaid request for vacation of directions in the SEBI Final order dated 04.11.2015 as well as of the attachment order initiated by Recovery Division, SEBI-NRO.

10. DDL filed an appeal before Hon'ble SAT for implementation of directions mentioned in para 4.13(iv) of SEBI order dated April 24, 2020 to vacate the directions in SEBI Final order dated 04.11.2015 as well as attachment order initiated by Recovery Division, SEBI-NRO. Hon'ble SAT vide its order dated May 19, 2023 directed SEBI to pass an appropriate order on the application of the appellant within two weeks after giving an opportunity of hearing. In this regard, Hon'ble SAT directed appellant to appear before SEBI on June 12, 2023.

11. Pursuant to the direction of Hon'ble SAT, SEBI vide email dated May 31, 2023 granted an opportunity of hearing to DDL / director of DDL on June 12, 2023 at 04:30 PM through Online / Video Conference and DDL was advised to submit the detailed application on or before June 05, 2023. The director of DDL vide email dated June 07,

2023 stated that he had already filed various representations which are pending before SEBI for disposal and the same be read as representations / application made by DDL / director of DDL. No other specific consolidated application was filed before me for my consideration.

12. I note that DDL / director of DDL (namely Sanjay walia) vide various representations dated 19.04.2022, 11.05.2022, 10.06.2022, 30.07.2022, 06.10.2022, 21.11.2022, 25.11.2022, 09.01.2023, 15.03.2023 and 24.05.2023 had made submissions to SEBI in the matter the contents of which, in brief, are as under:

    12.1. That in compliance with SEBI order dated April 24, 2020 (a) DDL had published public notice / advertisements in various News Papers (English and Hindi) on April 07, 2022 and April 13, 2022 and copy of the same were submitted to SEBI; and (b) a certificate dated May 06, 2022 from a peer reviewed Chartered Accountant showing the repayments made by DDL to the investors was also submitted to SEBI.

    12.2. Pursuant to the newspaper publication, DDL or its directors has not received any complaint / claim from any investor regarding failure to pay dues.

    12.3. In compliance with the direction mentioned in the Para No. 4.13 (i) of order dated 24.04.2020, the directors / promoters of DDL namely Sanjay walia, Siddharth Walia, Anita Malik, Rakhsa Kumari, Shiv Pratap Singh, Shefali Walia and Pankaj Bakshi submitted affidavits dated May 24, 2023 stating inter alia that payments were made to the investors from DDL bank account and that no payments were made from their individual personal bank accounts to the investors of DDL.

    12.4. DDL / Sanjay Walia (director of DDL) had already complied with directions mentioned in SEBI order dated 24.04.2020. Therefore, DDL requested implementation of the directions mentioned in the Para No. 4.13(iv) of order dated 24.04.2020 to vacate the directions in SEBI final order dated 04.11.2015 as well as the attachment order initiated by SEBI.

    12.5. Payments were made to complainants Shri Satpal Gaba, Ms. Madhu Gaba and legal heirs of Shri Rajinder Gaba.

12.6. CA certificate dated 06.05.2022 and 24.05.2023 of payment of Rs. 2,03,27,067/- made from the bank account of DDL has been submitted by DDL.

12.7. Winding-up repayment report (WRR) dated 30.09.2022 with respect to repayment of Rs. 203.27 Lakhs to 276 investors has been submitted by DDL

12.8. Additional WRR and CA certificate dated 21.11.2022 of repayment of Rs. 1,32,000/- to Shri Satpal Gaba, Ms. Madhu Gaba and legal heirs of Shri Rajinder Gaba has been submitted by DDL.

12.9. DDL / Sanjay Walia, undertakes that if any person or persons approach SEBI for his/her payment, DDL / Sanjay Walia is ready and willing to make / settle his / her claim.

12.10. Sanjay Walia vide letter dated 23.12.2022 to Shri Amarnath Thakur, Inspector, CBI, Dhanbad, Jharkhand requested that *"if any, investor have approached you for his/her refund/claim the same may be intimated to the undersigned and to the office of SEBI-NRO, New Delhi within ten days",* as DDL is ready to settle his/her claim, if found genuine.

13. The Authorized Representative (AR) of DDL along with Sanjay Walia, director of DDL appeared online on June 12, 2023 and reiterated the earlier submissions / representation made by DDL / Sanjay Walia in the matter. The AR also stated that DDL had raised an amount of Rs. 2.5 crore from investors through CIS. During the course of hearing the AR was advised to submit following information before June 19, 2023:

13.1. List of investors and amount from whom the amount was raised / collected through CIS.

13.2. Peer review Chartered Accountant (CA) certificate dated 24.05.2023 had certified that a payment of Rs. 1,47,38,428 was made to investors from the bank account of DDL. Further, payment details of Rs. 55,88,639/- are not available and the same are not identifiable. In this regard, AR was advised to submit the list of persons to whom the payment of Rs. 55,88,639/- was made along with documentary evidence.

13.3. Out of Rs. 2.5 Crore, the CA certificate is with respect to an amount of Rs. 2,03,27,067/-, however CA certificate does not specify about the payment details of balance amount of Rs. 46,72,933/-. In this regard, the AR was advised to submit along with documentary evidence of whether an amount of Rs. 46,72,933/- was refunded to investors.

Hearing was adjourned to June 19, 2023 at 4:30 P.M. through Online / Video Conference mode.

14. Sanjay Walia, director of DDL vide email dated June 17, 2023 submitted reply to the information sought during the hearing held on June 12, 2023 which *inter alia* records the following:

14.1. The entire list of customers and amount received from them is not available with DDL and its directors, because the offices of DDL were sealed and the entire record, including new business register receiving, payment register, renewal installments register, computers and the ledgers were taken away by the local administration, during their raid at the office of the company, on various dates, in the year 2013.

14.2. *"The payment details and list of persons, to whom the payment has been made of Rs. 55,88,639/ are not available with the company, because the records and documents of the company are with local administration, as stated above & we have approached the bank to provide the details including the particulars of the persons to whom the payments have been made by the company."*

14.3. "… *in regard to the payment details of balance amount of Rs. 46,72,933/-, it is submitted that when DDL offices were sealed and raided by the local administration a panic/ruckus was created among the customers and the undersigned* (i.e. Sanjay Walia, director of DDL) *has paid cash to many persons, by arranging the cash from friend circle."*

The reply also recorded the following prayer, in addition to the earlier prayers made vide the aforesaid representations, - *"till the final disposal of our representation, we the directors / share holders may be allowed to open our new personal bank account to meet out daily needs and livelihood."*

15. The AR of DDL along with Sanjay Walia, director of DDL appeared online on June 19, 2023 and reiterated their earlier submissions along with submission made vide email dated June 17, 2023.

CONSIDERATION OF ISSUES AND FINDINGS:

16. I have perused the Interim Order, Final Order, SAT Order, DDL's various representations and other material available on record. On perusal of the same, following issues arise for consideration:
    16.1. ***Issue No. 1:*** *Whether DDL and its directors / promoters have complied with directions in SEBI order dated 24.04.2020?*
    16.2. ***Issue No. 2:*** *Whether directions against DDL and its directors / promoters in SEBI order dated 24.04.2020 and the recovery proceedings initiated against DDL and its directors/promoters are liable to be vacated?*

Issue No.1:* *Whether DDL and its directors / promoters has complied with directions mentioned in SEBI order dated 24.04.2020?

Direction in respect of Newspaper publication:

17. In terms of paragraph 4.13(ii) of order dated April 24, 2020, SEBI had directed:

"…..

4.13(ii) The Noticee Company and its directors/promoters shall cause to effect a newspaper publication in one widely circulated newspaper, in English and Hindi each, inviting complaints/claims from any investor in respect of the collective investment schemes (carried on in the current name of the noticee company or in any other name it was previously known) that are still *outstanding, <u>within a period of one month from the lifting of the nation-wide COVID-19 lockdown</u>. The newspaper publication shall also contain an advisory, informing the investor to forward a copy of such complaints/claims, with the superscription "Complaints / Claims in the Matter of Dhanolty Developers Ltd.", to SEBI …..*

A period of one month from the date of the advertisement shall be provided to complainants for submitting any complaint as stated aforesaid. The Company and its directors/promoters shall submit to SEBI, a Compliance Report along with information on complaints received and monies refunded, within a period of three months from the lifting of the nation-wide COVID-19 lock-down….."

(emphasis supplied)

18. I note that as per paragraph 4.13(ii) of SEBI order dated April 24, 2020, DDL and its directors / promoters were directed to effect newspaper publications in widely circulated newspapers, in English and Hindi each, inviting complaints/claims from any investor in respect of CIS that are still outstanding within a period of one month from the lifting of the nation-wide COVID-19 lockdown. In this regard, I note that DDL had published public notice / advertisements in various News Paper (English and Hindi) on April 07, 2022 and April 13, 2022 – i.e., well after the lifting of the nationwide lockdown - and copy of the same were submitted to SEBI.

19. Upon perusal of the aforesaid advertisements, I note that said advertisements appear to be in line with the direction mentioned in paragraph 4.13(ii) of SEBI order dated April 24, 2020. Though the advertisements were carried out belatedly, two years after the date of the SEBI order, I am of the view that DDL and its directors / promoter have largely complied with the directions in paragraph 4.13(ii) of SEBI order dated April 24, 2020.

Direction in respect of submission of peer reviewed Chartered Accountant Certificate:

20. In terms of paragraph 4.13(i) of order dated April 24, 2020, SEBI had directed:

"……

4.13 (i) The Noticee Company and its directors/promoters namely, Sanjay Walia; Siddharth Walia; Anita Malik ; Raksha Kumari; Shiv Pratap Singh; Shefali Walia and Pankaj Bakshi shall obtain a certificate from a peer reviewed Chartered Accountant to the <u>effect that the amounts shown in paragraph 4.8 of this order along with other amounts</u> <u>if any, shown by the company to be traceable to any investor,</u> <u>has been repaid by the Company, and furnish the same to SEBI within a period of 45 days</u> from the lifting of the nation-wide COVID-19 lockdown…."

(emphasis supplied)

21. I note that as per paragraph 4.13(i) of SEBI order dated April 24, 2020, DDL and its directors / promoters had been directed to obtain and submit a certificate from a peer reviewed Chartered Accountant (CA) to the effect that the amounts shown in paragraph 4.8 of order dated April 24, 2020 along with other amounts if any, have been repaid by the Company. In this regard, I note that as per DDL's submission dated February 25, 2020 (*mentioned in SEBI order dated April 24, 2020*), it had already repaid an amount of Rs. 2.50 crore, along with interest, to its investors. Thus, in order for it to be confirmed that DDL and its directors/promoters had complied with the direction in paragraph 4.13(i) of SEBI order dated April 24, 2020, they were required to obtain and submit a certificate from a peer reviewed CA to the effect that an amount of Rs. 2.50 crore has been repaid by DDL to the investors.

22. DDL had initially submitted a peer reviewed CA certificate dated 06.05.2022 with respect to payments made between 2011 and 2013. According to the said certificate, transactions (*amounting to Rs 2,03,27,067.50*) from 5 different bank accounts held by

DDL were examined and payments whose details could be identified were quantified as amounting to Rs 1,47,38,428. After submitting the said CA certificate to SEBI, SEBI had sought a WRR certificate from DDL in accordance with the directions in SEBI order dated April 24, 2020. Accordingly, DDL submitted WRR dated 30.09.2022 reiterating the conclusions of the CA certificate dated 06.05.2022. Pursuant to the initiation of recovery proceedings, and before the newspaper publication referred to in para 18, Gaba Family (3 investors) had filed complaint before SEBI seeking refund. The said complaint was taken-up with DDL and the same has been resolved by DDL and money was refunded to investors. In this regard, DDL has submitted additional WRR dated 21.11.2022 and CA certificate dated 21.11.2022. This CA certificate/ WRR identified repayments made to the 3 investors amounting to Rs 1,32,000.

23. A third CA certificate dated 24.05.2023 was submitted by DDL pursuant to the SAT remand order dated May 19, 2023. This CA certificate reiterated the computation made in the first CA certificate dated 06.05.2023.

24. Upon perusal of CA certificates dated 06.05.2022 and 24.05.2023, I note that CA had certified that debit entries amounting to Rs. 2,03,27,067.50 have been made from the bank accounts of DDL to persons who are not related to directors or to employees and which do not pertain to cash withdrawals, payment for expenses or inter bank transactions. According to the said CA certificates, out of the aforesaid amount, payment details relating to Rs. 1,47,38,428/- are available and identifiable. However, with respect to the remaining amount of Rs. 55,88,639/, the details thereof are not available and the payments are not identifiable. Most importantly, the said CA certificates carry the following staggering disclaimer – *"Further in absence of any supporting evidence, vouchers, books of accounts or details of investors and repayment details, we have relied on the information and explanation provided by the company."*

24.1. During the course of hearing dated June 12, 2023, DDL and its directors Sanjay Walia were once again asked to submit the list of all investors and amounts that was raised/ collected through the CIS. In response, DDL again submitted that the list of customers and amount received from them is not available with them and its directors, because the offices of DDL were sealed and the entire record, including new business register receiving, payment register, renewal installments register, computers and the ledgers were taken away by the local administration, during their raid at the office of the company, on various dates, in the year 2013.

25. Specifically, the persons to whom the payment of Rs. 55,88,639/- was made was also sought, along with documentary evidence. DDL vide email dated June 17, 2023 submitted that the payment details and list of persons to whom the payment of Rs. 55,88,639/ had been made are not available with DDL because the records and documents of DDL are with the local administration *(Refer para 14 of this Order)*.

26. During the course of hearing, DDL and its directors Sanjay Walia were also advised to submit and confirm, along with documentary evidence, whether an amount of Rs. 46,72,933/- *(balance amount after deducting the aforesaid 2.03 crore from the total claimed refund of Rs 2.5 crore)* was refunded to investors. DDL vide its email dated June 17, 2023 submitted that when DDL office was sealed and raided by the local administration a panic was created among the customers and Sanjay Walia director of DDL has paid cash to many persons by arranging the money from his friends *(Refer para 14 of this Order)*. Thus, I note that DDL had also failed to submit any documentary evidence of amount of Rs 46,72,933/- refunded to investors. However, from the representation of DDL, I note that a CA certificate dated 30.09.2022 (although not from a peer reviewed CA) was submitted, certifying that a payment of Rs. 1,32,000/- was made to 3 investors. Therefore, I note that no certificate from a peer reviewed CA was submitted with respect to the repayment of balance amount of Rs. 45,40,933/- by DDL and its director / promoter to SEBI.

27. In the absence an unambiguous and complete CA certificate and WRR that records that traces payments made to all investors, I cannot hold that the spirit of the direction made in SEBI's order dated April 24, 2020 has been complied with.

Issue No. 2: ***Whether directions mentioned in SEBI order dated 24.04.2020 and attachment order initiated by Recovery Division against DDL and its directors / promoters are liable to be vacated?***

28. Before addressing the issue specifically, a summary of the events that have transpired so far and the uncontested facts in this case need to be recounted to arrive at a conclusion with respect to vacation of directions/ orders and the recovery proceedings pending against DDL and its promoters/directors. They are as follows-

28.1. DDL and its promoters/ directors had, admittedly, floated a CIS and used the scheme(s) to mobilise monies from the public in violation of regulation 3 of SEBI (Collective Investment Schemes) Regulations, 1995 and SEBI (PFUTP) Regulations at least for three years between 2011 and 2013.

28.2. Neither the Interim Order, the Final Order nor DDL (and its promoters/ directors) have provided any record of the exact amount collected by the CIS run by DDL, the number of investors in the said CIS or the amounts collected from them.

28.3. To objectively determine the extent of DDL's liability for the illegal CIS, at the very minimum, any authority would need to know how much money was collected by DDL from whom, and to verify how much money has been returned to whom. This is the core information that has been repeatedly sought from DDL.

28.4. While DDL has on multiple occasions sought relief from the orders passed by SEBI by approaching the Hon'ble SAT or the Hon'ble High Court of Jharkhand, it has not been able to provide the aforesaid basic information which is crucial for considering any such relief.

28.5. The Hon'ble SAT, in its very first order in this case passed on October 06, 2017, read with order dated January 30, 2018 directed that the appellants must furnish "relevant copies of balance sheets of the company and details of the total amount collected by the company from the investors under the schemes which are held to be CIS as are available with the appellant…" Clearly the Hon'ble SAT recognised that in order to determine whether or not refunds have been made to investors, one must have an uncontroverted list of investors and the amounts raised by them.

28.6. Since there were no primary records even with respect to the amount collected by DDL, the submission made by it was considered and SEBI order dated March 29, 2019 held that the minimum amount collected by DDL can be said to be Rs. 2.50 crore.

28.7. Since DDL could not provide any proof of refund, recovery proceedings commenced against it under section 28A of the SEBI Act.

28.8. Basis the directions of the Hon'ble High Court of Jharkhand, SEBI once again examined the representations made by DDL and directed it vide SEBI Order dated April 24, 2020 to provide WRR and certificate from peer reviewed CA that would ***show that amounts traceable to any investor*** have been repaid by DDL. The obvious objective behind such a direction was to ensure that a peer reviewed CA would carry out a diligent process of identifying DDL's investors, recording the amounts collected from them (thereby identifying what was due to them) and then confirming independently whether such dues were satisfied.

28.9. To start with, the CA certificates provided by DDL do not confirm that refunds to the extent of all of Rs. 2.5 crores (the amount collected under the illegal CIS as per DDL's own admission) have in fact been made to the investors. At best, based on bank statements, it accounts for Rs. 1,47,38,428 of transfers to some persons, who it avers, inter alia, are neither directors nor employees nor related parties of the company. The CA certificates submitted by DDL do not refer to any master list of investors, do not identify the amounts due to the investors and do not record unambiguously whether payments were in fact made to those persons who were investors in DDL. Rather the CA certificates clearly record that they did not have access to any books, records or details of investors and have merely relied on the declarations made by DDL and its directors/ promoters. To reiterate, the certificate does not – and cannot – independently confirm that the payments have been made to the original investors into the illegal CIS.

28.10. Even if the benefit of doubt were hypothetically to be granted to DDL, that the Rs. 1,47,38,428 of funds were indeed returned to investors, and further taking into account the Rs. 1,32,000 returned to the Gaba family, there still remains a substantial amount of Rs. 1,01,29,572 crores totally unaccounted for.

29. SEBI's orders and SAT's directions on appeal by DDL would be rendered ineffective if relief were to be given to DDL based on a bland and incomplete certification provided by a CA substantially on the strength of DDL's own statements, that does not even account for the minimum amount collected by their illegal CIS by their own admission. The direction to appoint a peer reviewed CA was done so that a clear and independent verification of claims of refund could be obtained. DDL has, since 2014, repeatedly sought to shift the blame for absence of records on the actions of the local administration of 2013. DDL has in its submission via email dated June 17, 2023 reiterated that it does not have access to primary records and documents. Clearly therefore, there are no documents available on record as of now that would lead me to the independent incontrovertible conclusion that the refunds claimed to have been made have in fact been made to the investors of DDL.

30. Paragraphs 4.13 (iii) and 4.13(iv) of order dated April 24, 2020, directed as follows:

"……

4.13 (iii) <u>In the event the Company fails to carry out the directions at sub-paragraph (i) and (ii) above or the complaints received reveal that the Company has failed to pay all dues to investors, directions consequent to SEBI's final order dated November 04, 2015 shall accordingly take effect and the Company and its directors shall be jointly and severally liable to wind up its existing collective investment schemes</u> and refund the money collected by it under *the schemes with returns which are due to the investors as per the terms of offer within a period of three months from the due date of submission of the Compliance Report….."*

(emphasis supplied)

4.13 (iv) In the event that there are no complaints regarding failure to pay dues to investors and upon receipt of the CA certificate and Compliance Report as directed in sub-paragraph nos. (i) and (ii) above, an order shall be passed vacating the directions in the SEBI Final Order dated November 04, 2015 as well as the attachment order initiated by the Recovery Division, within a fortnight from the date of receipt of such Compliance Report. However, the Noticee company, Dhanolty Developers Limited [PAN: AADCD8142Q] and Sanjay Walia [PAN: AAKPW0221H]; Siddharth Walia [PAN: AALPW3988]; Anita Malik [PAN: ASYPM1031D]; Raksha Kumari [PAN: AKZPK5102G]; Shiv Pratap Singh [PAN: AVPPS2160P]; Shefali Walia [PAN: AAOPW1693H] and Pankaj Bakshi [PAN: AEGPB9921H] shall be prohibited from accessing the securities market and restrained from buying, selling or dealing in the securities market for a period of 4 years with effect from the date of the aforesaid Compliance Report submitted to SEBI…"

31. I note that as per direction mentioned under paragraph 4.13(iii) of SEBI order dated April 24, 2020, if DDL fails to carry out the directions mentioned at paragraphs 4.13(i) and 4.13(ii) of SEBI order dated April 24, 2020, directions consequent to SEBI's final order dated November 04, 2015 shall accordingly take effect and DDL and its directors shall wind up its existing CIS and refund the money collected by it under the schemes with returns which are due to the investors as per terms of offer within a period of three months from the due date of submission of the Compliance Report. In this regard, I note that DDL and its directors / promoter had failed to comply with the direction mentioned at paragraphs 4.13(i) of SEBI order dated April 24, 2020 as discussed above.

32. The concerned Operational Department of SEBI has confirmed that as per the available records, no complaints are pending against DDL regarding non-refund of money to investors. I also note and reiterate that DDL has largely complied with directions mentioned in paragraphs 4.13(ii) of SEBI order dated April 24, 2020 relating to newspaper publications inviting claims. However, these alone cannot obviate the need for a primary and independent confirmation that monies collected under the illegal CIS have been appropriately returned to the investors, viz., the stipulation under paragraph 4.13(i) of SEBI order dated April 24, 2020.

33. DDL and its directors/ promoters have claimed that the default is only by virtue of absence of record for the refund carried out. They have also claimed in their reply dated June 17, 2023 (*discussed in para 14 above*) that they have approached the bank for assistance with respect to particulars of persons to whom refunds have been made. Therefore, it may be appropriate to provide DDL and its directors/ promoters one final opportunity to submit a certificate from a peer reviewed CA and WRR in accordance with the directions in the SEBI order dated April 24, 2020, with respect to refund of the entire amount of Rs. 2.5 crore to DDL's investors. In the event DDL and its directors/ promoters submit the CA certificate / WRR as noted above for the entire amount due to be refunded, the pending recovery proceedings are liable to be cancelled/ vacated.

<u>ORDER:</u>

34. In view of the aforesaid observations and findings, in exercise of the powers conferred upon me under Sections 11(1), 11B and 11(4) of the SEBI Act and regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999 and in continuation of the directions in the SEBI Final order dated November 04, 2015 read with SEBI orders dated March 29, 2019 and April 24, 2020, I hereby direct as follows:

    34.1. Dhanolty Developers Limited [PAN: AADCD8142Q] and its directors/ promoters namely Mr. Sanjay Walia [PAN: AAKPW0221H; DIN: 03337163]; Mr. Siddharth

Walia [PAN: AALPW3988; DIN: 02775698]; Ms. Anita Malik [PAN: ASYPM1031D]; Ms. Raksha Kumari [PAN: AKZPK5102G; DIN: 02761163]; Mr. Shiv Pratap Singh [PAN: AVPPS2160P]; Ms. Shefali Walia [PAN: AAOPW1693H] and Mr. Pankaj Bakshi [PAN: AEGPB9921H] shall abstain from collecting any money from the investors or launch or carry out any Collective Investment Schemes including the scheme which have been identified as a Collective Investment Scheme in the Final Order.

34.2. Dhanolty Developers Limited and its directors/promoters namely, Sanjay Walia, Siddharth Walia, Anita Malik, Raksha Kumari, Shiv Pratap Singh, Shefali Walia and Pankaj Bakshi shall obtain and submit to SEBI, a certificate from a peer reviewed Chartered Accountant to the effect that the total amount of Rs. 2.50 crore along with other amounts if any, shown by the company to be traceable to any investor, has been repaid by the Company. The said certificate from a peer reviewed CA shall be on the basis of independent and verifiable evidence demonstrating the inflow and outflow of money from and to the investors of the CIS floated by DDL. The aforesaid CA certificate shall be submitted to SEBI along with a Winding up and Repayment report in accordance with the SEBI (Collective Investment Schemes) Regulations, 1999, indicating that all amounts shown in paragraph 4.8 of the SEBI order dated April 24, 2020, i.e., totaling Rs 2.50 crore have been repaid to the investors. The CA certificate and WRR shall be submitted to SEBI within a period of 3 months from the date of this Order. If DDL and its directors / promoters submit the CA certificate / report per the specifications above, within the timeline as directed above, an order shall be passed vacating the directions made in SEBI Final order dated November 04, 2015 read with SEBI orders dated March 29, 2019 and April 24, 2020. Consequently the attachment orders and prohibitory order referred to in paragraph 6 above shall also stand vacated.

34.3. Dhanolty Developers Limited [PAN: AADCD8142Q] and Sanjay Walia [PAN: AAKPW0221H]; Siddharth Walia [PAN: AALPW3988]; Anita Malik [PAN: ASYPM1031D]; Raksha Kumari [PAN: AKZPK5102G]; Shiv Pratap Singh [PAN: AVPPS2160P]; Shefali Walia [PAN: AAOPW1693H] and Pankaj Bakshi [PAN: AEGPB9921H] shall be prohibited from accessing the securities market and restrained from buying, selling or dealing in the securities market for a period of 4 years with effect from the date of submission of the certificate/ report referred to in paragraph 34.2 above or completion of recovery proceedings referred to in paragraph 6 above, whichever is earlier.

35. This Order shall come into force with immediate effect.

36. A copy of this order shall be served upon DDL and its directors / promoters namely Sanjay Walia, Siddharth Walia, Anita Malik, Raksha Kumari, Shiv Pratap Singh, Shefali Walia and Pankaj Bakshi.

37. A copy of this order shall also be forwarded to concerned Registrar of Companies, Stock Exchanges, Registrar and Transfer Agents and Depositories for their information and necessary action.

-Sd-

DATE: JULY 03, 2023 **ANANTH NARAYAN G.**

PLACE: MUMBAI **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA