

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP No.71/ALD/2023

(Application under Section 73(4) or 76(2) or under Section 74(2) or under Section 71(10) of the Act or Section 45QA of the Reserve Bank of India Act, 1934)

IN THE MATTER OF:

Binod Kumar, s/o Late Ram Narayan Yadav,

Resident of Mohalla: - Saristabad Naya Tola,
P.S.:- Gardanibag, P.O.:- G.P.O.,
District: - Patna-800001

...Depositor-Applicant

Versus

1. The Chief Managing Director, Sahara India Limited, Sahara Indian Bhawan, 1, Kapoorthala Complex, Alliganj, Lucknow-226024, Uttar Pradesh.

Also at: -

- Sahara India (R.O.), Sahara India Bhawan, 1, Kapoorthala Complex, Aliganj, Lucknow-226024, Uttar Pradesh.
2. The Managing Director, Sahara Credit Cooperative Society Limited (Regd.:- MSCS/CR/333/2010), Sahara India Bhawan, 1 Kapoorthala Complex, Alliganj, Lucknow, Uttar Pradesh- 220024.
3. The Managing Director, Humara India Credit Cooperative Society Ltd. (Regd. No.:- MSCS/CR/594/2012), Mangal Jyoti, 101, 227/2, AJC Bose Road, Kolkata, West Bengal: - 700020.

4. The Sector Worker/Sector Office, Sahara India, Sri Ram Place, Sahadeo Mahato Marg, S.K. Puri, Patna- 800001, Bihar.
5. The Regional Worker, Regional Office, Sahara India, Forth Floor, Sahara India Vihar, Boring Road Chauraha, Patna- 800001.
6. Zonal Office, Sahara India, Fifth Floor, Sahara India Vihar, Boring Road Chauraha, Patna- 800001.

Also at: -

Grievance Redressal Cell, Sahara India Vihar, Fifth Floor, Boring Road Chauraha, East Boring Canal Road, Patna- 800001

7. Sahara India Real Estate Corporation Ltd. Add: - 1, Kapoorthala Complex, Aliganj Lucknow, Uttar Pradesh.
8. Sahara India Commercial Corporation Ltd. (R.O.), Sahara India Sadan, 2A, Shakespeare Sarani, Kolkata, West Bengal- 700071IN

Also at: -

Command Office: - Sahara Indian Bhawan, 1, Kapoorthala Complex, Lucknow- 226024, U.P., India.

9. Devendra Kumar Srivastava, DIN/PAN: - 02997977, Add.:- B-175, Sector- G, Aliganj Lucknow- 226024, U.P., India.
10. Gyanendra Mani Tripathi, DIN/PAN No.:- 03146297, Add.: - 3/304, Deepak Jankipuram, Sahara Estate, Lucknow: - 226020, U.P., India.
11. Sanjay Arora, DIN/PAN: - 03147382, Add.:- Khera Singar Nagar, Alambagh, Lucknow: - 226005, U.P., India.

- 12.** Ajay Shukla Kumar, DIN/PAN No.:- 07139556, Add.:- 21/102, Malhar Sahara State Jankipuram, Lucknow-226021, Uttar Pradesh, India.
- 13.** The Registrar of Companies (Kanpur & Nainital), 10/499B, Alliganj, Khalasi Line, Kanpur-208002, Uttar Pradesh.

Also at:-

The Office of Registrar of Companies, 37/17, Westcott Building, The Mall, Kanpur-208001, Uttar Pradesh.

- 14.** The Office of the Central Registrar of Cooperative Societies, Government of India, Ministry of Agriculture, Department of Agriculture & Cooperative, Krishi Bhawan, Opposite Rail Bhawan, Dr. Rajendra Prasad Road, Raj Path Area, Central Secretariate, New Delhi- 110001

...Opposite Parties

Order pronounced on 2nd April, 2024

CORAM:

Sh. Praveen Gupta : Member (Judicial)
Sh. Ashish Verma : Member (Technical)

PRESENT-

Sh. Binod Kumar : Depositor/Applicant present in person
NONE : For the Respondent

ORDER

1. This petition has been filed by the petitioner, Sri Binod Kumar against Sahara Group of entities, mainly comprising of Sahara India Limited, Sahara Credit Cooperative Society

Limited, Humara India Credit Cooperative Society Limited, Sahara India Real Estate Corporation Limited and Sahara India Commercial Corporation Limited, alleging that these parties are working jointly in the name of a corporate entity i.e. Sahara India Limited “CIN NO:- U65910UP1984PLC006646), having its Head Office and Registered Office in Lucknow with its Regional and Branch Office at Patna also, and further contending that this Tribunal has jurisdiction over these companies against whom this petition has been filed. This petition has been filed under Section 73(4), Section 76(2) and Section 71(10) of the Companies Act, 2013, read with Section 45 QA of the Reserve Bank of India Act, 1934 due to failure of repayment of the deposit to the petitioner by these Companies, making prayer for issuing direction for the repayment of the deposit made by the petitioner with these Companies.

2. As per the averments made by the petitioner, he deposited money with these companies after he was approached by them showing rosy picture about themselves promising that money deposited with them will be safe, secure and liquid always at the option of the depositor petitioner. However, this

promise has not been fulfilled due to non-payment of deposit amount.

3. As per the details of deposits provided by the petitioner, following amounts are shown to have been deposited by him with Sahara Group of entities: -

S. No.	Certificate No.	Date of Deposit of money	Deposit amount	Promised date of return	Amount promised to be return
1	2	3	4	5	6
Company: - Sahara Credit Cooperative Society Limited. (Regd. No.: - MSCS/CR/333/2010)					
1.	14867803567	25.10.2019	36,000/-	25.04.2021	41,292/-
Company: - Humara India Credit Cooperative Society Ltd. (Regd. No.: - MSCS/CR/594/2012)					
1.	14867803567	25.10.2019	36,000/-	25.04.2021	41,292/-
Total:- 77,000/-					91,132/-

4. Despite making constant follow up with these entities, no repayment of deposit money has been made. Therefore, after repeated failure of these entities in repaying the deposit money, the depositor petitioner served a legal notice dated 13.03.2023 upon these entities through the Managing Director, Aliganj, Lucknow and one office at Shri Krishnapuri and Boring Road at Patna demanding the promised amount of Rs. 91,132/- and a compensation for suffering harassment/damaging of the amount of Rs. 91,132/- totaling

to an amount of Rs. 1,82,264/- with interest. No action has been taken by these entities even after being served by the above mentioned legal notice. Therefore, this petition has been filed by the petitioner making following prayers: -

- i.** The company above named be directed to make repayment of the above said deposits along with interest due thereon as the total promised amount of Rs. 91.132/- (Rs. Ninety one thousands on hundred thirty two only) as promised by the opposite parties by returned to the Depositor-Applicant.
- ii.** Rs. 91,132/- (Rs. Ninety one thousands one hundred thirty two only) be awarded to the Depositor-Applicant for the loss and injury sustained by the Depositor-Applicant.
- iii.** Interest at the rate of 18% by awarded to the Depositor-Applicant from the date of institution of this Depositor-Applicant to the date of payment.
- iv.** Cost of litigation Rs. 50,000/- (Rs. Fifty thousand only) may please be awarded to the Depositor-Applicant.
- v.** Any other order or orders as this Hon'ble Tribunal may deem fit and proper be passed in favor of the Depositor-

Applicant against the opposite parties in the facts and circumstances of the case.

5. During the course of the hearing of this petition, we noticed that in the case of Sahara Group of Companies due to non-payment of deposits collected by them from small investor, necessary action was taken by the Security and Exchange Board of India (SEBI) and finally, this matter has been heard by the Hon'ble Supreme Court and necessary orders were passed to ensure the repayment of deposits of small investors by the Sahara Group of Companies under the supervision of SEBI and one amicus curiae appointed by the Hon'ble Supreme Court. In this regard, on the direction of the Hon'ble Supreme Court, "Sahara-SEBI Refund Account" has been created to refund deposit money of the investors who made deposits with the Sahara Group of Companies however, it has been found later that a large amount of money was lying unutilized with the SEBI in "Sahara-SEBI Refund Account" deposited in this account pursuant to the earlier direction issued by the Hon'ble Supreme Court therefore, a Writ Petition No. 191 of 2022 was file by the one of the investors, Mr. Pinak Pani Mohanti for disbursement of money against

the legitimate dues of depositors of Sahara Group of Cooperative Society. Against this writ petition, following order dated 29.03.2023 has been passed by the Hon'ble Supreme Court: -

"1. Present application being I.A. No. 56308 of 2023 has been preferred by the Union of India, Ministry of Corporation for appropriate directions to transfer an amount of Rs. 5,000 Crores out of unutilized amount of Rs. 23,937 Crores (lying in "Sahara-SEBI Refund Account") to be disbursed against the legitimate dues of depositors of Sahara Group of Cooperatives Societies.

2. Shri Tushar Mehta, learned Solicitor General has submitted that a total amount of Rs. 24,979.67 Crores is lying unutilized with the SEBI in "Sahara-SEBI Refund Account", which has been deposited pursuant to the earlier direction issued by this Court. He has submitted that out of the aforesaid amount of Rs. 15,569.27 Crores deposited by Sahara India Real Estate Corporation Limited and Sahara Housing Investment Corporation Limited, Rs. 2253 Crores had been taken out from Sahara Credit Cooperative Society Ltd. and deposited with SEBI on account of the dispute of Sahara Real Estate Limited. It is submitted that, thus, the corpus which is lying in "Sahara-SEBI Refund Account" already includes the amount which belongs to the depositors of the aforesaid Sahara Group Cooperative Society Ltd.

2.1 He has stated at the Bar that the amount deposited in “Sahara SEBI Refund Account” is lying unutilized and in fact due to large number of continuing complaints against the Sahara Group of Cooperative Societies and the amount lying unutilized is also consisting of the amount of the depositors of Sahara Group of Cooperative Societies, if Rs. 5,000 Crores is transferred to the Central Registrar of Cooperative Societies and thereafter the same is disbursed against the legitimate dues of the depositors of the Sahara Group of Cooperative Societies, it will be just, proper and equitable.

2.2 He has stated at the Bar that on the aforesaid amount, there is no charge and/or attachment of any other agency. He has stated at the Bar that the present application has been filed for appropriate direction as prayed, after the series of meetings with the different authorities/departments, which shall be in the larger interest of the depositors of the Sahara Group of Cooperative Societies. He has also prayed that a suitable direction be also issued that the amount due and payable to the respective depositors of the Sahara Group of Cooperative Societies may be disbursed in the most transparent manner and the same shall be paid to the genuine depositors on proper identification and on submitting their proof of deposits. He has also requested that for that a suitable direction be also issued that the amount shall be disbursed to the respective depositors under the supervision of the Former Judge of this Court.

3. Having heard Shri Tushar Mehta, learned Solicitor General appearing on behalf of the Union of India and taking into consideration the facts narrated hereinabove and when it is reported that Rs. 2253 Crores had been taken out of the Sahara Credit Cooperative Society Ltd., i.e., one of the four Sahara Group Multi-State Cooperative Societies and deposited with SEBI in the “Sahara-SEBI Refund Account” and the amount lying in the “Sahara-SEBI Refund Account” is lying unutilized and the genuine depositors of the Sahara Group of Cooperative Societies, which otherwise, shall be entitled to get back their money, the 3 prayer sought in the present application seems to be reasonable and which shall be in the larger public interest/interest of the genuine depositors of the Sahara Group of Cooperative Societies. Therefore, the present application stands disposed of with the following directions:-

- (i) Out of the total amount of Rs. 24,979.67 Crores lying in the “Sahara-SEBI Refund Account”, Rs. 5000 Crores be transferred to the Central Registrar of Cooperative Societies, who, in turn, shall disburse the same against the legitimate dues of the depositors of the Sahara Group of Cooperative Societies, which shall be paid to the genuine depositors in the most transparent manner and on proper identification and on submitting proof of their deposits and proof of their claims and to be deposited in their respective bank accounts directly.

- (ii) *The disbursement shall be supervised and monitored by Justice R. Subhash Reddy, Former Judge of this Court with the able assistance of Shri Gaurav Agarwal, learned Advocate, who is appointed as Amicus Curiae to assist Justice R. Subhash Reddy as well as the Central Registrar of Cooperative Societies in disbursing the amount to the genuine depositors of the Sahara Group of Cooperative Societies. The manner and modalities for making the payment is to be worked out by the Central Registrar of Cooperative Societies in consultation with 4 Justice R. Subhash Reddy, Former Judge of this Court and Shri Gaurav Agarwal, learned Advocate.*
- (iii) *Rs. 15 lakhs per month be paid to Justice R. Subhash Reddy, Former Judge of this Court and Rs. 5 lakhs per month be paid to Shri Gaurav Agarwal, learned Amicus Curiae towards their honorarium.*
- (iv) *We direct that the amount be paid to the respective genuine depositors of the Sahara Group of Cooperative Societies out of the aforesaid amount of Rs. 5,000 Crores at the earliest, but not later than nine months from today. The balance amount thereafter be again transferred to the “Sahara-SEBI Refund Account”.*

6. After perusing the above order of the Hon'ble Supreme Court, we find that deposit money of small investors was largely deposited with the Sahara Group of Cooperative Society.

However, these small investors were not able to get their deposited money back from the "Sahara-SEBI Refund Amount" therefore, in order to help the genuine depositors of the Sahara Group of Cooperative Society, an amount of Rs. 5,000 Crore was ordered to be transferred to the Central Registrar of Cooperative Society, who in turn shall disburse the same against the legitimate dues of the depositors of the Sahara Group of Cooperative Society, which shall be paid to the genuine depositors in the most transparent manner and on proper identification and on submitting proof of their deposits and proof of their claims and to be deposited in their respective bank accounts directly. It has also been ordered by the Hon'ble Supreme Court that this disbursement of deposit shall be supervised and monitored by Justice R. Subhash Reddy, former Judge of the Hon'ble Supreme Court with the able assistance of Shri Gaurav Agarwal, the learned Advocate who is appointed as *amicus curiae* to assist Justice R. Subhash Reddy as well as the Central Registrar of Cooperative Society in disbursing the amount to the genuine depositors of the Sahara Group of Cooperative Societies. It has also below mentioned in the said order that the amount

be paid to the respective genuine depositors of the Sahara Group of Cooperative Societies out of the aforesaid amount of Rs. 5,000 Crores at the earliest, but not later than 9 months from today and the balance amount thereafter be again transferred the Sahara-SEBI Refund Account.

7. From the details of deposits as provided by the petitioner and already reproduced in para no. 3 of this order, we find that Rs. 36,000/- was deposited with Sahara Credit Cooperative Society Limited and another amount of Rs. 41,000/- was deposited with Humara India Credit Cooperative Society Limited. Both these parties are not companies as defined under Section 2(20) of the Companies Act, 2013. Therefore, these two parties with whom the petitioner has deposited money are not covered by the provisions of Section 73 or Section 71 or Section 76 of the Companies Act, therefore, no direction can be issued to these cooperative societies for the repayment of deposits as per the Provisions of the Companies Act. These parties are registered with the Multi State Cooperative Society Act, 2002 and deposits made with these Sahara Group of Societies is already covered by the order dated 29.03.2023 of the Hon'ble Supreme Court in which a

suitable mechanism has been devised for refunding the deposit amounts of genuine investors as we have already discussed above in the order. During the course of the hearing, the petitioner has also filed a Supplementary Affidavit on 31.12.2023, adding SEBI as a respondent through its one officer, Shri Vishesh Pravartan Kash (S.E. Cell) Securities and Exchange Board of India SEBI Bhawan Plot No. C4-A 'G' Block Bandra Kurla Complex Bandra (East) Mumbai- 400051.

8. As we have already found that the respondent parties with whom the deposits have been made by the petitioner, are not companies but Cooperative Society on which this tribunal does not have any jurisdiction to issue direction under the provisions of the Companies Act, therefore, no direction can be issued by this tribunal either to the respondent parties or SEBI as per the provisions of the Companies Act for refund of the deposit amount. However, keeping in view the fact that the Hon'ble Supreme Court has already issued direction for refund of deposit amounts of genuine depositor of the Sahara Group of Cooperative Societies to get their refund from Central Registrar of Cooperative Societies as ordered in para

3 of the order dated 29.03.2023 of Hon'ble Supreme Court as reproduce above, the petitioner may take necessary action to file its claim before the Central Registrar of Cooperative Society with supporting documents in order to get refund of the amount deposited by him.

9. Ordered accordingly in terms of this order and the petition CP No. 71/ALD/2023 is accordingly disposed off. Anything said whatsoever in the present order would however not construe as expression of opinion by us, in any manner.

-Sd-

(Ashish Verma)
Member (Technical)

-Sd-

(Praveen Gupta)
Member (Judicial)

Date: 2nd April, 2024