

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
REPORT NO.5 OF 2015

IN

NOTICE OF MOTION NO.240 OF 2014

IN

SUIT NO.173 OF 2014

WITH

TPN 2 OF 2014 TO TPN 15 OF 2014

Modern India Limited & Ors. ...Plaintiffs / Applicants

v/s.

Financial Technologies (I) Ltd. & Ors. ...Defendants

WITH

NOTICE OF MOTION (L) NO.2052 OF 2013

IN

SUIT NO.221 OF 2014

MMTC Ltd. ...Plaintiff

v/s.

The National Spot Exchange Ltd. & Ors. ...Defendants

WITH

NOTICE OF MOTION (L) NO.2166 OF 2013

IN

SUIT (L) NO.991 OF 2013

PEC Ltd. ...Plaintiff

v/s.

The National Spot Exchange Ltd. & Ors. ...Defendants

WITH

NOTICE OF MOTION NO.212 OF 2014

IN

SUIT NO.121 OF 2014

L. J. Tanna Shares and Securities Pvt. Ltd. & Ors. ...Plaintiff

v/s.

Financial Technologies (India) Ltd. & Ors. ...Defendants

WITH

NOTICE OF MOTION NO.765 OF 2014

IN

SUIT (L) NO.328 OF 2014

WITH

NOTICE OF MOTION (L) NO.807 OF 2014

The National Spot Exchange Ltd. ...Plaintiff
v/s.
P. D. Agro Processors Pvt. Ltd. & Ors. ...Defendants

SUBMITTED TO THE HON'BLE COURT:

THE COMMITTEE CONSTITUTED UNDER ORDER DATED 2ND SEPTEMBER 2014 RESPECTFULLY SUBMIT THEIR REPORT AS UNDER:-

1. Under Order dated 2nd September, 2014 passed by this Hon'ble Court in terms of Minutes of Order "X" and "X-1" thereto, a committee consisting of

- (i) Mr. Justice V. C. Daga (Retd.) – Chairman,
- (ii) Mr. J. S. Solomon - Advocate and
- (iii) Mr. Yogesh Thar – Chartered Accountant – Partner of M/s. Bansi S. Mehta & Co., Chartered Accountants,

has been constituted to determine the amounts payable by the alleged defaulters / third parties to National Spot Exchange Ltd. ("NSEL") and to ascertain assets of the alleged defaulters / third parties and amounts received directly or indirectly from NSEL in respect of various trades and to explore and negotiate mutual settlements between NSEL and the alleged defaulters / third parties and their clients and seek appropriate directions from the Court for sale / monetization of the assets both immovable and/or movable of alleged defaulting members and their clients and any other persons and perform duties and functions as provided in the Order dated 2nd September, 2014. Suit No.173 of 2014 being one of the Suits in which this Order dated 2nd September 2014 has been passed has been filed by Modern India Ltd. for itself and on behalf of other investors and traders claiming various amounts as due and payable in respect of the trades executed on the platform of NSEL.

2. Under the Order dated 2nd September 2014, NSEL has been directed to provide to the Committee infrastructure and assistance of staff to perform the functions of the Committee. Accordingly, NSEL has provided to the Committee use of office cabin on 1st Floor, Committee Room, World Trade Centre-1, Cuff Parade, Mumbai- 400005 and NSEL has also been booking conference halls in World Trade Centre for hearings before the Committee.

3. At the meeting held before the Committee on 20th October 2014, NSEL filed Application praying for issue of notices by the Committee to the defaulting members of NSEL and their clients. Annexure "B" to this Application is a list of defaulting members and clients of defaulting members of NSEL, who according to NSEL, have admitted their liability in writing, totaling as on 16th October 2014 to Rs.5327,00,47,205/- (Rupees Five Thousand Three Hundred and Twenty Seven Crores Forty Seven Thousand Two Hundred and Five only). At the Committee Meeting held on 20th October 2014, the Committee directed issue of notices to the defaulting members and clients of defaulting members mentioned in the Application of NSEL.

4. Till date 29 hearings have been held before the Committee in conference rooms in World Trade Centre, when Advocates for NSEL as also Plaintiffs and some of the parties in Suit No.173 of 2014 and other Suits in which Order dated 2nd September 2014 has been passed, as also Advocates and representatives of NSEL Investors' Action Group, NSEL Aggrieved and Recovery Association and NSEL Investors Forum and Investigating Officer - EOW, Mumbai and Deputy Collector and competent authority under MPID Act and various parties to whom notices have been issued by the Committee and their Advocates have been heard by the Committee.

5. Apart from requiring persons present to sign on attendance sheets, the Committee has not placed any restrictions on entry into the meetings held before the Committee and the meetings have proceeded in an orderly manner, with the cooperation of all participants.

6. On Saturday, 9th May 2015, the hearing before the Committee for full day was fixed in the Committee Room on 31st Floor of World Trade Centre-1, Cuff Parade, Mumbai- 400005, when about 50 persons claiming to be investors on the platform of NSEL were present. While the Committee was hearing Advocates for NSEL and for parties whose matters were fixed for hearing on that day, some of the investors present expressed their anxiety to be heard by the Committee, on which the Committee stated that after concluding the hearing of matters fixed on that day, the Committee will grant hearing to the investors present provided they maintain decorum and do not disturb the hearing before the Committee. After stating that investors will await their turn for hearing by the Committee, some of the persons present started interrupting the proceedings by complaining about delay in payment of their dues and the hardship faced by them and started hurling abuses on

officials of NSEL present at the meeting and did not heed repeated pleas by the Committee and some of the representatives of investors groups to maintain decorum. The officials and representatives of NSEL present at the hearing remained silent and maintained decorum. In view of the unacceptable behaviour on the part of some of the investors, the Committee directed all persons whose matters were not listed before the Committee on that day to leave the conference room. While leaving the conference room, some of the persons continued to hurl abuses at officials of NSEL and challenged them to come out of the conference room. When one of the officials of NSEL went out of the conference room, without seeking permission of the Committee, he was subjected to assault and had to be escorted back into the conference room. The security of World Trade Centre as also Police had to be summoned and persons who had disturbed the hearing before the Committee had to be escorted out of the World Trade Centre, so that the hearing before the Committee could continue on that day.

7. The Committee is fully conscious of the anxiety of the investors, including the smaller ones who claim to have invested their life savings in T+2 and T+25 paired contracts. Being aware of the plight of people whose savings are blocked, the Committee has often displayed strictness with the defaulters who have not cooperated in furnishing details or in appearing before the Committee on the given dates. However, the investors' anxiety or restlessness cannot justify rowdy behavior on their part in and outside the Committee room. Hearing is required to be granted by the Committee to parties appearing before the Committee and their Advocates in an atmosphere free of threats and intimidations.

8. The Committee therefore with utmost respect recommends to the Hon'ble High Court to

- (a) permit the Committee to restrict entry into meetings and hearings before the Committee in such manner as the Committee may deem appropriate from time to time, including by devising a system of issuing identity cards / passes for entry at meetings before the Committee;
- (b) direct the Commissioner of Police, Mumbai to provide police protection at the meetings of the Committee, whenever required by the Committee.

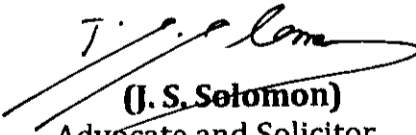
9. Copies of this Report are being served on following persons:-

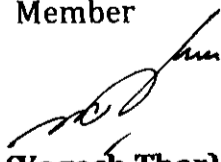
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|------|---|---|
| (1) | M/s. Naik Naik & Co. | Advocates for National Spot Exchange Ltd. |
| (2) | M/s. Federal & Rashmikant | Advocates for Modern India Ltd. |
| (3) | M/s. Amarchand Mangaldas & Suresh A. Shroff & Co. | Advocates for Financial Technologies (India) Ltd. |
| (4) | The Law Point | Advocates for MMTC Ltd. |
| (5) | M/s. Mansukhlal Hiralal & Co. | Advocates for L. J. Tanna Shares and Securities Pvt. Ltd. |
| (6) | M/s. Markand Gandhi & Co. | Advocates for NSEL Investors' Action Group |
| (7) | M/s. Deven Dwarkadas & Partners | Advocates for NSEL Aggrieved and Recovery Association |
| (8) | Mr. Sandeep Karnik | Advocate for NSEL Investors Forum |
| (9) | Mr. Mehul Shah | Advocate for Defendant Nos.29 to 32, 34 and 35 in Suit No.173 of 2014 |
| (10) | Mr. Sanjay Kadam | Investigating Officer, EOW, Mumbai. |
| (11) | Mr. Ajit Sakhre | Dy. Collector, Competent Authority under the MPID Act. |

10. This Report has been approved by Mr. Justice V. C. Daga (Retd.) - Chairman of the Committee who is at present out of Mumbai and therefore unable to sign the same personally.

Dated this 12th day of May 2015.

Approved by
(Justice V. C. Daga (Retd.))
Chairman


(J. S. Solomon)
Advocate and Solicitor
Member


(Yogesh Thar)
Chartered Accountant
Member

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REPORT

Dated this 12th day of May, 2015

Justice V. C. Daga (Retd.) - Chairman
Mr. J. S. Solomon
and
Mr. Yogesh Thar
Members
1st Floor, Committee Room (Aster),
World Trade Centre-1, Cuff Parade,
Mumbai 400005