

**BEFORE THE COMMITTEE CONSTITUTED UNDER THE BOMBAY
HIGH COURT ORDER DATED 2nd SEPTEMBER 2014 IN SUIT NO.173
OF 2014 AND OTHER RELATED SUITS COMPRISING
JUSTICE V.C. DAGA (RETD.) CHAIRMAN,
MR. J.S.SOLOMON (ADVOCATE AND SOLICITOR-MEMBER) AND
MR. YOGESH THAR (CHARTERED ACCOUNTANT MEMBER)**

MODERN INDIA LIMITED & ORS ...PLAINTIFFS

VS.

FINANCIAL TECHNOLOGIES (INDIA) LTD.

AND OTHERS ...DEFENDANTS

APPEARANCES:

Mr. Ameet Naik, Mr. Chirag Kamdar, Ms. Anuja Jhunjunwala,
Ms. Priya Khaitan, Ms. Saloni Sulakhe and Mr. Rohit Mangalsule,
Advocates i/b M/s. Naik Naik and Co. for NSEL

Mr. Vishal Pokarne, Mr. Anand Daksh, Mr. R. Mohan, and Mr.
Pravin Rathod, Representatives of NSEL.

Mr. Arvind Wadhavkar, Chief I.O. and Sr. P.I., EOW.

Mr. Shaneen Parikh- FTIL/J. Shah i/b M/s. Cyril Amarchand
Mangaldas

Mr. M.G. Agre i/b Mr. G.B. Kedia for Rajena Agro Products Ltd.
and Mr. Sayeed A. Patel.

Mr. O.P.Singh, for M/s. Rayen Steels Pvt. Ltd.

Mr. Bijal Mehta i/b Mr. Deven Dwarkadas & Partners for NAARA.

Ms. Nivedita Atre with Ms. Chinmayee Jagtap i/b M/s. Mansukhlal
Hiralal and Co. (In L.J. Tanna Suit)

Mr. Ravi Warriar, Ms. Hiral Thakkar and Mr. Ashwin Bhadang i/b
M/s. Federal and Rashmikant- Plaintiffs- Modern India

Mr. Arun Shilwant, Advocate for M/s. Vimaladevi Agrotech Ltd.

Ms. Shaista Pathan, Advocate with Ms. Gyanika Kochar, Advocate
i/b M/s. Yusuf and Associates for Prime Zone Developers Pvt. Ltd.

Ms. Ujwala Moti with Mr. C. Singh for Shah Minerals Pvt. Ltd.

Ms. Blinda Rebelow and Mr. S.B. Sharma- Investors.

Mr. Mohit Agarwal, Director of M/s. Aastha Minmet India Pvt. Ltd.

ORDER SHEET NO. 41B
(Dated 26th September, 2015)

1 Heard Mr. Arun Shilvant, Advocate for M/s. Vimaladevi Agrotech Ltd.

2 The Advocate appearing for M/s. Vimaladevi Agrotech Ltd., by Order Sheet No.39B, was directed to file an affidavit and to produce certain documents. Accordingly, he has filed an Affidavit of Mr. Varun Gupta, Director of M/s. Vimaladevi Agrotech Ltd. dated 24th September, 2015 stating therein that EOW has seized all the documents, vouchers, challans as also the computers of M/s. Vimaladevi Agrotech Ltd. and there is nothing available with them to produce except the copy of agreement and godown agreement between M/s. Vimaladevi Agrotech Ltd. and NSEL.

3 The above affidavit is to be appreciated in the light of Order Sheet No.39B, dated 9th September, 2015; wherein his clients were called upon to produce the documents listed in the notice issued by the Committee on 3rd September, 2015 with further direction that, if the documents are not available with them, then they should disclose as to with whom those documents are. At the same time, they were also called upon to file an acknowledgement of documents given by EOW while seizing documents from them. These directions of the Committee have not been complied with. No documents are made available to the Committee. No acknowledgment is produced in spite of the specific direction. The documents which were produced before the Committee are certain bills and invoices which are not arranged date wise or in sequence. It is not possible for us to know the real transactions with such scattered documents.

4 No statement is coming forth from M/s. Vimaladevi Agrotech Ltd. as to what happened to the accounts books viz; Cash Book, Stock Register, Ledger etc. One cannot imagine that having entered in to the transactions on the platform of NSEL involving crores of rupees, no account books would have been maintained by them. As a matter of fact, as per the Income Tax Act, even their accounts are required to be audited by their Chartered Accountant.

5 In spite of the directions issued by the Hon'ble Bombay High Court there is no intention on the part of M/s.

Hon'ble Bombay High Court and to cooperate with the Committee. Obvious intention is not to produce documents and Account Books only because they are going against them and that they cannot support their stand that they are under no liability to pay.

6 Needless to mention that after repeated opportunities were given, directions were sought by the Committee from the Hon'ble Bombay High Court directing M/s. Vimaladevi Agrotech Ltd. to appear and comply with the directions issued by the Committee. All these directions are flouted by them. In the circumstances, faced with the non-cooperation, the Committee is left with no other alternative but to draw an adverse inference against them and to rely upon the documents produced by NSEL on 27th April, 2015 along with their affidavit, copy of which was also served on M/s. Vimaladevi Agrotech Ltd. to which there is no reply filed till today.

7 In the above circumstances, the Committee is of the considered opinion that no useful purpose would be served by granting further adjournments. In the circumstances, adjournment is refused. The Committee to make appropriate recommendations to the Hon'ble Bombay High Court to determine the liability of M/s. Vimaladevi Agrotech Ltd. based on the documents produced by NSEL.

8 **Stand Over to 5th October, 2015 at 2.00 p.m.**


JUSTICE V.C.DAGA (RETD.)
CHAIRMAN


J.S.SOLOMON
ADVOCATE AND SOLICITOR


YOGESH THAR
CHARTERED ACCOUNTANT

MEMBERS

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