

Annexure - 1/1/1

23
Annexure - AA

PROCEEDINGS OF
SHRI N. RANGACHARY, ADVISOR TO GOVERNMENT,
FINANCE DEPARTMENT, AP SECRETARIAT, HYDERABAD

Present : Shri N. Rangachary
Advisor to Government

Procs. No. Nil/Adv/07

dated 14.2.2007

ORDER :

In G.O. Ms. No.800, General Administration (L&O.I) Department, dated 19.12.2006, I was appointed to examine all the relevant papers and other material of and pertaining to M/s Margadarsi Financiers to report on the following issues :

- (a) whether M/s Margadarsi Financiers have raised deposits from the public in violation of the provisions of the Reserve Bank of India Act, or under the provisions of the Andhra Pradesh Protection of Depositors of Financial Establishment Act, 1999 ; and
- (b) whether there is any reason to believe that this financial establishment is acting in a manner prejudicial to the interests of the depositors and whether the Financial Establishment is not likely to return the deposits collected from the public.

2. Under letter written on 23-12-2006 and 27-01-2007 I had required the person M/s Margadarsi Financiers to file with me data and information. This has not been done so far. A letter, however, was received from them that they were agitating the issue before the High Court of Andhra Pradesh and I should await a decision from that Court. The Andhra Pradesh High Court had on examining the petitions filed by M/s Margadarsi Financiers and other connected persons not stayed the operation of the Government Order

[Signature]

referred to above. I also received a letter from M/s P.H. Parekh & Co., Advocates of New Delhi, stating that I should not act without consulting the Advocate-General of the State as to the presence of any legal impediment in my functioning and also that they were moving on behalf of their clients M/s Margadarsi Financiers, a Special Leave Petition against the decision of the Andhra Pradesh High Court before the Supreme Court and that I should await the decision on such a petition.

3. The Advocate-General of the State has advised me that there is no legal hurdle in my proceeding with the work and that I could go ahead by looking into the papers available.

4. I feel that with the papers available with me now, I should be in a position to deal with issue (a) above leaving issue (b) for subsequent consideration. The two issues are of a different nature and are not interconnected and hence can merit separate treatment.

5. The matter involves the safety and security of monies deposited by various persons over a number of years with M/s Margadarsi Financiers and since the time is the essence of the decision, I am proceeding to deal with the Issue No.1 stated above and to indicate whether the receipt of deposits by M/s Margadarsi Financiers was and is in terms of the Reserve Bank of India Act, 1934.

6. M/s Margadarsi Financiers have their offices in Hyderabad. They apparently are in the business of receiving deposits and investing them in such securities as they think fit. From the printed application forms made available to me, it is seen that the unit has been collecting from the members of the public deposits by way of fixed deposits, fixed deposit certificates with a currency of 1 to 4 years and Cash Certificates with a currency of 6 ½ years. In the application forms, one Shri Ramoji Rao, has been indicated as the

4.

proprietor or the Kartha of a Hindu Undivided Family (HUF) running the business of M/s Margadarsi Financiers.

7. Status :

7.01 M/s Margadarsi Financiers have been assessed to Incometax under Permanent Account Number (PAN) 43-HV-010-0093, in the status of a Hindu Undivided Family (HUF) by the Incometax Department at Hyderabad. Certified statements filed with the Incometax Authorities testify to the fact that this Hindu Undivided Family has been collecting deposits over a period of years. The earliest available records with me relate to accounting year starting 1st April, 2000 and the last of the Balance Sheets available with me pertains to the Accounting year ended 31st March, 2006 In the statements which have been prepared by the family and certified by the Chartered Accountants, it has been clearly indicated that M/s Margadarsi Financiers have obtained large amounts of money by way of deposits from the members of the public. The outstanding deposits on 31st March, 2006 including the interest payable on cash certificates and fixed deposit certificates came to Rs.2,610.38 crores. It will be interesting to note that Shri Ramoji Rao has held himself out to the public, in the format of the applications as an individual owner of the business of Margadarsi Financiers and thus will attract the rigours of s.45 S of the Reserve Bank of India Act.

7.02 M/s Margadarsi Financiers apparently are not registered with the Reserve Bank of India. Chapter III-C of the Reserve Bank of India Act, 1934 deals with the acceptance of deposits by un-incorporated bodies. In fact, the heading to this Chapter is "prohibition of acceptance of deposits by un-incorporated bodies."

7.03 Section 45 S of the Reserve Bank of India Act, prohibits a person being an individual or a firm or an un-incorporated association of individuals from accepting any deposits. The only exception in this case is that of an incorporated association, namely, a Company. All other forms or structures of business have been prohibited by the Reserve Bank of India from accepting a deposit from the members of the public. This prohibition comes into operation from the 1st April, 1997 when Chapter - III-C was added to the Reserve Bank of India Act, 1934.

7.04 Section 45 S of the Reserve Bank of India Act, provides that if a person prohibited to receive deposits as on 1st of April, 1997, has any outstanding deposits received from the members of the public, such deposits have to be repaid immediately after such deposits became due for repayment or within 3 years from the date of commencement of deposits whichever is earlier. Proviso to the said Act, gives the Reserve Bank of India permission to extend this time limit for a period not exceeding one year but subject to such condition as the Reserve Bank of India imposes.

7.05 M/s Margadarsi Financiers apparently is not a Limited Company established under the Companies Act, 1956 to be classified as a Corporate Body. It is, prima facie, a Hindu Undivided Family as is established by reference to the Incometax records made available to me. It is, therefore, an un-incorporated body of individuals. A Hindu Undivided Family, prima facie, is a collection of individuals who are lineal descendents from a common ancestor. It is a status of birth in a family which brings them together and they are called members of a Hindu undivided family. M/s Margadarsi Financiers are, therefore, directly covered by the provisions of Section 45 S and accordingly should not receive any deposits from the members of the public. If at all they had

received deposits from the public prior to 1st of April, 1997 before the Chapter III-C was added to the Reserve Bank of India Act, those deposits should have been repaid in a manner indicated by that section. Apparently this has not been done and M/s Margadarsi Financiers have continued to raise deposits from the members of the public as is evident from the position given below :

8. Deposits outstanding on different dates :

31 st March, 2000	-	Rs. 519.25 crores
31 st March, 2001	-	Rs. 885.45 crores
31 st March, 2002	-	Rs.1,277.00 crores
31 st March, 2003	-	Rs.1,488.00 crores
31 st March, 2004	-	Rs.1,909.00 crores
31 st March, 2005	-	Rs.2,201.00 crores
31 st March, 2006	-	Rs.2,610.38 crores

8.01 The figures shown are net of repayments and fresh deposits that have been raised by M/s Margadarsi Financiers from year to year on a periodical basis.

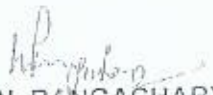
8.02 It is apparent, therefore, that M/s Margadarsi Financiers had not kept to the obligation imposed by Section 45 S of the Reserve Bank of India Act, in the matter of raising deposits from the members of the public.

9. It is gathered that this was not the first occasion when M/s Margadarsi Financiers had been indicated that they were violating the provisions of the Section 45 S of the Reserve Bank of India Act. Some time in 1998, the Reserve Bank of India had instructed them not to accept fresh deposits and to prepare a plan of repayment of the existing deposits to be in line with the

provisions of the section 45 S of the Reserve Bank of India Act. After trying to implement a plan of repayment of deposits which M/s Margadarsi Financiers agreed with the Reserve Bank of India, there has been a serious violation and apparently the projected plan had not been kept up by M/s Margadarsi Financiers.

10. The above facts clearly establish the fact that M/s Margadarsi Financiers had been violating the provisions of Section 45 S of the Reserve Bank of India Act, continuously over a period of years and hence action laid down by the Reserve Bank of India Act. 1934 gets attracted.

11. It is my conclusion, therefore, that M/s Margadarsi Financiers have continued to breach the provisions of Section 45 S of the Reserve Bank of India Act, 1934.


(N. RANGACHARY)
Advisor to Government