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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment reserved on: 17.11.2025***
Judgment pronounced on: 23.01.2026

\+ CO.APP. 9/2025, CM APPLs.56690/2025, 56691/2025 & 68197/2025

S.K. TANDON & ANR. .....Appellants

Through: Mr. Nidhesh Gupta, Senior Advocate with Mr. Aman Leekha, Mr. Ankur Chibber & Mr. Jaymut, Advocates for A-1 & 2.

versus

SECURITIES AND EXCHANGE BOARD OF INDIA & ANR. .....Respondents

Through: Mr. Pratap Venugopal, Senior Advocate with Mr. Abhishek Baid and Mr. Praneet Das, Advocates for R-1
Mr. Avneesh Garg, Mr. Utkarsh Sharma, Ms. Iptisha, Ms. Sneha Sharma, Ms. Saloni Kapoor and Mr. Ayush Pundir, Advocates for R2

\+ CO.APP. 10/2025, CM APPLs. 56810/2025 & 56811/2025

C R BHANSALI & ORS. .....Appellants

Through: Mr. Pinaki Misra, Senior Advocate with Mr. Rahul Sharma, Mr. Shubham Shekhar and Mr. Himanshu Singh, Advocates for A-1

versus

SECURITIES AND EXCHANGE BOARD OF INDIA & ANR. .....Respondents

Through: Mr. Pratap Venugopal, Senior Advocate with Mr. Abhishek Baid and Mr. Praneet Das, Advocates for R-1
Mr. Avneesh Garg, Mr. Utkarsh Sharma, Ms. Iptisha, Ms. Sneha Sharma, Ms. Saloni Kapoor and Mr. Ayush Pundir, Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

J U D G M E N T

HARISH VAIDYANATHAN SHANKAR, J.

1. With the consent of the parties, both Appeals were taken up for hearing together. As they arise out of the same proceedings and assail the same Judgment, we propose to adjudicate them by way of the present consolidated Judgment.

***PROLOGUE*:**

2. The present Appeals have been filed under Section 483 of the **Companies Act, 1956**[1], assailing **Judgement dated 01.09.2025**[2] passed by the learned Single Judge of this Court in CO. APP. Nos. 420/2022, 351/2023, 546/2023, 37/2024, 39/2024, 203/2024, 204/2024, 506/2024, 403/2025, and 404/2025, arising out of CO. PET.

[1] Companies Act
[2] Impugned Judgement

No. 379/2009 titled '*Securities Exchange Board of India (Trust Petition No. 3/1997) v. CRB Capital Markets Ltd.'*. By the Impugned Judgment, the learned Single Judge adjudicated the aforesaid applications and issued various directions to the parties.

3. The Appellants in CO. APP. No. 9/2025, *namely,* Mr. S.K. Tandon and Mr. S.C. Das, are former members of the Special Committee constituted pursuant to an order dated 29.05.2013 passed by the learned Single Judge, which was subsequently reconstituted *vide* Order dated 12.09.2023. Appellant No. 1 was the erstwhile Chairman of the Special Committee, while Appellant No. 2 was one of its members and is an Ex-Executive Director of SEBI. It is relevant to note that another member of the Special Committee, namely Mr. A.A. Sisodia, representing the Ex-Management of **CRB Capital Markets Ltd.**[3], was also part of the said Committee but was removed pursuant to the order dated 12.09.2023 passed by the learned Single Judge.

4. ***CO.APP. No.9/2025*** has been preferred by Mr. S.K. Tandon and Mr. S.C. Das, the former members of the Special Committee, challenging the Impugned Judgment and seeking to set aside the same. The Appellants also initially prayed for restoration of the *status quo ante*, *namely*, the status of the Special Committee as constituted *vide* Order dated 29.05.2013, along with permission to complete the process of winding up of the mutual fund. However, during the course of arguments, learned Senior Counsel for the Appellants clarified that the challenge in the present Appeal is confined to those portions of the Impugned Judgment which record adverse findings against the

[3] CCML

Appellants' conduct, attribute impropriety to the functioning of the Special Committee, and issue consequential directions having civil and reputational ramifications against the court-appointed officials such as the members of the Special Committee.

5. The Appellants in CO. APP. No. 10/2025 are Mr. C.R. Bhansali, CRB Trustees Ltd., and CRB Asset Management Co. Ltd. Appellant No. 1 is the ex-Director of CCML and a settlor of CRB Trustees Ltd. (Appellant No. 2). Appellant No. 1 is also a Director of CRB Asset Management Company Ltd. (Appellant No. 3).

6. ***CO. APP. No. 10/2025*** has been filed challenging the Impugned Judgment primarily on the ground that it purportedly re-opens and modifies the Order dated 29.05.2013, imposes an embargo upon the Special Committee from disbursing funds to the CRB Group Companies flowing from the Interim Order dated 25.01.1999, and issues further directions, particularly with respect to recovery proceedings, forensic audit, and transfer of control to SEBI through the Special Cell.

7. The Respondents in both Appeals are (i) SEBI and (ii) **Rommel Investment Pvt. Ltd**[4].

8. Since the grounds urged in both Appeals, as well as the defence raised by the Respondents therein, are substantially similar, the Appeals are being considered together for the sake of convenience, clarity, and uniformity. Accordingly, unless the context otherwise requires, the Appellants in both Appeals shall hereinafter be collectively referred to as "***the Appellants***", and the Respondents in both Appeals shall be collectively referred to as "***the Respondents***".

[4] Rommel

BRIEF FACTS:

9. The present proceedings arise out of a long and chequered history. However, eschewing unnecessary detail, the facts material to the institution of the present Appeals may be succinctly set out as follows:

a) CRB Mutual Fund was established in 1993 by CCML for undertaking mutual fund activities. For managing the said mutual fund, CCML proposed to set up:
   (i) an Asset Management Company under the name *CRB Asset Management Company Limited*; and
   (ii) a Trust under the name *CRB Trustees Limited*.

b) Accordingly, a Trust Deed dated 15.12.1993 was duly executed between CCML, as the *Settlor*, and CRB Trustees Limited, as the *Trustee*. CRB Asset Management Company Limited was also incorporated in 1994 in terms of Regulation 19 of the SEBI (Mutual Fund) Regulations, 1993, which were subsequently replaced by the **SEBI (Mutual Fund) Regulations, 1996**[5].

c) In August 1994, CRB Mutual Fund launched a close-ended scheme titled **Arihant Mangal Growth Scheme**[6], scheduled to mature in September 1999.

d) In the meantime, upon inspection of the records of CRB Mutual Fund, **Securities and Exchange Board of India**[7] detected multiple regulatory violations. Consequently, a Show Cause Notice dated 12.12.1995 was issued, culminating in an Order

[5] 1996 Regulations
[6] the Scheme
[7] SEBI

dated 24.04.1996 whereby CRB companies and the Trust were prohibited from launching new schemes until June 1997. Thereafter, on 20.05.1997, when SEBI summoned the Trustees/Directors to ascertain the steps taken to safeguard the interests of unit holders, it was informed that the entire Board had resigned.

e) In the backdrop of the aforesaid developments, the **Reserve Bank of India**[8] instituted a winding-up petition against CCML, being CO. PET. No. 191/1997. By order dated 22.05.1997, the learned Single Judge of this Court appointed a Provisional Liquidator to take custody of the assets and properties of CCML.

f) Parallelly, SEBI instituted Trust Petition No. 3/1997 before the Bombay High Court against the CRB Group Companies and connected persons.

g) In the Trust Petition, the Bombay High Court, apprehending mismanagement by the CRB Group Companies, *vide* order dated 09.10.1997, appointed Mr. M.L.T. Fernandes as the **Provisional Administrator**[9] to take charge of all assets of CRB Trustees Limited and CRB Asset Management Company Limited and to carry out the winding up of the Scheme.

h) By an Order dated 25.01.1999, the Bombay High Court approved a premature repayment scheme proposed by the PA for small investors holding between 300 and 10,000 units. It was specifically directed that entities belonging to the CRB

[8] RBI
[9] PA

Group Companies and persons associated with CRB Bhansali would be excluded from such payments. In this regard, a list of 133 companies identified as being related to CCML or CRB Bhansali was recorded.

i) On 04.08.2000, CCML was deleted from Trust Petition No. 3/1997 on the grounds that it did not hold any units in the mutual fund.

j) Since CO. PET. No. 191/1997 seeking winding up of CCML was already pending before this Court, and pursuant to the order passed by the Hon'ble Supreme Court in Transfer Petition (Civil) No. 756/2004, Trust Petition No. 3/1997 was transferred to this Court *vide* order dated 13.08.2007 and renumbered as ***Com. Pet. No. 379/2009***.

k) Thereafter, the PA filed Company Application No. 1143/2009 in Company Petition No. 379/2009 seeking directions regarding the distribution of funds to unit holders holding up to one lakh units under the second scheme of repayment. Although pleadings were completed, the PA unfortunately expired on 24.02.2012.

l) On 29.05.2013, the learned Single Judge disposed of the main petition along with several connected applications. By the said Order, a Special Committee with a tenure of one year was constituted, comprising:

   (i) Mr. S.K. Tandon, retired Additional District Judge, as Chairperson,

   (ii) Mr. S.C. Das, former Executive Director of SEBI, and

   (iii) Mr. M.D. Kanther, nominee of the Ex-Management.

Upon the demise of Mr. Kanther on 29.05.2014, he was replaced by Mr. A.A. Sisodia.

The Special Committee was entrusted with the task of winding up the Scheme in accordance with the 1996 Regulations, and for this purpose, several directions were issued by the learned Single Judge.

m) The Committee was authorised to dematerialise and liquidate the securities of the Scheme, engage intermediaries, compute the **Net Asset Value**[10], and disburse amounts to unit holders, subject to statutory liabilities and expenses. Over the years, the Special Committee realised certain assets and made disbursements from time to time. Nearly three dozen interim reports and statements of accounts were filed before the learned Single Judge. However, later, these reports were found to be deficient as they did not disclose specific details of the recipients of payments. From the reports, it emerged that disbursements commenced from the third interim report onwards. Up to the 34th interim report, a total of 15,70,16,100 units were redeemed for an aggregate sum of approximately Rs. 211,65,47,028/-.

n) In the *interregnum*, several applications continued to be filed by various parties in the said Company Petition.

o) One such application, Company Application No. 1132/2017, was filed by the Special Committee against the National Stock Exchange and Rommel. By Order dated 05.12.2019, the learned Single Judge allowed the application against Rommel, holding

[10] NAV

that Rommel had failed to furnish particulars such as folio numbers and share numbers of the **Reliance Industries Limited**[11], shares allegedly pledged by CCML. Consequently, the defence of Rommel based on alleged agreements dated 22.11.1995 and 24.04.1996 was rejected as untenable and illusory.

p) The said Order dated 05.12.2019 was assailed by Rommel before the Division Bench in Company Appeal No. 1/2020, which remains pending. An interim application therein was rejected, whereafter Rommel approached the Hon'ble Supreme Court, which directed maintenance of the *status quo* with respect to the RIL shares pending adjudication of the appeal.

q) In 2021, Rommel filed Company Application No. 737/2021 alleging serious irregularities in the functioning of the Special Committee, including disbursements made to the Ex-Management. Pursuant thereto, SEBI filed Company Application No. 420/2022 seeking a final extension of one year for completion of the winding-up process, followed by dissolution of the Special Committee. SEBI contended that although the Special Committee was envisaged to complete its task within one year, it had continued to seek extensions from 2013 to 2022 without fully discharging its mandate.

r) The Special Committee filed Company Application No. 351/2023 seeking a further extension of its tenure for 12 months from 28.05.2023, was kept pending and not allowed by the

[11] RIL

learned Single Judge and eventually came to be disposed of *vide* the Impugned Judgement.

s) Upon consideration of the rival submissions and allegations, the learned Single Judge, by Order dated 17.08.2023, directed the Special Committee to transfer the entire fund lying with it, approximately Rs. 120 crores, to the Registrar General of this Court within two weeks. The Special Committee was permitted to retain Rs. 1 crore for day-to-day expenses. The Chairperson was further directed to file a detailed report before the Court.

t) By Order dated 12.09.2023, the learned Single Judge reconstituted the Special Committee by retaining only Mr. S.K. Tandon and Mr. S.C. Das, and removed Mr. A.A. Sisodia. The learned counsel for Rommel and SEBI were permitted to inspect the data submitted by the Special Committee, with a restriction on sharing their findings. It is noteworthy that this order was challenged by Mr. C.R. Bhansali in CO.APP. No. 25/2023, which was dismissed by Order dated 05.10.2023, observing that no direction prejudicial to Mr. Bhansali had been passed.

u) Upon inspection of the data, Rommel submitted a preliminary report dated 30.10.2023 alleging serious irregularities, including that approximately Rs. 131.90 crores had been disbursed to Mr. C.R. Bhansali, his family members, relatives, group companies, and sister concerns. In view of allegations of collusion, notices were issued to Mr. C.R. Bhansali and Mr. A.A. Sisodia. The Special Committee, however, contested these allegations.

v) Mr. C.R. Bhansali and Mr. A.A. Sisodia appeared before the learned Single Judge on 18.01.2024, whereupon their statements were recorded by the learned Single Judge.

w) Additional applications, including Company Application No. 403/2025 filed by Rommel and Company Application No. 506/2024 filed by SEBI, sought directions, *inter alia,* for a forensic audit, freezing of accounts, and scrutiny of payments made to CRB Group entities.

x) By the Impugned Judgment dated 01.09.2025, after hearing the parties at length, the learned Single Judge addressed issues of maintainability and, on merits, held that the doctrine of merger was inapplicable to the interim order dated 25.01.1999 *vis-à-vis* the final order dated 29.05.2013. It was concluded that the exclusion of CRB Group entities from payments continued to operate. The learned Single Judge also examined the propriety of the functioning of the Special Committee and objections relating to unclaimed redemption amounts.

y) Accordingly, directions were issued by the learned Single Judge for a forensic audit to be conducted within three months under Sections 11 and 11B of the **Securities and Exchange Board of India Act, 1992**[12]. A Special Cell of SEBI was constituted to take over the functions of the Special Committee as Trustee, with a mandate to complete the winding up of the Scheme under Regulations 41 and 42 of the 1996 Regulations within one year. Further, payments to Mr. C.R. Bhansali and related

[12] SEBI Act

entities were restrained pending completion of the forensic audit.

z) It was further directed by the learned Single Judge that unclaimed redemption amounts of approximately Rs. 95,40,51,044/- corresponding to 7,22,34,100 units held by 9,860 unitholders be transferred to the Investor Protection and Education Fund after one year, subject to SEBI's decision on extending the claim period.

aa) Aggrieved by the said Judgment, the present Appeals have been preferred before us:

(i) By the Special Committee constituted by the order dated 29.05.2013 (which was reconstituted *vide* order dated 12.09.2023), assailing the findings and directions concerning its functioning; and

(ii) By Mr. CR Bhansali and the CRB Group Companies, challenging, *inter alia*, the observations and directions relating to disbursements made to CRB Group unit holders and the consequential directions for further scrutiny and recovery.

CONTENTIONS OF THE APPELLANTS:

10. On behalf of the Appellants, the submissions advanced may be summarised as follows:

I. The core mandate under the Order dated 29.05.2013 was the realisation of the assets of the Scheme and distribution of the proceeds to *"all the unit holders"*. Consequently, disbursements made to the entities that were lawful unitholders

of the Scheme, even if affiliated with the CRB Group, were in strict compliance with the express judicial directions. There was no embargo in the said order excluding CRB Group entities from receiving payments.

II. The inclusion of a nominee of the Ex-Management in the Special Committee was neither clandestine nor irregular. It was expressly authorised by the learned Single Judge in the Order dated 29.05.2013. Further, the composition of the Special Committee fully conformed to Regulation 16(5) of the 1996 Regulations, which requires that two-thirds of the trustees be independent. The nominee of the Ex-Management constituted a permissible minority within the statutory framework.

III. The learned Single Judge, in effect, undertook a review of the Order dated 29.05.2013, after a lapse of more than a decade, without any formal review proceedings and in the absence of grounds recognised in law for exercising such power.

IV. The Order dated 29.05.2013 was a consent order passed with the concurrence of all the parties. The said Order, not having been challenged on the grounds of fraud, misrepresentation, or mistake, has attained finality and operates as an estoppel against any unilateral modification. SEBI, being a consenting party to the said Order, could not subsequently seek directions contrary thereto by filing Company Application No. 506/2024, which amounts to an abuse of the process of the Court. Further, SEBI was always aware of the earlier Orders dated

25.01.1999 and 29.05.2013, yet remained silent for several years and has now taken a complete volte-face.

V. The learned Single Judge erred in holding that the Order dated 25.01.1999 did not merge with the final order dated 29.05.2013. The Order dated 25.01.1999 squarely falls within the four corners of the doctrine of merger and therefore stood absorbed into the final order. The learned Single Judge failed to appreciate that an interlocutory order, insofar as it finally determines an issue in controversy, stands merged with the final judgment. The Order dated 25.01.1999 passed by the Bombay High Court was final *qua* the premature repayment scheme, and in any event, all interim directions contained therein stood merged into and superseded by the final order dated 29.05.2013 governing the winding up of the Scheme.

VI. The Order dated 29.05.2013 expressly contemplated the sale of all assets and distribution of proceeds to *"all unit holders"*, and was passed with full knowledge of the earlier orders of the Bombay High Court. Accordingly, none of the recognised exceptions to the applicability of the doctrine of merger were attracted *qua* Orders dated 25.01.1999 and 29.05.2013.

VII. The interim reports submitted by the Special Committee before the learned Single Judge were concise and contained all material particulars. The detailed transactional data relating to disbursements made to unitholders could not be annexed with the reports owing to their voluminous nature. It has been emphasised that neither the Court nor SEBI had ever called upon the Special Committee to furnish such granular details.

In any event, SEBI was never precluded from seeking these particulars.

VIII. The direction to conduct a forensic audit was assailed as wholly unwarranted and disproportionate. No material was placed on record to indicate that disbursements were made to persons other than those disclosed by the Committee, or that there existed any irregularity, misstatement, or suppression in the accounts. The accounts of the Special Committee were periodically audited by independent statutory auditors, and the reports placed before the Court were accepted and acted upon for several years without objection. Further, during the hearings culminating in the Impugned Judgment, no specific instance of financial impropriety, misappropriation, or falsification of records was either pleaded or demonstrated.

IX. The learned Single Judge erred in drawing adverse inferences from the fact that the Special Committee functioned from premises associated with the CRB Group. Such an arrangement was expressly contemplated and permitted *vide* Order dated 29.05.2013, considering the location of records, existing infrastructure, and logistical requirements. The Committee functioned independently, bore its own expenses, and paid rent and other charges for the use of the premises.

X. In the event of any failure to wind up the Scheme in accordance with Regulations 41 and 42 of the 1996 Regulations, the statutory remedy lies under Regulation 68 thereof. Invocation of Rule 9 of the **Companies (Court)**

Rules, 1959[13], was therefore impermissible. This jurisdictional objection was neither adequately considered nor adjudicated in the Impugned Judgment.

XI. There has never been any allegation of diversion or siphoning of public funds by the Ex-Management, either by SEBI in Company Petition No. 379/2009 or by the RBI in Company Petition No. 191/1997. In the absence of any such foundational allegation, the directions for a forensic audit and refund were contended to be unsustainable.

XII. The reliance placed by the learned Single Judge on the pleadings in Company Application No. 1143/2009 was misconceived, as the said application, along with the main petition, stood disposed of by the Order dated 29.05.2013.

XIII. The learned Single Judge failed to conclusively determine the *locus standi* of Rommel and nevertheless entertained its applications, overlooking the fundamental requirement of establishing *locus*.

XIV. By Order dated 12.09.2023, the Special Committee was reconstituted and the nominee of the Ex-Management was expressly removed. The order categorically provided that, *"until further orders"*, the Committee would consist only of Mr. S.K. Tandon and Mr. S.C. Das. The order on NCM International's claim was passed on 29.11.2023, prior to the sealing of the Committee's office on 07.12.2023. It has therefore been urged that the Special Committee was fully competent and authorised to pass the said order.

[13] Companies (Court) Rules

XV. Further, the learned Single Judge erred in upholding SEBI's submissions regarding NCM International's claim, as the said application already stood released for listing before the roster bench in terms of the order dated 17.05.2025, and could not have been dealt with by the learned Single Judge.

XVI. The constitution of the Special Cell of SEBI has been assailed as being contrary to the 1996 Regulations, and therefore, illegal. Further, there is no provision in the said Regulations permitting SEBI employees to assume the role or functions of trustees.

XVII. The learned Single Judge misread and misunderstood the purport of the SEBI Circulars dated 24.11.2000 and 25.02.2016 concerning the transfer of unclaimed redemption amounts to the 'Investor Protection and Education Fund'.

CONTENTIONS OF THE RESPONDENTS:

11. ***Per contra***, on behalf of the Respondents, the submissions advanced may be summarised as follows:

I. The Special Committee lacks *locus standi* to maintain the present Appeals. The Special Committee was constituted by the Court for a limited, specific, and time-bound purpose. Upon its dissolution by the Impugned Judgment, it ceased to exist in the eyes of the law. Further, no adverse directions have been issued against the members of the Special Committee in their personal capacities. A direction for conducting a forensic audit of records, by itself, does not give rise to any personal or

enforceable cause of action so as to confer a right of appeal upon the erstwhile Committee or its members.

II. The Special Committee, being a creature of judicial order, possessed no independent or vested right to seek continuation or revival of its mandate. Once the learned Single Judge, in exercise of supervisory jurisdiction, entrusted the winding up of the Scheme to SEBI, the role and authority of the Special Committee stood extinguished *ipso facto*. Thus, former members of the Committee cannot seek to undo or sit in appeal over such judicial directions.

III. The functioning of the Special Committee was marred by a lack of transparency and accountability. Despite functioning for nearly a decade, the thirty-four interim reports filed between 2013 and 2023 failed to disclose critical particulars such as the identity of individual beneficiaries, the quantum of payments made, and the supporting vouchers. Such omissions were in clear derogation of fiduciary obligations and the disclosure requirements mandated under the 1996 Regulations.

IV. The very object of the Trust Petition and the orders passed therein, particularly the Order dated 25.01.1999 of the Bombay High Court, was to safeguard the interests of genuine investors by excluding Mr. C.R. Bhansali, his relatives, and CRB Group entities from receiving any payments under the Scheme. These protective directions continued to bind all subsequent administrators and authorities overseeing the Scheme and could not have been ignored or diluted by the Special Committee.

V. Despite the subsistence of the aforesaid judicial embargo, the Special Committee proceeded to disburse substantial funds to entities linked with the CRB Group without obtaining prior leave of the Court and without disclosing such disbursements in its reports. These conducts itself warranted judicial intervention and justified the direction by the learned Single Judge for a comprehensive forensic audit.

VI. The directions contained in the Impugned Judgment are firmly rooted in SEBI's statutory powers under Section 11B of the SEBI Act. As the statutory market regulator, SEBI is best equipped to undertake a forensic audit, trace fund flows, investigate irregularities, and ensure effective protection of investor interests.

VII. Out of the total recovered corpus of approximately Rs. 211,65,47,028/-, a sum of about Rs. 131.90 crores, constituting nearly 62.32%, had been disbursed by the Special Committee to Mr. C.R. Bhansali, his family members, and entities forming part of the CRB Group. Such disbursements were in direct violation of the embargo imposed by the Bombay High Court's Order dated 25.01.1999 and are therefore liable to be recovered. In view of the gravity of the allegations and the magnitude of the disbursements, a forensic audit of the records and actions of the Special Committee was stated to be imperative.

VIII. Several attendant circumstances demonstrate the impermissible influence of Mr. C.R. Bhansali over the functioning of the Special Committee. These include the operation of the Special

Committee from premises associated with the CRB Group, use of staff connected with the said Group, appointment of counsel who had previously represented CRB Group entities, induction of nominees associated with the CRB Group into the Special Committee, and the persistent failure to disclose beneficiary-wise details in the interim reports.

IX. Paragraph 18(xxii) of the Order dated 29.05.2013 expressly mandated that upon completion of the winding up, the Special Committee shall submit to SEBI and the unit holders a comprehensive report containing particulars such as the circumstances leading to winding up, steps taken for disposal of assets, expenses incurred, net assets available for distribution, and a certificate from the auditors of the fund. These judicial mandates were admittedly not complied with, and even after the lapse of more than a decade, the winding up of the Scheme remained incomplete, thereby justifying the intervention ordered by the learned Single Judge.

ANALYSIS:

12. We have heard the learned counsel appearing for the parties at length and, with their able assistance, have carefully perused the Impugned Judgment, the material placed on record, and the written submissions advanced on their behalf.

13. At the outset, before adverting to the merits of the rival submissions, it is necessary to delineate the true nature of the controversy which arises for our consideration. The dispute essentially hinges upon the scope, ambit, and legal character of the Order dated

29.05.2013 passed by the learned Single Judge, the interpretation and effect of which has a direct bearing on the correctness of the Impugned Judgment. For this purpose, it would be apposite to first advert to the settled principles governing the construction and interpretation of judicial pronouncements. The Hon'ble Supreme Court, in ***P.S. Sathappan v. Andhra Bank Ltd.***[14], made the following pertinent observations:

> *"**Precedent***
>
> **144.** While analysing different decisions rendered by this Court, an attempt has been made to read the judgments as should be read under the rule of precedents. A decision, it is trite, should not be read as a statute.
>
> **145.** A decision is an authority for the questions of law determined by it. While applying the ratio, the court may not pick out a word or a sentence from the judgment divorced from the context in which the said question arose for consideration. A judgment, as is well known, must be read in its entirety and the observations made therein should receive consideration in the light of the questions raised before it. **[See *Haryana Financial Corpn.* v. *Jagdamba Oil Mills* [(2002) 3 SCC 496 : JT (2002) 1 SC 482] , *Union of India* v. *Dhanwanti Devi* [(1996) 6 SCC 44] , *Nalini Mahajan (Dr.)* v. *Director of Income Tax (Investigation)* [(2002) 257 ITR 123 (Del)] , *State of U.P.* v. *Synthetics and Chemicals Ltd.* [(1991) 4 SCC 139] , *A-One Granites* v. *State of U.P.* [(2001) 3 SCC 537 : 2001 AIR SCW 848]** and ***Bhavnagar University* v. *Palitana Sugar Mill (P) Ltd.* [(2003) 2 SCC 111]]**
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> **146.** Although decisions are galore on this point, we may refer to a recent one in ***State of Gujarat* v. *Akhil Gujarat Pravasi V.S. Mahamandal* [(2004) 5 SCC 155: AIR 2004 SC 3894]** wherein this Court held: (SCC p. 172, para 19)
>
> > "It is trite that any observation made during the course of reasoning in a judgment should not be read divorced from the context in which it was used."
>
> **147.** It is further well settled that a decision is not an authority for the proposition which did not fall for its consideration."

[14] (2004) 11 SCC 672

14. Similarly, in ***Goan Real Estate & Construction Ltd. v. Union of India***[15], the Hon'ble Supreme Court reiterated and elaborated upon the principles governing the interpretation of judicial orders, observing as under:

> "**31.** It is well settled that an order of a court must be construed having regard to the text and context in which the same was passed. For the said purpose, the judgment of this Court is required to be read in its entirety. A judgment, it is well settled, cannot be read as a statute. Construction of a judgment should be made in the light of the factual matrix involved therein. What is more important is to see the issues involved therein and the context wherein the observations were made. Observation made in a judgment, it is trite, should not be read in isolation and out of context…."

15. Guided by the aforesaid authoritative pronouncements, we now proceed to examine the Order dated 29.05.2013 passed by the learned Single Judge, which lies at the very core of the present controversy and ultimately culminated in the passing of the Impugned Judgment which us under challenge before us. In the said order, after noticing the essential factual background, including the conduct of the concerned officials of the Companies and the Trustees which led to the filing of the Trust Petition, the appointment of the PA, and the relevant provisions of the 1996 Regulations, the learned Single Judge proceeded to issue various directions. The relevant portion of the said Order reads as follows:

> "**14.** Therefore, looking to the special circumstances in this case, and keeping in mind the fact that a Provisional Administrator appointed by the Court has been looking after the management and administration of the Scheme ever since the year 1997; the fact that the last Provisional Administrator, Sh. M.L.T. Fernandes, has passed away in February 2012; and there also is no trustee available to administer the scheme; and with a view to doing

[15] (2010) 5 SCC 388

complete justice in the matter which has been pending in the courts for the last 16 years; and as prayed for by counsel for both parties; it would be in the fitness of thing if matters are now brought to a close with this Court constituting a special committee to carry out the functions of the Trustee and to proceed to wind up the Scheme in terms of the aforesaid Regulations 41 and 42 of the Securities Exchange Board of India (Mutual Funds) Regulations, 1996, with full power to act in this behalf in a manner similar to that of regularly constituted trustees, as contemplated under the said Regulations. This would include the power, inter alia, to dispose off all the securities of Arihant Mangal Scheme, presently lying with respondent No.4, IIT Corporate Services Ltd., and all other securities, wherever they may be; and to distribute the sale proceeds thereof to all the unitholders at the Net Asset Value (NAV), which is to be ascertained by the committee after following the prescribed procedure in terms of provisions of the aforesaid SEBI (Mutual Funds) Regulations, 1996.

15. Consequently, a Committee is now constituted, consisting of Sh. S.C. Das, Ex Executive Director, SEBI (suggested by counsel for the petitioner); Sh. M.D. Kanther, (suggested by counsel for the respondent No.1); and Sh. S.K. Tandon, retired Additional District Judge, Delhi, who shall be the Chairman of the Committee. Since this Committee is being put in place to carry out the work of the trustees, it is noteworthy that its composition also meets the requirements of Regulation 16(5) of the SEBI Regulations prescribing the composition of the Trustees. Regulation 16(5) states as follows:

> "Two-thirds of the trustees shall be independent persons and shall not be associated with the sponsors or be associated with them in manner whatsoever"

16. During the course of hearing, and after examining the question of premises for the Committee at length, all parties agreed that the Committee would require some premises measuring about 1000-1500 sq. ft. The ex management of respondent No. 1 has agreed to provide the services of a minimum of three dealing assistants; one peon and one stenographer to the Committee, to begin with. It would, of course, be open to the Chairman of the Committee to request the respondent/ex-management for the staff to be either increased or decreased, as he deems fit. All other necessary equipment in the form of computers, printers, stationery etc. shall also be made available by the ex-management. In this context, Counsel for the ex management informed the Court that they have obtained premises at 201, II Floor, Priyadarshini Vihar, Delhi-110092 measuring 1300 sq. feet at a rent of Rs. 45,000/- per

month. Counsel for SEBI states that since the premises are stated to be commercial premises, he does not have any objection to this.

17. To enable the aforesaid Committee to carry out its functions, the complete records lying at the office of the erstwhile Provisional Administrator, Late Sh. M.L.T. Fernandes, be transferred from Mumbai to Delhi at a place and time convenient to the Chairman of the Committee. The other modalities of the transfer may be finalized by the Chairman himself in consultation with the parties and members of the Committee.

18. Under the circumstances, therefore, and for the removal of any doubts, the Committee is empowered to take all or any of the following steps:

(i) Transfer the records from Mumbai office of the erstwhile Provisional Administrator to its own office at Delhi.
(ii) Reconstitute the Board of CRB Asset Management Co. Ltd. and CRB Trustees Ltd.
(iii) Appoint a Custodian to carry out the custodial services of the assets of Arihant Mangal Scheme of CRB Mutual Fund (hereinafter called the Scheme) and for de-materialization of the securities held by CRB Mutual Fund.
(iv) Appoint a SEBI registered Registrar and Share Transfer Agent for maintaining the records of the unit holders and for dematerialisation of securities in place of M/s. Sharex Dynamic India Pvt. Ltd.
(v) Appoint SEBI registered Stock Broking Firm.
(vi) To open Demat account with a SEBI registered Depository Participant.
(vii) To open one or more Bank accounts, as required, with two signatories.
(viii) Dispose of the assets of the scheme at the best available market price and in the best interest of the unit holders of the Arihant Mangal Scheme.
(ix) Appoint Statutory Auditors of M/s CRB Asset Management Company Limited and M/s CRB Trustee Limited as required under Section 224 of the Companies Act, 1956.
(x) The proceeds realized from the sale of assets of the scheme be first utilized towards discharge of such liabilities as are due and payable under the scheme including the making of appropriate provision for meeting the expenses connected with its winding up. The balance shall thereafter be paid to the unit holders in proportion to their respective interest in the assets of the scheme. In this context, counsel for SEBI submits that his client's decision to move the Court was, inter alia, predicated on the abandonment of their duties by all the trustees of the trust company, namely, CRB Trustees Ltd., respondent No. 2

herein, which ultimately led to the appointment of the Provisional Administrator; and which also obliged his clients, i.e. SEBI, to provide funds to the tune of Rs. 10 Lacs for establishment and administrative expenses. Under the circumstances, the sum of Rs. 10 Lacs, which is stated by counsel for SEBI to have been paid by SEBI to the Provisional Administrator appointed by the Bombay High Court, for meeting the establishment and administrative expenses be reimbursed to SEBI in the first instance from the proceeds realised by the Committee after the sale of the securities. Counsel for the ex-management also has no objection to this.

(xi) The balance remaining in the hands of the Committee after deducting all other expenses shall be paid to the unit holders in proportion to their respective share to the units held by them under the scheme.

(xii) As agreed by all counsel, including counsel for SEBI, the Committee shall also compute the Net asset value of Arihant Mangal Scheme, according to the relevant rules and regulations, and publish the same in at least two daily newspapers at intervals of not exceeding one week.

(xiii) Compute and carry out valuation of investments made in Arihant Mangal Scheme.

(xiv) Wind up the "Arihant Mangal Scheme" of CRB Mutual Fund as per SEBI Mutual Fund Regulations.

(xv) File Audited Annual Accounts as required under Section 220 of the Companies Act, 1956, Annual Returns as required under Section 159 read with Section 161 of the Companies Act, 1956 of M/s CRB Asset Management Company Ltd. and M/s CRB Trustee Ltd. before the Registrar of Companies.

(xvi) Maintain statutory records, Registers, Forms, Returns etc. as are required to be maintained under the following Sections of the Companies Act, 1956.

(i) Register of Investment under Section 49.
(ii) Register of Members under Section 150.
(iii) Index of Members under Section 151.
(iv) Annual Returns under Section 159.
(v) Books of Accounts under Section 209.
(vi) Register of Contracts under Section 301.

(xvii) File Income Tax or any other Returns, Forms etc. of CRB Asset Management Company Limited and CRB Trustee Limited as required under Section 139 and other applicable Provisions of the Income Tax Act, 1961.

(xviii) File appeal, revisions against ex-parte orders passed by Income Tax, SEBI and/ or any other statutory authority in relation to CRB Trustee Ltd. and CRB Asset Management Co. Ltd.

(xix) Obtain internal audit reports at regular intervals from independent auditors appointed by the Committee.

(xx) Hold meeting of Committee as may be deemed fit and proper.

(xxi) Maintain records of the decisions of the Committee at their meetings and of the minutes of the meetings.

(xxii) On the completion of the winding up, it shall forward to the SEBI and the unit holders a report on the winding up containing particulars such as circumstances leading to the winding up, the steps taken for disposal of assets of the fund before winding up, expenses of the fund for winding up, net assets available for distribution to the unit holders and a certificate from the auditors of the fund.

19. As regards CRB Asset Management Company Ltd., which was arrayed as respondent No. 3 in the petition moved by SEBI before the Bombay High Court, the said respondent was appointed as an Asset Management Company in terms regulations 20, 21 and 22 of the SEBI (Mutual Fund) Regulations, 1996. As required under regulation 20(2) thereof, SEBI had granted approval to the said company in terms of regulation 21(2) which was subject to the terms and conditions mentioned in Regulation 22 thereof. Regulations 20(2) and 20(3) provide that the appointment of an Asset Management Company, such as respondent No. 3, can be terminated either by majority of the trustees or by 75% of the unitholders of the scheme and further, that any change to the appointment of the Asset Management Company shall be subject to prior approval of SEBI as well as unitholders. Admittedly, the trustees of the trust company have expressed their disinclination to discharge their duties as such more than 17 years ago. At the same time, there is no gainsaying the fact that the petitioner, Securities Exchange Board of India (SEBI) has been constituted with the object of protecting the interest of investors and to regulate the securities market and/or matters connected therewith or incidental thereto, and to that extent, is interested in safeguarding the interest of the unitholders of the scheme. In these circumstances, counsel for SEBI as well as counsel for the ex-management of respondent No. 1 company i.e., the sponsor, are agreed that the interest of all stakeholders is best served by termination of the appointment of the aforesaid CRB Asset Management Company, i.e. respondent No. 3 herein. This Court also feels that upon consideration of all the facts and surrounding circumstances, and since a special committee has been appointed to wind up the scheme, the appointment of the aforesaid CRB Asset Management Company be terminated. However, as regards the liabilities of that company, its directors and officers, the provisions of Regulation 25(6) are relevant. It states as follows:

> "Notwithstanding anything contained in any contract or agreement or termination, the asset management company or its directors or other officers shall not be absolved of liability to the mutual fund for their acts of commission or commission, while holding such position or office."

It is, therefore, made clear that the termination of appointment of respondent No. 3 by this Court does not absolve the company, its directors or other officers of liability to the mutual fund for their acts of commission or omission, if any, that may come to light. It is ordered accordingly.

20. Furthermore, keeping in mind the special circumstances, and the fact that the matter has remained sub judice; as well as the administration by successive Provisional Administrators appointed by the court, which had effectively divested the management over the control of the affairs of the respondent companies as well as of the mutual fund, it would be manifestly unjust to visit the ex-management of the respondent companies with any penalties or sanctions for non compliance with any statutory obligations during the period the matter has been sub judice and the affairs of mutual fund have been under the control and supervision of the Administrator and the court exclusively.

Under the circumstances, therefore, a general direction is issued to the Income Tax Authority, Registrar of Companies; or any other statutory authority to the effect that all the sanctions or adverse orders passed against any of these respondent companies or their employees, directors etc. shall stand withdrawn.

21. It is, however, made clear that as regards any claim in respect of respondent No.2 and 3, of any statutory authority, or any liabilities with regard to the period before the appointment of the Provisional Administrator; it would be open to the authorities to proceed as per law, whilst at the same time, it would be open to the respondent Nos.2 and 3, their directors and officials to take the defence on facts that they were either unable or prevented from compliance due to intervening orders of the court. Such a plea, if taken, will be duly considered.

22. Securities pertaining to the Arihant Mangal Scheme are stated to be lying with respondent No. 4, IIT Corporate Services Ltd. The said respondent has also moved Co. Appl. No. 710/2010. In this application, IIT Corporate Services Ltd. has sought discharge from acting as the custodian of the securities pertaining to the Arihant Mangal Scheme held in the name of CRB Trustees Ltd. account CRB Mutual Fund and to move all records and share certificates etc. pertaining to that scheme from its office; and to surrender the same to the "Provisional Administrator/Official Liquidator".

23. Looking to the circumstances and the fact that by this order, a separate committee for winding up the affairs of the Arihant Mangal Scheme has been appointed, it would be in the fitness of things to direct the Committee acting through its Chairman to also take charge of the aforesaid securities pertaining to the scheme which are lying with the custodian, IIT Corporate Services Ltd., i.e. respondent No. 4 herein, after proper verification and inventorisation to be carried out at the premises of respondent No. 4 with the requisite cooperation of the said respondent. For this purpose, considering the importance of the matter, the Chairman shall depute both the members of the Committee to go to Bombay. After the proper inventorisation, the said records may be shifted by the committee to its own premises at Delhi from where it shall be functioning in terms of this order.

24. Counsel for the aforesaid IIT Corporate Services Ltd. states that her client‟s only desire is that these records be removed from their office as early as possible so that valuable space does not remain tied down, and that they do not have any further claims in this regard. It is, therefore, made clear that nothing further is to be paid by either the Committee or the ex-management or anyone else for that matter, to respondent No. 4 on any account.

Prior intimation shall be given to respondent No. 4, IIT Corporate Services Ltd. as well as to counsel Mrs. Francesca Kapur (Chamber No. 131, Delhi High Court, New Delhi), for all further steps proposed to be taken in this regard by the Committee.

25. In addition to the above, the Committee is also authorized to carry out certification of securities transacted during the period 22.05.1996 to 22.05.1997 after laying down the certification procedure and giving due publicity in two newspapers. While laying down a certification procedure, the Committee shall also keep in mind the procedure laid down by the Bombay High Court. The Committee is fully empowered in this behalf to seek information, summon records and seek verification of facts, on affidavits or otherwise, as it may think fit, from any person or Authority. Keeping in mind the relevant circumstances, the Committee is at liberty to seek transfer of all funds that were deposited by Reliance Infrastructure Ltd. which have been mentioned in the separate orders passed by this Court disposing off Co. Appl. No. 1145/2009 and 1941/2010; which funds are now lying with the Registrar of this Court along with all accrued interest; to a Bank Account to be opened by the Committee for this purpose. It would be open to the Committee to direct disbursement of the same to the party found entitled to the same after completion of the certification process, along with any further amounts that may have been deposited or accrued by way of interest thereon.

> Since the committee is being empowered to carry out the aforesaid certification procedure with a view to satisfying the object of the interim orders passed by the Bombay High Court instituting such a procedure on 22.01.1999, which was amended on 4.5.1999, the Committee is requested to proceed with this work along with the process of winding up at the outset itself, in parallel with its other work and make every endeavour to complete this process within six months.
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> **26.** It would also be open to the Committee to appoint any Advocate or any other expert, if it considers it necessary for more effectively carrying out its functions; and for also approaching the court from time to time, if it is so advised, for any clarification/ modification/ directions that may be necessary for effective winding up of the scheme.
>
> It is expected that the Committee shall move with sufficient despatch since the matter is very old and a large amount of money of small investors is also involved. Both counsel feel that with the Committee members meeting about 3-4 times a week, the work of the Committee is likely to be completed within a year. The Chairman of the Committee shall be paid a fee of Rs. 1,00,000/- per month and each member shall be paid Rs. 75,000/- per month. It shall be open to the Chairman to recruit administrative staff and fix a reasonable compensation in this regard commensurate to the work to be done. The term of the Committee is fixed at 12 months from today. It is also expected that the staff made available to the Committee by the respondents or recruited by it, shall render service at least eight hours a day and 5 days a week. Reliable records in this regard be also kept. The Committee shall also file quarterly interim reports before this Court."

16. From a bare reading of the extracted portion of the Order dated 29.05.2013, the following, among others, undisputed and relevant facets emerge:

(i) The interest of the unitholders was held to be paramount, and the learned Single Judge emphasised that all decisions and actions must be guided solely by the objective of safeguarding their best interests.

(ii) In view of the prolonged and chequered litigation, the complete absence of functioning trustees at the relevant times, and later

the demise of the PA, the learned Single Judge found it necessary to bring finality to the matter. Accordingly, a three-member Special Committee was constituted to function as trustees, with a specific mandate to wind up the Scheme in accordance with Regulations 41 and 42 of the 1996 Regulations. The Committee was vested with full trustee-like powers, including the authority to sell all securities of the Scheme and to distribute the sale proceeds to the unitholders at the NAV determined in accordance with law.

(iii) The learned Single Judge observed that the composition of the Special Committee satisfies the requirement of Regulation 16(5) of the SEBI Regulations, inasmuch as two-thirds of its members are independent persons and not associated with the sponsor.

(iv) Recognising the practical requirements for effective functioning, the learned Single Judge put in place a complete mechanism for infrastructure, staffing, premises, and transfer of records. Adequate office space, supporting staff, equipment, and logistical support were directed to be made available, and all records of the erstwhile PA were ordered to be transferred to the Special Committee to enable it to discharge its functions efficiently and without impediment.

(v) The Special Committee was conferred extensive and wide-ranging powers to ensure an effective winding up of the Scheme. These powers include the authority to transfer and take custody of all records and assets of the Scheme; to reconstitute the Boards of CRB Asset Management Co. Ltd. and CRB

Trustees Ltd.; to appoint custodians, SEBI-registered Registrars and Share Transfer Agents, stock brokers, statutory and internal auditors; and to open demat and bank accounts as required.

(vi) The Special Committee was also authorised to dispose of the assets of the Scheme at the best available market value in the interest of unitholders, to compute and publish the NAV in at least two daily newspapers at regular intervals, to value investments, to maintain statutory records and books of account, and to file all corporate, tax, and regulatory returns.

(vii) The Special Committee was further empowered to file appeals or revisions against *ex parte* orders passed by statutory authorities, to conduct internal audits, to convene and record meetings, and to submit a comprehensive final winding-up report to SEBI and the unitholders.

(viii) With respect to the utilisation of sale proceeds, the learned Single Judge laid down a clear order of priority. The proceeds were to be utilised for discharging all Scheme liabilities and meeting winding-up expenses. Also, an amount of Rs. 10 Lacs advanced by SEBI towards establishment and administrative expenses was directed to be reimbursed to SEBI. Thereafter, the remaining balance was to be distributed proportionately among the unitholders in accordance with their respective holdings.

(ix) It is noteworthy that the learned Single Judge also directed the termination of the appointment of CRB Asset Management Company Ltd., as the Asset Management Company, with the consent of all concerned parties. However, it was expressly clarified that such termination does not absolve the Asset

Management Company, its directors, or officers from any liability arising out of their acts of commission or omission during their tenure, in terms of Regulation 25(6) of the 1996 Regulations.

(x) Considering that the matter had remained *sub judice* for a prolonged period and that the affairs of the mutual fund were under the exclusive control of court-appointed administrators, the learned Single Judge granted limited relief to the Ex-Management. It was directed that no penalties or sanctions shall be imposed on the Ex-Management for statutory non-compliance during this period, and that all adverse orders or sanctions passed by statutory authorities for the said duration shall stand withdrawn.

(xi) At the same time, the learned Single Judge clarified that liabilities pertaining to the period prior to the appointment of the PA were not wiped out, and statutory authorities were at liberty to proceed in accordance with law in respect of such prior liabilities.

(xii) To ensure effective discharge of its mandate, the Special Committee was authorised to engage advocates, auditors, and other experts as may be necessary.

(xiii) It was further provided that the Special Committee would have the liberty to approach the learned Single Judge from time to time for clarification, modification, or further directions.

(xiv) Finally, the learned Single Judge expressed the expectation that the entire exercise would be completed within a period of one year, provided a clear mechanism for remuneration of the

Chairman and members of the Committee, and directed that quarterly interim reports shall be filed before the learned Single Judge to monitor progress.

17. Thus, from the entire Order dated 29.05.2013, it emerges that the matter had been pending before the Court for nearly 16–17 years, even though the Scheme had matured as far back as in the year 1999. Considering that numerous applications were pending on various aspects and that continued delay would not benefit the unitholders, who had been awaiting resolution for decades, the learned Single Judge considered it appropriate to chart a way forward with the dominant objective of protecting the best interests of the unitholders.

18. Considering the scheme of the 1996 Regulations and the fact that the appointed PA was no longer alive, the Court constituted a three-member Special Committee to function as "trustees". This appointment was of considerable significance. While the learned Single Judge took note of the relevant provisions of the 1996 Regulations, the extraordinary situation, where statutory functions had not been performed by the originally designated entities and where SEBI had been compelled to approach the Court to safeguard the interests of unitholders, necessitated such an arrangement.

19. Accordingly, the learned Single Judge appointed a three-member Committee comprising an expert member from SEBI, a representative from the Ex-Management, and a neutral individual in the form of a retired Judge of the District Court, and vested it with full trustee-like powers. It is noteworthy that, by the same order, the role of CRB Asset Management Company Ltd. was terminated, and therefore, the inclusion of a member from the Ex-Management was

considered necessary for the smooth discharge of the Committee's functions.

20. The three-member Committee was thus constituted to complete the task earlier entrusted to the sole PA. In place of a single PA, a collective body came into existence. The learned Single Judge noted in the said Order that the earlier PA was an extension of the Court. Consequently, the appointment of the three-member Committee as trustees was intended to safeguard the interests of the unitholders and, in effect, constituted an extension of the Court's own function to wind up the Scheme in terms of the 1996 Regulations. The ultimate objective remained a fair and lawful winding up of the Scheme, keeping the best interests of the unitholders at the forefront.

21. To enable the Special Committee to effectively discharge the tasks entrusted to it, trustee-like powers were conferred upon it, accompanied by specific directions. These included a mandate to complete the entire exercise within a period of one year and to submit quarterly interim reports before the learned Single Judge, thereby facilitating continuous judicial monitoring. In order to maintain fairness and ensure independence, the learned Single Judge further directed that two-thirds of the members of the Committee shall be independent persons having no association with the sponsor.

22. However, instead of completing the assigned task within one year, the Committee took more than a decade, repeatedly seeking extensions of time, thereby clearly frustrating the intent and spirit of the Order dated 29.05.2013.

23. In the said Order, the learned Single Judge issued several directions and clarifications, *inter alia*, that the termination of CRB

Asset Management Company Ltd., as the Asset Management Company does not absolve it, or its directors or officers, from any liability arising out of acts of commission or omission during their tenure, in terms of Regulation 25(6) of the 1996 Regulations. The learned Single Judge further clarified that although no penalties or sanctions were to be imposed on the Ex-Management for statutory non-compliance during the pendency of the proceedings, liabilities pertaining to the period prior to the appointment of the PA were not extinguished, and statutory authorities were at liberty to proceed in accordance with law.

24. This demonstrates that the learned Single Judge remained conscious of the prior conduct of the management and trustees and ensured that no party could take advantage of its own wrongs, which had culminated in a complete breakdown necessitating SEBI's intervention to protect *bona fide* unitholders.

25. Turning now to the crucial aspect of the controversy, *namely*, the Order dated 25.01.1999, it is evident that the Order dated 29.05.2013 does not advert to, or even whisper about, the stand of the PA in relation thereto, nor about the mandate and implications of the interim Order dated 25.01.1999. It is not discernible from the Order dated 29.05.2013 whether the learned Single Judge kept in mind the existence, purport, and ramifications of the said Order, which directly concerned the acts and conduct of the CRB Group companies and persons associated with CRB Bhansali. The said Order had expressly mandated that entities belonging to the CRB Group companies and persons associated with CRB Bhansali would be excluded from

payments, and recorded a list of 133 companies identified as being related to CCML or CRB Bhansali.

26. Among other things, it is apparent that the learned Single Judge, while passing the Order dated 29.05.2013, was conscious that the Order might not be perfect and that there could be errors, omissions, or oversights requiring clarification, modification, or further directions. It was for this reason that express liberty was granted to the Special Committee to approach the Court in such eventualities.

27. *Ex facie*, in view of the apparent oversight, or at least an apparent contradiction, between the purport of the Order dated 25.01.1999 and the Order dated 29.05.2013, it would, in our considered opinion, have been prudent for the Special Committee to seek clarification from the Court. The Committee was not permitted to proceed on assumptions, particularly in the complex factual backdrop of the present case.

28. In the event of ambiguity, the Special Committee ought to have sought clarification, especially when its mandate was to protect the best interests of the honest unitholders. From inception, including during the tenure of the PA, the underlying premise was that errant persons must not be allowed to benefit, while the interests of honest and *bona fide* unitholders must not be compromised at any cost.

29. In our considered opinion, once the Court consciously vested the Special Committee with the role of a trustee, the Special Committee stood placed in a fiduciary position and was required to strictly adhere to that role. In terms of the empowerment granted by the Order dated 29.05.2013, clarifications or modifications were

required to be sought from the Court rather than proceeding on presumptions or assumptions, if there was any.

30. What further emerges is that although the Order dated 29.05.2013 formally disposed of the main petition along with the pending applications, it was never intended to close the matter once and for all. The express liberty for clarification and modification clearly indicates this. Further, since the Special Committee was constituted by the Court and functioned as an extension of the Court's mandate, it could never be concluded that mere disposal of the petition marked the end of judicial oversight.

31. The directions to submit periodic reports to the Court and a comprehensive final winding-up report to SEBI and the unitholders, which admittedly never happened, also demonstrate that the Order dated 29.05.2013 was neither final nor co-terminus. Had it been so, the only remedies available would have been those under law, such as review or appeal, rather than the continuing supervisory directions and repeated extensions granted by the Court.

32. It is no longer *res integra* that such an appointment carries a fiduciary character and imposes a corresponding obligation to act with good faith, fairness, loyalty, and scrupulous integrity. The Hon'ble Supreme Court, in ***Marcel Martins v. M. Printer***[16], has elaborately contemplated and explained these aspects. The Court examined the concept of "fiduciary" by referring to authoritative legal dictionaries and precedents, emphasising that the essence of a fiduciary relationship lies in trust, confidence, integrity, and the obligation to

[16] (2012) 5 SCC 342

act primarily for the benefit of another. The relevant portion of the said judgement reads as under:

> "**32.** The term "fiduciary" has been explained by *Corpus Juris Secundum* as under:
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> > "A general definition of the word which is sufficiently comprehensive to embrace all cases cannot well be given. The term is derived from the civil or Roman law. It connotes the idea of trust or confidence, contemplates good faith, rather than legal obligation, as the basis of the transaction, refers to the integrity, the fidelity, of the party trusted, rather than his credit or ability, and has been held to apply to all persons who occupy a position of peculiar confidence toward others, and to include those informal relations which exist whenever one party trusts and relies on another, as well as technical fiduciary relations.
> > The word 'fiduciary', as a noun, means one who holds a thing in trust for another, a trustee, a person holding the character of a trustee, or a character analogous to that of a trustee with respect to the trust and confidence involved in it and the scrupulous good faith and condor which it requires; a person having the duty, created by his undertaking, to act primarily for another's benefit in matters connected with such undertaking. Also more specifically, in a statute, a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any fiduciary capacity for any person, trust or estate."
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> **33.** *Words and Phrases*, Permanent Edn. (Vol. 16-A, p. 41) defines "fiducial relation" as under:
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> > "There is a technical distinction between a 'fiducial relation' which is more correctly applicable to legal relationships between parties, such as guardian and ward, administrator and heirs, and other similar relationships, and 'confidential relation' which includes the legal relationships, and also every other relationship wherein confidence is rightly reposed and is exercised.
> > Generally, the term 'fiduciary' applies to any person who occupies a position of peculiar confidence towards another. It refers to integrity and fidelity. It contemplates fair dealing and good faith, rather than legal obligation, as the basis of the transaction. The term includes those informal relations which exist whenever one party trusts and relies upon another, as well as technical fiduciary relations."

34. *Black's Law Dictionary* (7th Edn., p. 640) defines "fiduciary relationship" thus:

> "***Fiduciary relationship***. — A relationship in which one person is under a duty to act for the benefit of the other on matters within the scope of the relationship. Fiduciary relationships—such as trustee-beneficiary, guardian-ward, agent-principal, and attorney-client—require the highest duty of care. Fiduciary relationships usually arise in one of four situations : (*1*) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (*2*) when one person assumes control and responsibility over another, (*3*) when one person has a duty to act for or give advice to another on matters falling within the scope of the relationship, or (*4*) when there is a specific relationship that has traditionally been recognised as involving fiduciary duties, as with a lawyer and a client or a stockbroker and a customer."

35. *Stroud's Judicial Dictionary* explains the expression "fiduciary capacity" as under:

> "***Fiduciary capacity***.—An administrator who [had] received money under letters of administration and who is ordered to pay it over in a suit for the recall of the grant, holds it 'in a fiduciary capacity' within the Debtors Act, 1869 so, of the debt due from an executor who is indebted to his testator's estate which he is able to pay but will not, so of moneys in the hands of a receiver, or agent, or manager, or moneys due on an account from the London agent of a country solicitor, or proceeds of sale in the hands of an auctioneer, or moneys which in the compromise of an action have been ordered to be held on certain trusts or partnership moneys received by a partner."

36. *Bouvier's Law Dictionary* defines "fiduciary capacity" as under:

> "What constitutes a fiduciary relationship is often a subject of controversy. It has been held to apply to all persons who occupy a position of peculiar confidence towards others, such as a trustee, executor, or administrator, director of a corporation or society, medical or religious adviser, husband and wife, an agent who appropriates money put into his hands for a specific purpose of investment, collector of city taxes who retains money officially collected, one who receives a note or other security for collection. In the following cases debt

> has been held to be not a fiduciary one: a factor who retains the money of his principal, an agent under an agreement to account and pay over monthly, one with whom a general deposit of money is made."

37. We may at this stage refer to a recent decision of this Court in *CBSE* v. *Aditya Bandopadhyay* [(2011) 8 SCC 497], wherein Raveendran, J. speaking for the Court in that case explained the terms "fiduciary" and "fiduciary relationship" in the following words: (SCC pp. 524-25, para 39)

> "*39*. The term 'fiduciary' refers to a person having a duty to act for the benefit of another, showing good faith and candour, where such other person reposes trust and special confidence in the person owing or discharging the duty. The term 'fiduciary relationship' is used to describe a situation or transaction where one person (beneficiary) places complete confidence in another person (fiduciary) in regard to his affairs, business or transaction(s). The term also refers to a person who holds a thing in trust for another (beneficiary). The fiduciary is expected to act in confidence and for the benefit and advantage of the beneficiary, and use good faith and fairness in dealing with the beneficiary or the things belonging to the beneficiary. If the beneficiary has entrusted anything to the fiduciary, to hold the thing in trust or to execute certain acts in regard to or with reference to the entrusted thing, the fiduciary has to act in confidence and is expected not to disclose the thing or information to any third party."

It is manifest that while the expression "fiduciary capacity" may not be capable of a precise definition, it implies a relationship that is analogous to the relationship between a trustee and the beneficiaries of the trust. The expression is in fact wider in its import for it extends to all such situations as place the parties in positions that are founded on confidence and trust on the one part and good faith on the other.

38. In determining whether a relationship is based on trust or confidence, relevant to determining whether they stand in a fiduciary capacity, the court shall have to take into consideration the factual context in which the question arises for it is only in the factual backdrop that the existence or otherwise of a fiduciary relationship can be deduced in a given case. Having said that, let us turn to the facts of the present case once more to determine whether the appellant stood in a fiduciary capacity vis-à-vis the respondent-plaintiffs."

33. The Special Committee appointed by the learned Single Judge stood in the position of a Trustee of the unitholders under the Scheme. After the failure of the Company and the erstwhile Trustees to discharge their statutory and fiduciary obligations, the Court itself assumed this role and discharged the same through the PA for more than one and a half decades. Thereafter, by Order dated 29.05.2013, the learned Single Judge expressly extended this fiduciary role to the Special Committee, directing it to act as Trustee for the unitholders.

34. As noted earlier, the Special Committee was initially assigned the task of completing the winding-up exercise within a period of one year. However, the said task remained incomplete even after the passage of more than a decade. Extension after extension was sought by the Committee. When it became evident that these extensions were not leading to completion, SEBI raised objections, initially in the year 2022, by filing an application seeking dissolution of the Committee. Subsequently, several other applications were filed seeking various directions by different stakeholders, including the Committee, Rommel, and SEBI.

35. Considering these developments, and upon further inquiries conducted over a period of time, the Impugned Judgment came to be passed by the learned Single Judge, as is evident from its perusal. While doing so, the learned Single Judge examined various aspects in detail and thereafter issued multiple directions. Among the others, directions were issued for a forensic audit to be conducted within three months under Sections 11 and 11B of the SEBI Act. A Special Cell of SEBI was also constituted to take over the functions of the Committee as Trustee, with a mandate to complete the winding up of

the Scheme under Regulations 41 and 42 of the 1996 Regulations within one year. Further, payments to Mr. C.R. Bhansali and related entities were restrained pending completion of the forensic audit. It was also directed that unclaimed redemption amounts aggregating to approximately Rs. 95,40,51,044/-, corresponding to 7,22,34,100 units held by 9,860 unitholders, be transferred to the Investor Protection and Education Fund after one year, subject to SEBI's decision on extension of the claim period.

36. Before issuing these directions, the learned Single Judge also examined the propriety of the functioning of the Special Committee and objections relating to unclaimed redemption amounts. In doing so, the learned Single Judge examined the entire historical background, pleadings, and materials placed on record in the main petitions as well as the applications filed from time to time. The learned Single Judge also recorded the statements of Mr. C.R. Bhansali and Mr. A.A. Sisodia, who appeared before the learned Single Judge on 18.01.2024. On the basis of these materials and statements, the learned Single Judge drew certain inferences which ultimately led to the issuance of directions, including the direction for a forensic audit.

37. A perusal of the "*Conclusions and Reliefs*" portion of the Impugned Judgment makes it clear that, upon consideration of the overall factual matrix, the learned Single Judge found it reasonable and necessary to direct a forensic audit by SEBI. Further, since the Special Committee had failed to complete its task in entirety, the learned Single Judge constituted a Special Cell of SEBI for a period of one year to complete the winding up of the Scheme in terms of the 1996 Regulations, while also providing a broad mechanism for its

functioning. As regards the unclaimed portion of the redemption amounts, specific directions were issued which, in our considered opinion, are justified and are in consonance with Section 11 of the SEBI Act, the SEBI (Investor Protection and Education Fund) Regulations, 2009, and the SEBI Circulars dated 24.11.2000 and 25.02.2016.

38. Turning now to the most crucial aspect of the "*Conclusions and Reliefs*" of the Impugned Judgment, *namely*, the issue concerning "*Refund by CRB Group*", it is apposite to reproduce the relevant portion, which reads as under:

> "140. ……
>
> *****
>
> **REFUND BY CRB GROUP**
>
> (g) In as much as the prayer to recover the disbursements made by the Special Committee to the CRB group is concerned, upon conducting the forensic audit, if any violations are identified, SEBI is given liberty to proceed in accordance with law."

39. A bare reading of the aforesaid portion makes it clear that although the learned Single Judge examined the factual background in detail, including the essence of the Order dated 25.01.1999, the pleadings in Company Application No. 1143/2009, the applicability of the doctrine of merger between the Orders dated 25.01.1999 and 29.05.2013, and the propriety of the functioning of the Special Committee, no conclusive finding was recorded either against the members of the Special Committee or against the CRB Group companies and sister concerns. In particular, the learned Single Judge did not conclusively oust the CRB Group entities from their claims, pursuant to which the Special Committee is alleged to have made payments in disregard of the Order dated 25.01.1999.

40. This direction itself makes it clear that had there been a conclusive finding on this issue, the learned Single Judge would not have deferred the matter to be examined upon the completion of a forensic audit, nor would liberty have been granted to SEBI to proceed in accordance with law only if violations were identified.

41. Therefore, in our considered opinion, there is no substance in the apprehension of the Appellants, whether members of the Special Committee or the CRB Group, that the learned Single Judge has rendered any conclusive finding imputing manipulation or *mala fide* conduct in the entire winding-up mechanism.

42. In view thereof, we find no reason to examine the allegations and counter-allegations raised by the parties at this stage. We concur with the directions of the learned Single Judge, *inter alia*, directing the conduct of a forensic audit and granting liberty to SEBI to take action in accordance with law in relation to the recovery of disbursements made by the Special Committee to the CRB Group, if violations are established upon such audit.

43. As regards the submissions of the Appellants that there existed no grounds for directing a forensic audit, we are unable to accept the same. The very objective of a forensic audit is to ascertain the truth, and not to presume wrongdoing in advance. The existence of material raising legitimate questions itself justifies such an exercise.

44. The record reflects multiple reasons that necessitated the direction for a forensic audit by SEBI, and the learned Single Judge rightly exercised such discretion. By way of illustration, as pointed out by the Respondents during the hearing before us, the reply filed by the Special Committee to Company Application No. 737/2021, which

was filed by Rommel before the learned Single Judge, stated, in response to paragraph 6, that *"the Special Committee has carefully compiled the list of unit holders and has not found either CRB Capital Markets Ltd. or any other company connected with the same to be a unit holder of the Mutual Fund Scheme"*.

45. This statement, *ex facie*, does not appear to be in consonance with the submissions advanced by the learned Senior Counsel appearing for the Appellants, particularly those made while handing over a chart across the Bar.

46. Similarly, there appears to be numerous other inconsistencies, and many of them have been taken note of by the learned Single Judge in the Impugned Judgement itself. In view of these inconsistencies in the record, the direction issued by the learned Single Judge for conducting a forensic audit was both necessary and justified, as it was essential to ascertain the true and correct factual position.

47. At this stage, we express our deep dismay at the conduct of the concerned parties, who have failed to wind up, in accordance with the law, a Scheme that had matured as far back as in the year 1999. The entire object and intent of the Order dated 29.05.2013, which was passed with a view to expediting the winding-up process, has been completely frustrated, as the winding up could not be concluded even after the lapse of more than a decade thereafter. Despite the regulatory body being the Petitioner in the proceedings, the winding up has continued to linger for over two and a half decades, thereby defeating the very purpose of judicial intervention.

48. It is undisputed that the Order dated 29.05.2013 was passed with the consent of the parties present before the Court. The Trust

Petition filed by SEBI was intended to safeguard the interests of the unitholders; however, the situation might have been better addressed had SEBI not allowed the earlier Order dated 25.01.1999 to go unnoticed while the Order dated 29.05.2013 was being passed by the learned Single Judge, and had SEBI sought appropriate clarification at that stage or at least soon thereafter. SEBI, being the regulator as well as the Petitioner, was further expected to act with greater promptitude and vigilance, particularly when extensions were being granted repeatedly from 2014 till 2022 without any objection.

49. So far as the applicability of the doctrine of merger is concerned, as discussed hereinabove, having regard to the nature of the Order dated 29.05.2013, it cannot be said that the said order was final or co-terminus in nature. The order was clearly open-ended and itself contemplated multiple contingencies and further proceedings, thereby leaving the matter alive for continuation. Consequently, the doctrine of merger, in *stricto sensu*, could not be attracted in the present case.

50. Similarly, with respect to the submissions regarding review by the learned Single Judge in the Impugned Judgment *qua* the Order dated 29.05.2013, we reiterate that, considering the nature of the original order and the scope and ambit of the Impugned Judgment, the latter, having been passed in the context of subsequent developments, cannot be characterised as a review of the Order dated 29.05.2013.

51. Moreover, the proceedings, since their inception, were not strictly adversarial in nature, but were primarily directed towards safeguarding the interests of the unitholders, under the supervision of the Court. In this backdrop, the contention of the Appellants that the

Order dated 29.05.2013 was a consent order and that SEBI is, therefore, precluded from raising any objection in any manner, is wholly misconceived. The learned Single Judge was not adjudicating *inter se* disputes between the parties; rather, the focus of the Court was to ensure that the winding-up proceedings were carried out in accordance with law and brought to their logical conclusion at the earliest possible point in time. Consequently, any conduct or omission on the part of SEBI cannot prejudice, dilute, or defeat the true intent and purpose of the Order dated 29.05.2013.

52. We now turn to the other arguments raised by the Appellants in the present Appeals.

53. The Appellants have assailed the constitution of the Special Cell of SEBI as being contrary to the 1996 Regulations, contending that there is no provision therein permitting SEBI employees to assume the role or functions of trustees. We find no merit in this argument.

54. It is pertinent to note that when the PA was functioning for more than one and a half decades, he acted as a sole member. Having regard to the nature and object of the petition and the extraordinary situation prevailing, *namely*, the protection of the interests of the unitholders, and considering that the Special Committee envisaged by the Order dated 29.05.2013 was unable to complete the task assigned, we find no error in the learned Single Judge proceeding to constitute a Special Cell of SEBI to bring the long-pending winding-up process of the scheme to its logical conclusion. In any event, all actions of the Special Cell remain under the supervision of the Court and are always open to judicial scrutiny.

55. With respect to the argument relating to the failure of the learned Single Judge to conclusively determine the *locus standi* of Rommel, we find no merit in the same as well, as such a determination was not necessary for the adjudication of the present proceedings. The Impugned Order has been passed after considering various facets and is not founded solely on the actions of Rommel. Consequently, a definitive determination of *locus standi* was not required at this stage, and the *prima facie* satisfaction recorded by the learned Single Judge is sufficient, with which we are in agreement.

56. Coming to the order passed by the Special Committee on 29.11.2023 in relation to NCM International's claim, we find that during the pendency of the application seeking extension of the Committee's mandate, the passing of any such order by the Committee was clearly beyond its jurisdiction. The Committee was constituted pursuant to an order of the Court and was, therefore, bound to act strictly within the confines of the mandate granted by the Court. In the absence of any express authorization or subsisting mandate, any action taken by the Committee, particularly one affecting the substantive rights of a party, cannot be recognised or sustained in law.

57. The Appellants have contended that by virtue of the Order dated 12.09.2023, the Special Committee stood reconstituted, the nominee of the ex-management was expressly removed, and the order categorically provided that "*until further orders*" the Committee would consist only of Mr. S.K. Tandon and Mr. S.C. Das. On this basis, it has been argued by the Appellant that, in the absence of any

further order, the Committee was well within its powers to pass the order rejecting NCM International's claim.

58. In our considered opinion, the expression "*until further orders*" used in the Order dated 12.09.2023 was limited to the reconstitution of the Committee from three members to two members and did not operate as an express extension of the mandate of the Committee. This assumes significance in view of the fact that Company Application No. 351/2023, seeking extension of the mandate of the Committee, was kept pending by the learned Single Judge. The relevant portion of the Order dated 12.09.2023 reads as under:

> "**CO.APPL.351/2023 (seeking extension of mandate)**
>
> **10.** The Court has heard the submissions of ld. Counsel for the Applicant in ***CO.APPL.737/2021*** as also heard ld. Senior Counsel appearing for the Special Committee in part.
>
> *****
>
> **14.** Considering this position as also considering the fact that a substantial amount disbursement has already been made by the Special Committee, it is deemed appropriate that until further orders, the Special Committee shall now consist only of the following members:
>
> i. Mr. S.K. Tandon, retired ADJ (Chairperson)
> ii. Mr. S.C. Das, Ex-Executive Director of SEBI (Member).
>
> **15.** Mr. A.A. Sisodia shall no longer function as a member of the Special Committee. Mr. Tandon is free to engage his own staff for the purpose of conducting affairs of the Special Committee and shall not allow any interference by Mr. Bhansali or any of his family members or officials.
>
> *****
>
> **24.** Insofar as the remaining contentions are concerned, the same shall be considered on the next date of hearing. 25. List on 31st October, 2023."

59. The Appellants have further argued that NCM's application, being Company Application No. 504/2024, had already been released

by the learned Single Judge on 17.05.2025 and, therefore, the direction issued in the Impugned Judgment on the said issue is erroneous.

60. We again find no merit in this submission. By the Impugned Judgment, the learned Single Judge decided numerous applications, including Company Application No. 351/2023 filed by the Committee seeking extension of its mandate. The direction pertaining to NCM's claim was mere consequential to the rejection of the application seeking extension of the mandate. Moreover, the learned Single Judge merely relegated the issue to the appropriate authority for reconsideration and did not adjudicate upon the merits of NCM's claim either way. Accordingly, this argument of the Appellants does not necessitate any interference by this Court.

61. We now turn to the last major argument advanced by the Appellants, *namely*, that in the event of any failure to wind up the scheme in accordance with Regulations 41 and 42 of the 1996 Regulations, the statutory remedy lies under Regulation 68 thereof and that invocation of Rule 9 of the Companies (Court) Rules was impermissible.

62. We find no merit in this contention either. The Company Court is vested with ample authority to exercise its inherent powers, having regard to the facts and circumstances of each case. The comparison sought to be drawn between Regulation 68 of the 1996 Regulations and Rule 9 of the Companies (Court) Rules is misconceived. Regulation 68 of the 1996 Regulations empowers SEBI to initiate action upon satisfaction of the conditions stipulated therein, whereas Rule 9 of the Companies (Court) Rules preserves the inherent powers

of the Court to pass such orders as may be necessary to meet the ends of justice. The two provisions operate in distinct and independent spheres and are not in conflict with each other. Accordingly, this argument of the Appellants also stands rejected.

DECISION:

63. In view of the foregoing discussion and analysis, we find no merit in the present appeals. Accordingly, both appeals are dismissed.

64. The present Appeals, along with pending application(s), if any, stand disposed of in the above terms.

65. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

JANUARY 23, 2026/sm/her