

**LAW COMMISSION
OF INDIA**

**ONE HUNDRED FORTY-THIRD
REPORT**

ON

**LEGISLATIVE SAFEGUARDS
FOR PROTECTING
THE SMALL DEPOSITORS
FROM EXPLOITATION**



JUSTICE M. P. THAKKAR
Chairman

विधि आयोग
LAW COMMISSION
भारत सरकार
GOVERNMENT OF INDIA
शास्त्री भवन,
SHASTRI BHAWAN,
नई दिल्ली
NEW DELHI
August 28, 1991

D.O. No. 6(2)(11)/87/LC.

To,

Shri K. Vijay Bhaskar Reddy,
Minister of Law, Justice and
Company Affairs,
Government of India,
Shastri Bhavan,
New Delhi.

Dear Minister,

Re : *Presentation of the last (143rd) Report of the Twelfth Law Commission.*

This commission has already presented 11 Reports till today which bear captions mentioned hereunder :—

132nd Report

Need for Amendment of the Provisions of Chapter IX of the Code of Criminal Procedure, 1973 in order to Ameliorate the Hardship and Mitigate the Distress of Neglected Women, Children and Parents.

133rd Report

Removal of Discrimination against women in matters relating to Guardianship and custody of Minor Children and Elaboration of the welfare Principle.

134th Report

Removing Deficiencies in Certain Provisions of the Workmen's Compensation Act, 1923.

135th Report

Women in Custody.

136th Report

Conflicts in High Court Decisions on Central Laws—How to Foreclose and How to Resolve.

137th Report

Need for creating Office of Ombudsman and for evolving Legislative Administrative Measures *Inter alia* to relieve hardships caused by inordinate delays in settling provident fund claims of beneficiaries.

Not placed before the Parliament till now.

138th Report

Legislative Protection for Slum and Payment Dwellers.

139th Report

Urgent need to amend order xxi, Rule 92(2), Code of Civil Procedure to remove an anomaly which nullifies the benevolent intention of the Legislature and occasions injustice to judgment-debtors sought to be benefited.

140th Report

Need to Amend Order V, Rule 19A of the Code of Civil Procedure, 1908, relating to service of summons by registered post with a view to foreclose likely injustice.

141st Report

Need for amending the law as regards power of courts to restore criminal revisional applications and criminal cases dismissed for default in appearance.

142nd Reports

Concessional treatment for offenders who on their own initiative choose to plead guilty without any bargaining.

And the Report being presented herewith by the present Commission is the 12th in the series which bears the title :—

LEGISLATIVE SAFEGUARDS FOR PROTECTING THE SMALL DEPOSITORS FROM EXPLOITATION

As the term of the Commission is coming to a close on 31-8-1991, the 143rd Report being presented is the last report by the present (12th) Law Commission.

With warm regards,

Yours faithfully,

(Sd./-)

(M. P. THAKKAR)

Encl. : 143rd Report.

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CHAPTER I

INTRODUCTION

1.1. **The perspective.**—Anxiety of the community and the legislature to protect the interests of those who cannot tend for themselves notwithstanding, the common man continues to be exploited. Post-audit of socio-economic legislations has apparently been mandated by the charter of the Law Commission in order that such exploitation is detected and the law is updated in the light of the lacuna detected in the course of such audit. Accordingly such post-audit in the sphere of company deposits was undertaken by the Commission.

1.2. **How attention was focused on the issue.**—The attention of the Commission was focused on the issue of the plight of the small-depositors who place their trust in the public companies upon coming across grievances of small depositors vented by them in the grievances columns of the press media.

1.3. **The survey of complaints regarding defaults in repayments.**—The Commission, therefore, invited complaints as regards non-refund of matured deposits by a press release issued in that behalf.

1.4. The Commission made endeavours to collect information from the companies named by the complainants in their responses to the aforesaid press release. An endeavour was also made to help the aggrieved complainants to recover their deposits amounts with accrued interest.

1.5. **Nearly 10,000 depositor's helped in recovering rupees 3.50 crores.**—*It is a matter of satisfaction for the Commission that as a result of this exercise the grievances of as many as 9776 small depositors out of 43285 were redressed and an aggregate sum of Rs. 3 crores 47 lakhs was refunded.*

1.6. **Magnitude.**—The number of depositors who were subjected to suffering was a staggering 42419. And the amount involved in that connection was about rupees 17.50 crores. These figures evidence the magnitude of the problem and underline the need for urgent legislative measures designed to resolve this issue.

1.7. **The report.**—Appropriate deductions have been made in the light of the analysis of the data gathered in the course of the said exercise. And the present Report embodying recommendations flowing from the deductions so made is the outcome of the said exercise.

CHAPTER II

RESULTS OF THE SURVEY AND FINDINGS EMERGING THEREFROM

2.1. **Press Release.**—In pursuance of the terms of reference to examine laws which affect the poor and to carry out post audit of socio-economic legislation, the Commission, *inter-alia*, by recourse to a press release invited complaints as regards non-refund of deposits notwithstanding the maturity of the deposits for repayment to the depositors of public limited companies. The Commission restricted its study to non-refund of fixed deposits ranging upto Rs. 11,000 remaining unpaid beyond 90 days from the date of maturity.

2.2 **Response.**—A large number of depositors responded to the press release. They conveyed their distress on account of their inability to secure repayment of the deposited amounts. Many of them have suffered serious hardship as they could not avail of the invested sums for meeting the contingencies which they had anticipated at the time of the investment, such as for meeting expenses of daughter's marriage, children's education, etc. The Commission received about 5,000 complaints from depositors whose deposits remained unpaid beyond the date of maturity. Out of these 5,000 complaints about 4750 i.e. 95% emanate from depositors whose deposits are in the range of less than Rs. 11,000. The percentage of unpaid deposits of this category of small depositors is as high as 95%.

2.3. **Companies addressed.**—The Commission forwarded all the complaints of the depositors to the concerned companies along with the request to repay the concerned depositors at the earliest. These companies were also asked to furnish the following information from their records :—

- (i) Concrete factual information pertaining to the complaint of the said person and cause of delay;
- (ii) Number of depositors and the total amount involved where the deposits have remained unrefunded for a period exceeding 90 days commencing from the date of maturity separately in respect of (a) deposits of less than Rs. 11,000, and (b) deposits of more than Rs. 11,000.
- (iii) Reasons for the deposits remaining unrefunded; and
- (iv) Number of cases pending in Courts/Company Law Board for refund of the amount and the total amount involved in such cases.

The Commission pointedly impressed upon the defaulting companies to repay the small depositors particularly those whose deposits were in the range of Rs. 5,000 or less as these small depositors cannot afford to approach the competent authority, such as the Company Law Board (CLB) or Civil Court exercising summary jurisdiction on account of the time-cost and money-cost, both of which would be beyond their reach by reason of their lack of resources in the context of the smallness of amount. Companies were also apprised that in case these small depositors were obliged to initiate legal proceedings these companies will also have to incur time-cost and money-cost which would possibly exceed the expenditure of the claim made by the small depositors companies. The letter addressed to various companies is shown as per *Appendix 'A'*.

2.4. **Analysis of Responses.**—The Commission addressed more than 200 companies in this context. The Commission, however, received responses from only 93 companies. The responses from these companies reveal that there are about 45,000 cases of deposits lying un-refunded by them. Of these un-refunded deposits only about 900 relate to deposits exceeding Rs. 11,000. It means that 98% of the deposits remaining unpaid by these companies relate to the small depositors whose amounts are in the category of less than 11,000. The total amount due for repayment by these companies is about Rs. 20 crores 28 lakhs. It is startling that

out of this total amount, Rs. 17.50 crores, i.e. about 86% of the total dues are referable to small depositors falling in the category of less than Rs. 11,000. The survey conducted by the Commission in relation to non-fund of company deposits on the basis of the information furnished by the various companies, is at *Appendix 'B'*.

2.5. **Outcome of the exercise.**—The endeavour made by the Commission by approaching various companies yielded positive results to an extent. About 40 companies made repayment to 9776 depositors to the tune of approximately Rs. 3 crores 47 lakhs. The details pertaining to such repayments are embodied in the schedule at *Appendix 'C'*. Besides, some more companies have assured the Commission to make repayment of more than Rs. 2 crores to about 3,000 depositors.

2.6. **The alarming revelation.**—It appears from the foregoing study that a large section of the depositors whose deposits remained unrefunded, belongs to the category of small depositors i.e. whose deposits range is below Rs. 11,000. There is reason to believe that these small deposits remained unrefunded mainly because the small depositors cannot afford to knock the doors of the competent authorities for proceeding against the concerned companies on account of the time-cost and the money-cost involved in the exercise and the companies take advantage of the helplessness of these small depositors.

2.7. **Sample Survey.**—A sample survey made by the Commission in relation to three companies which reinforces the conclusion that it is mainly the small depositors who suffer at the hands of the defaulting companies deserves to be highlighted :—

2.7.1. (i) **M/s. Ambalal Sarabhai Enterprises Ltd., Wadi Wadi, Baroda-390 007.**—This company is engaged in the manufacture of basic and essential drugs vitally important of the health care. The company has been inviting fixed deposits from the public to raise its capital. The Commission received 14 complaints from the depositors against this company for not making repayment of their deposits even after the expiry of the date of maturity. One of these complaints pertains to a deposit of Rs. 12,000 whereas all remaining deposits are of less than Rs. 6,000. As usual, all these complaints of the depositors were sent to the company for making early repayment to the depositors. In response to the communication of the Commission, the company, vide its letter dated 26th February, 1991, admitted that there was delay in repayment of deposits and added that it was making sincere efforts to repay fixed deposits at the earliest. The company informed the Commission vide letter of 26th February, 1991 (*Annexure 'B' to Appendix 'D'*) that only Rs. 71.96 lakhs remained unrefunded to 1312 depositors as on 31st January, 1991. However, the company did not furnish any particulars regarding details and data showing names of depositors, deposited amount and the date of maturity. The Commission sent a telegram on 19th March, 1991 to the company to furnish the same quickly. The telegram sent to the company is as per *Appendix 'CC'*. This telegram was followed by another letter of the Commission dated March 22, 1991 (*Annexure 'C' to Appendix 'D'*) showing its concern for repayment of these deposits. The company was requested to repay 25% of the deposits within 15 days of the receipts of this communication and make payment to further 25% within 15 days thereafter. The remaining 50% deposits was required to be refunded within one month thereafter. It was also suggested to the company that one who has been suffering the longest should be the one to be refunded his dues at the earliest. The company vide its letter dated April 16, 1991 sent a detailed list of deposits claimed and remaining outstanding for a period of 60 days from the date of maturity as on 31st March, 1991. As per this letter there were 1373 depositors remaining unrefunded as on 31st March, 1991 and the total amount due for repayment was Rs. 73.15 lakhs. Out of 1373 depositors, 1337 were small depositors whose investments were less than Rs. 11,000. Further, there were 1259 deposits ranging upto Rs. 6,000, 918 deposits ranging upto Rs. 5,000. *The analysis of the statistics furthers more disclosed that out of the aggregate amount of Rs. 73.15 lacs the amount repayable to small depositors (less than Rs. 11,000 per individual) was of the order of 64.93 lacs out of a total amount of Rs. 73.15 lacs representing a staggering 89% of the total outstanding dues in respect of matured deposits. In other words, the sum due to the big depositors constituted only 11% of the total dues.*

2.7.2 The company however did not show its willingness to make repayment to the depositors in any of the responses made by it to the Commission. It failed to do so notwithstanding the fact that it had recently obtained a fresh loan from a Nationalised Bank viz., Punjab National Bank as disclosed by the minutes of the meeting of the officers of the company with the J.S. & L.O. (*Annexure 'D' to Appendix 'D'*).

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2.7.3. It was in this backdrop that the Commission thought it appropriate to request the Company Law Board for exercising its *suo moto* powers under subsection (9) of section 58(A) of the Company Act, 1956. The Chairman of the Commission addressed two letters dated April 19, 1991 and May 6, 1991 (*Appendix 'D' and 'E'*) to the Chairman, Company Law Board, in this regard by pointing out that this company which has assets worth Rs. 186.66 crores and has made net profit of Rs. 61.54 lakhs in 1989-90 should not have adopted an unedifying attitude which causes untold hardship to hundreds of poor depositors for having placed trust in the company. The Chairman of the CLB vide his letter dated 6th May, 1991 addressed to the Chairman of the Law Commission, informed that the representatives of the company had been called for a hearing on 16th May, 1991 at Bombay. The Chairman of the CLB alongwith their letter dated 6th May, 1991 (*Appendix 'F'*) also sent a copy of the communication addressed to the company for making appearance on 16th May, 1991. The company appeared before the regional bench of the CLB at Bombay on 16-5-1991. In pursuance of the order of the CLB, the company submitted its written submission vide its letter dated May/25, 1991 (*Appendix 'G'*), a copy of which was sent to the Commission by the Secretary of the CLB. The company vide its letter, dated May 25, 1991 supplied a summary regarding the fixed deposits which is being reproduced as under :—

	Total Deposits as on 1st April	Fresh Deposits accepted	Repaid during the year	Balance Deposits		
				Current	Matured and remaining unpaid	Total
1-4-87 to 31-3-88 . . .	627.37	..	125.93	115.49	385.95	501.44
1-4-88 to 31-3-89 . . .	501.44	24.46	161.47	54.30	312.13	366.43
1-4-89 to 31-3-90 . . .	366.43	104.71	223.12	131.81	116.21	248.02
1-4-90 to 31-3-91 . . .	248.02	57.08	112.22	115.77	77.11	192.88

2.7.4. It is a matter of serious concern that though the company had defaulted in making repayments of the matured deposits to the tune of Rs. 3.86 crores, it accepted fresh deposits to the tune of Rs. 1.86 crores during the time bracket of 1st April, 1988 to 31st March, 1991. It is a matter of equal concern that fresh deposits were utilised in repayments made during these years.

2.7.5. The Company Law Board in its order (*Appendix 'H'*) dated 4th June, 1991 passed orders for making the repayment of the deposits by the company. The company was ordered to make payment of deposits which matured upto December, 1986 before 30th June 1991, and the deposits which matured during 1987 to be repaid on or before 31st August, 1991 and deposits which matured from 1988 to 31st March, 1991 would be repaid on or before 31st March, 1992. The company Law Board also ordered that the interest due on the said deposits till the date of repayment shall be paid within four months from the date thereafter, as mentioned for making the repayment. It also ordered that the company will ensure to send the depositors post-dated cheques towards over due interest. The company was directed to file affidavits in compliance with the orders of the Company Law Board. The order of the Company Law Board provides relief to 1486 deposits involving deposit of Rs. 77.11 lakhs.

2.8. (ii) **M/s. Himachal Pradesh Agro Industries Corporation, Shimla-171 002.**—The Commission received 3 complaints from the depositors against this company. These complaints were forwarded to the company. The company vide its letter dated 14-5-1990 responded to the letter of the Commission and intimated that there were 22 depositors whose deposits were in the category pertaining to Rs. 11,000 or less and the total principal amount involved in such deposits was to the tune of Rs. 5.8 lakhs. The company also furnished the information that there were 126 depositors whose individual deposits belonged to the category of less than Rs. 11,000 and the total amount involved in these deposits was Rs. 6.7 lakhs. The company vide its letter (*Appendix 'I'*) disclosed the reasons for the non-refund of the deposit as follows :—

- (i) The Board of Directors decided not to renew the fixed deposits on maturity with effect from 1-4-1987;
- (ii) Non-availability of funds; and
- (iii) Increasing losses.

The Commission addressed a letter dated 25-5-1990 (*Appendix 'J'*) to the Chairman of the CLB to exercise its *suo motu* powers under sub-section 9 of section 58A of the Companies Act, 1956. The Chairman of the CLB was requested that no notices may be issued to the small depositors and they may not be required to be present having regard to the fact that most of the small depositors would find it extremely difficult to spend for travelling expenses and for their stay in a city like Delhi. The Chairman, CLB, vide his D.O. letter dated 23-10-1990 addressed to the Chairman, Law Commission, informed that the case of the company regarding non-payment of company deposits was fixed for hearing on 15-10-1990. However, on that date the representative of the company failed to appear, and a final opportunity of hearing was fixed for 8-11-1990. The company was further apprised (as per *Appendix 'K'*) that if the company failed to attend the hearing, an *ex parte* order would be passed directing payment of overdue deposits. Thereafter, the Chairman, Law Commission, wrote a D.O. letter dated 30-10-1990. (*Appendix 'L'*) to the Chairman, CLB requesting the CLB to do the needful in accordance with the law in order to bring succour to the credulous and unwary small depositors who have been subjected to serious injury and grave injustice for many many years and that too, by a state owned corporation. In response to the letter, the Chairman of CLB informed that the Himachal Pradesh Agro Industries Corporation Limited, had repaid all deposits except 18 deposits which have not been claimed by the depositors.

2.9. (iii) *M/s. Shree Vallabh Glass Works Ltd., Vithal Udyog Nagar-388 121.*— The Commission received 13 complaints from the depositors whose invested amount is upto Rs. 11,000 and only one complaint from a depositor whose deposit exceeds Rs. 11,000. All these complaints were forwarded to the company in a normal course. *The company vide its letter dated 26-2-1991 (Appendix 'M') informed the Commission that there are 6031 depositors and the amount involved is Rs. 253.13 lakhs.* It also informed the Commission that as a consequence of losses incurred, the liquidity position of the company had substantially eroded. The company was declared as a relief undertaking under the provisions of Bombay Relief Undertakings (Special Provisions) Act by the Government of Gujarat on 31-3-1984, to serve as measure of employment relief by different further declarations. The company was declared a sick industrial company on 27-8-1987 within the meaning of section 3(1)(o) of Sick Industrial Companies (Special Provisions) Act, 1985.

It may be noted that company formulated a scheme and circulated to all depositors with deposits upto Rs. 5,000 who need their deposits back for urgent need on medical grounds and who are ready to waive the interest voluntarily shall be paid back the deposits.

The company informed the Commission that many of the depositors positively responded to the scheme and during 1989-90, 1641 depositors were paid back Rs. 69.50 lakhs. Company expressed the hope that during 1990-91, it will be repaying back to 1600 depositors of the same category approximately Rs. 70 lakhs. The company stated in its letter dated 26-2-1991 that although company was a sick unit, realising the plight of small depositors, it had started paying back to small depositors their principal amount of deposits (without interest). The company vide this letter suggested to make repayment to 50 depositors whose deposit amount is Rs. 5,000 or less according to the directions which the Law Commission may give to it. Relevant paragraph of this letter is reproduced as under :—

"Such applicants upto 50 in number of the amount of Rs. 5,000 or less for whom you send directions for repayment without accumulated interest in full settlement and in case such applications are received with your directions for repayment on or before 15th March, 1991, all such directions in respect of 50 depositors shall be honoured and they shall be refunded the full principal amounts or deposits on or before 15th April, 1991. This is only to show our genuine desire to repay. All that has happened is most unfortunate but was only due to reasons entirely beyond our control."

The Commission did not accept this suggestion and called upon the company to make repayment to 100 small depositors in the first instance on the principle of the longest sufferers to be repaid earliest in point of time. The company did not respond to this request and maintained complete silence thereafter notwithstanding the reminder sent to it.

2.10. It is noteworthy that the plight of small depositors was of such a magnitude that some of them had agreed to the suggestion to waive the interest accrued on their deposits in order to secure repayment of their matured deposits. The company agreed to make repayments to small depositors with deposits upto

Rs. 5,000 only provided request for repayment was made on the ground of ill-health on medical grounds. In making deposits with the companies a depositor is mainly induced to do so in view of the promise to pay interest as agreed upon by the company and in view of the assurance that he would be receiving a larger amount on the date of maturity which he may possibly use for his anticipated contingencies. The survey relating to this company shows that the depositors were first induced to make deposits with the company by a promise to pay interest and later on they were virtually compelled to forego the payment of interest as promised by the company earlier. Ultimately, the unilateral terms imposed by the company have prevailed and the small depositors who are, by and large, economically weak are under the compelling circumstances made to accept the terms of the company to accept whatever is being offered to them by the company.

2.11. **Solution.**—To solve the problem pertaining to the distress of the small depositors legislative protection needs to be extended in the manner indicated hereunder :—

As 86% of total dues are traceable to small depositors whose individual deposits are below 11,000 rupees, a case for special protection to this category is made out. The amendment of the relevant provisions may therefore be targeted at redressing the grievances of this category by according it a special treatment.

2.12. In the first place, the category of small depositors, may be defined.

2.13. The next step would be to ensure that they are not exploited by repaying the deposits of big depositors in preference to the deposits of the small depositors. And to ensure that they are not made to waive the interest earned by them.

2.14. This can be achieved by providing that once there has been a default it must be mentioned in future advertisements. If any of the depositors have been obliged to waive interest, future depositors may be apprised of the same. This will also operate as a deterrent to the company and serve as a warning to the intending unwary depositors in future.

2.15. Moreover, the suffering of small depositors is no small measure due to their helplessness as they cannot approach the court of the CLB by reason of the legal cost and time cost which for outweighs the small amount of Rs. 5,000 or so at stake. It would amount to spending good money to recover the money in doldrums. This difficulty can be overcome by requiring the companies to apprise the CLB of such dues and requiring the CLB in its turn to act *suo motu* under Section 58-A(9) upon being so apprised.

2.16. With this end in view it is now proposed to formulate the recommendations on the aforesaid lines along with other appropriate proposals for amending the relevant provisions of law after setting out the provisions concerned. We proceed to do so in the next two Chapters.

CHAPTER III

RELEVANT STATUTORY PROVISIONS

3.1. The provisions which may be required to be amended are located in the Companies Act, 1956 and the Companies (Acceptance of Deposits) Rules, 1975 framed by the Central Government under the authority conferred by section 58A of the Companies Act, 1956.

3.2. Companies Act, 1956.

“58A. Deposits not to be invited without issuing an advertisement.—

(1) The Central Government*****

(2) * * *

(3) * * *

(4) * * *

(5) * * *

(6) * * *

(7) * * *

(8) * * *

(9) Where a company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, the Company Law Board, if it is satisfied, either on its own motion or on the application of the depositor, that it is necessary so to do to safeguard the interest of the company, the depositor or in the public interest; direct, by order, the company to make repayment of such deposit or part thereof forthwith or within such time and subject to such conditions as may be specified in the order :

Provided that the Company Law Board may, before making any order under this sub-section, give a reasonable opportunity of being heard to the company and the other persons interested in the matter.”

3.3. Companies (Acceptance of Deposits) Rules, 1975 (Called Rules hereunder).

1. * * *

2. Definitions.—In these Rules, unless the context otherwise requires,—

(a) * * *

(b) * * *

(c) “Depositor” includes any person who has given a loan to a company;

(d) * * *

3. Acceptance of deposits by Companies.—(1) On and from the commencement of these rules,—

(a) no company shall accept any deposits which is repayable on demand or on notice or repayable after a period; or

(b) renew any such deposit accepted by it whether before or after such commencement, except where such deposit is repayable (after the expiry of six months but not later than thirty-six months) from the date of acceptance or renewal of such deposit :

Provided that a company may for the purpose of meeting any of its short term requirements for funds, accept or renew, [such deposits as are referred to in Clause (i) of sub-rule (2)] for repayment earlier than six months from the date of deposit or renewal, as the case may be, subject to the condition that such deposit —

(i) shall not exceed ten per cent of the aggregate of the paid up share capital and free reserves of the company, and

(ii) are repayable not earlier than three months from the date of such deposit or renewal thereof, as the case may be :

Provided further that where a company has before the 1st day of April, 1978, accepted any deposit repayable after a period of more than thirty-six months, such deposits shall, unless renewed after the said date, be repaid in accordance with the terms of such deposits.

(c) no company shall invite or accept or renew any deposits in any form, on a rate of interest exceeding fourteen per cent per annum;

(d) no company shall pay brokerage to any broker at a rate, exceeding one per cent of the deposits for a period up to one year, one and half per cent of the deposits for a period of more than one year but up to two years, and two per cent of the deposits for a period exceeding two years, collected by or through such broker, and such payment shall be on one time basis.

(2) No company, other than a Government company shall accept—

(i) any deposit against an unsecured debenture or any deposit from a shareholder (not being a deposit accepted by a private company from its shareholder) or any deposit guaranteed by any person who, at the time of giving such guarantee is a director of the company if the amount of any such deposit together with the amount of such other deposits of all or any of the kinds of deposits referred to in this clause and outstanding on the date of acceptance or renewal of such deposit exceeds ten per cent including any deposit accepted under the proviso to sub-rule (1) of rule 3 of the aggregate of the paid up share capital and free reserves of the company :

Provided that for the purpose of calculation of the amount of deposits outstanding on the date of such acceptance or renewal, any deposit guaranteed by a person who, at the time of giving such guarantee was the managing agent or secretaries and treasurers of the company and outstanding on such date shall be taken into account.

(ii) any other deposit, if the amount of such deposit together with the amount of such other deposit other than any of the deposits referred to in clause (i), outstanding on the date of acceptance or renewal exceeds twenty-five per cent of the aggregate of the paid up share capital and free reserves of the company.

(2A) No Government company shall accept any deposit, if the amount of such deposit exceeds thirty-five per cent including any deposit accepted under the proviso to sub-rule (1) of rule 3 of the aggregate of its, paid up share capital and free reserves.

(3) If, immediately before the commencement of these Rules, the aggregate amount of deposits, of the nature referred to in clause (i) of sub-rule (2), accepted by a company before such commencement, exceeds the limit specified in the said clause (i), the company shall, on or before, the 31st day of March, 1978 bring down the deposits to the limit aforesaid and for this purpose the company shall repay such deposits, as may be necessary.

Explanation : For the purpose of this rule in arriving at the aggregate of the paid up share capital and free reserves of a company there shall be deducted from the aggregate of the paid up share capital and free reserves as appearing in the latest audited balance sheet of the company the amount of accumulated balance of loss, balance of deferred revenue, expenditure and other intangible assets, if any, as disclosed in the said balance sheet.

“Government company” means a company as defined in section 617 of the Companies Act, 1956.

(4) On and from the 1st day of April, 1978, where a company has any outstanding loans which were excluded from deposits by virtue of Explanation I as it stood immediately before the said date, then such company shall before the first day of April, 1981, repay or bring such loan down to an amount which alongwith other outstanding deposits, is within the limits specified in this Rule.

4. Form and particulars of advertisements.—(1) Every company intending to invite or allowing or causing any other person to invite deposits shall issue an advertisement for the purpose in a leading English newspaper and in one vernacular newspaper circulating in the State in which the registered office of the company is situated.

(2) No company shall issue or allow any other person to issue or cause to be issued on its behalf, any advertisement, inviting deposits, unless such advertisement is issued on the authority and in the name of the Board of Directors of the company and contains a reference to the conditions subject to which deposits shall be accepted by the company, the date on which the said Board of Directors has approved the text of advertisement and the following information namely :—

- (a) Name of the company;
- (b) the date of the incorporation of the company;
- (c) the business carried on by the company and its subsidiaries with the details of branches or units, if any;
- (d) brief particulars of the management of the company;
- (e) names, addresses and occupation of the Director;
- (f) profits of the company, before and after making provision for tax, for the three financial years immediately preceding the date of advertisement;
- (g) dividends declared by the company in respect of said years;
- (h) a summarised financial position of the company as in the two audited balance sheets immediately preceding the date of advertisement in the following form, namely:

(* * * * *)
 (3) An advertisement issued in accordance with this rule shall be valid until the expiry of six months from the date of closure of the financial year in which it is issued or until the date on which the balance sheet is laid before the company in general meeting, or, where the Annual General Meeting for any year has not been held, the latest day on which that meeting should have been held in accordance with the provisions of the Act, whichever is earlier, and a fresh advertisement shall be made, in each succeeding financial year, for inviting deposits during that financial year.

(4) No advertisement shall be issued by or on behalf of a company unless on or before the date of its issue, there has been delivered to the Registrar for registration a copy thereof signed by a majority of the Directors on the Board of Directors of the company as constituted at the time the Board approved the advertisement or their agents, duly authorised by them in writing.

Explanation : For the purpose of this rule, the date of issue of the newspaper in which the advertisement appears shall be taken as the date of issue of the advertisement.

5. Form of Application for deposits.—(1) On and from the commencement of these rules, no company shall accept, or renew any deposit, unless an application is made by the intending depositor for the acceptance of such deposit and such application contains a declaration by such person to the effect that the amount is not being deposited out of the funds acquired by him by borrowing or accepting deposits from any other person.

(2) The application referred to in sub-rule (1) shall be made in the form supplied by the company and such form shall be accompanied by a statement by the company containing all the particulars specified in sub-rule (2) of Rule 4 and incorporating therein all changes in relation to such particulars up to the date on which the form is issued by the company.

10. Return of deposits to be filed with the Registrar.—(1) Every company to which these Rules apply, shall on or before the 30th day of June, of every year, file with the Registrar, a return in the form annexed to these rules and furnishing the information contained therein as on the 31st day of March of that year duly certified by the Auditor of the Company.

(2) A copy of the return shall also be simultaneously furnished to the Reserve Bank of India.

11. Penalty.—If a company or any other person contravenes any provision of these rules for which no punishment is provided in the Act, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to five hundred rupees and where the contravention is a continuing one, with a further fine which may extend to fifty rupees for every day after the first, during which the contravention continues.

The time is now ripe to formulate the recommendations which we accordingly proceed to do in the next Chapter.

CHAPTER IV CONCLUSIONS AND RECOMMENDATIONS

Conclusions which flow from the survey. (See Chapter II)

I

Complaints regarding defaults in repayment of matured deposits were received against as many as 200 companies (very many more may be similarly guilty). While it is a matter of gratification for the Commission that about 10,000 depositors, (mostly small depositors each of whom had deposits less than Rs. 11,000 individually) were helped by the commission in recovering nearly Rs. 3 crores 47 lakhs, nearly 34,000 such depositors are yet suffering and a large sum of nearly 18 crores of theirs is locked up.

II

A survey of 93 such companies disclosed that defaults were in respect of nearly 45,000 depositors and the aggregate amount involved was nearly 20 crores 28 lakhs.

III

The break up of 45,000 victims of default reveals that nearly 44,000 i.e. 98% sufferers were small depositors (whose individual deposits did not exceed Rs. 11,000). And that nearly a sum of Rs. 17 crores 50 lakhs representing 86% of the total amount of defaults was referable to small depositors (as defined earlier).

IV

A well known company having a capital base of Rs. 186.66 crores alone and had defaulted in repayment to more than 1300 small depositors in respect of their matured deposits of nearly 72 lacs. And that it had been accepting fresh deposits even though earlier matured deposits had remained unrefunded for nearly 4 years.

V

From the established fact that nearly 98% of the total number of victims of defaults in repayment were such small depositors and nearly 86% of the aggregate amount involved was referable to such small depositors it is reasonable to infer that the defaulting companies have been systematically making repayment to big depositors in preference to small depositors (how else can one explain the tele-tale circumstance that Rs. 85 out of every Rs. 100 remaining unrefunded belongs to small depositors) and an urgent and real need for special protection for them exists.

VI

The emergent fact that fresh deposits for small depositors are accepted by defaulting companies even when matured deposits of such depositors remain unrefunded and that Rs. 85 out of every Rs. 100 is due to small depositors as against only Rs. 15 due to big depositors smacks of exploitation of such depositors and under-scores the need for preventing such abuse.

VII

A well known company did not repay the dues of small depositors even after obtaining a large amount of loan from a Nationalised Bank which amount was presumably utilised in augmenting the working capital.

VIII

The small depositors whose deposits range in the neighbourhood of Rs. 3000 to Rs. 10,000 cannot afford the money-cost by way of Advocate's fees and time-cost involved in instituting a summary suit or a petition under section 58A(9) of the Companies Act to secure repayment of their matured deposits.

IX

It would appear that perhaps deposits from small depositors are utilised in making repayment to the big depositors who have resources to resort to legal proceedings.

Hence the recommendations that follow:—

RECOMMENDATIONS

I

It is recommended that the relevant provisions of the Companies Act and the Companies (Acceptance of Deposits) Rules, 1975 (Rules) be amended by—

- (1) by defining small depositors as depositors whose individual deposits do not exceed Rs. 11,000 (Rules 2 of the Rules may be amended in this behalf).

- (2) and making it obligatory on a company accepting deposits from small depositors to notify to the CLB the factum of default in repayment of the amount of deposits with accrued interest thereon in the event of failure to repay the aforesaid amounts within 60 days of the due date for repayment alongwith names and addresses of such depositors mentioning the sum involved in respect of each of such depositors.

Note : This can be achieved by suitably amending Rule 10 of the Companies (Acceptance of Deposits) Rules, 1975.

AND

- (3) making it obligatory on the CLB to exercise the power under section 58A(9) *suo motu* upon being apprised of such defaults by the company. The CLB shall dispense with the presence of the depositor at the hearing and pass an appropriate orders within 30 days of the receipt of the intimation from the concerned company provided, however, that no order granting more than 30 days time from the date of order for repayment shall be passed without hearing the depositors concerned.

Note : This can be achieved by suitably amending section 58A(9) of the companies Act.

II

It should be provided that *no company shall accept further deposits from small depositors as long as depositors whose deposits have matured (unless their deposits have been willingly renewed) have not been repaid* the deposited sums alongwith interest accrued thereon till the date of repayment.

[This will not apply where a depositor has died or there is a stay order from any Court against repayment to the depositor or his heirs].

[This can be achieved by amending Rule 3 of the Companies (Acceptance of Deposits) Rules, 1975.]

III

It should be made obligatory on such companies which have defaulted in repayment to small depositors on any occasion, to state in all of their future advertisements inviting deposits, the fact of such deposits mentioning the total amount involved in such defaults.

[This can be done by amending Rule 4 of the Companies (Acceptance of Deposits) Rules, 1975.]

IV

It should be made obligatory to mention in the Advertisement under Rule 4 of the Companies (Acceptance of Deposits) Rules, 1975, that some depositors had waived accrued interest in the past (By amending Rule 4 of the Rules).

V

It may be made obligatory to utilise the funds obtained by taking loans from Nationalised Banks in the repayment of the small depositors before applying them to any other use.

[This can be done by adding an appropriate Rule in the Companies (Acceptance of Deposits) Rules, 1975.]

VI

The application form required to be obtained from depositors should contain a statement to the effect that the applicant had been apprised of (1) past defaults in repayments, and (2) about waiver of interest by some depositors when companies guilty in the past accept deposits in future (Rule 5 may be amended to serve this purpose).

VII

Violation of any of the aforesaid provisions by a company should be made a cognizable offence and its directors liable to be sentenced to suffer minimum imprisonment of 15 days.

[Rules 11 of the Companies (Acceptance of Deposits) Rules, 1975 may be amended in this behalf.]

Note : A draft of the suggested amendments is annexed for the sake of convenience.

LAW COMMISSION OF INDIA—143 REPORT

The Commission feels that if the law is amended in the aforesaid manner, the companies accepting public deposits from small depositors will be deterred from exploiting them, and the unwary and helpless small depositors will be adequately protected.

We recommend accordingly.

(Sd./-)
(M. P. THAKKAR)
CHAIRMAN

(Sd./-)
(Y. V. ANJANEYULU)
MEMBER

(Sd./-)
(P. M. BAKSHI)
MEMBER

(Sd./-)
(MAHESH CHANDRA)
MEMBER

(Sd./-)
(G.V.G. KRISHNAMURTY)
MEMBER SECRETARY

New Delhi, Dated the August 28, 1991.

DRAFT AMENDMENTS

The above proposals made in Chapter IV can be implemented by amending the Companies Act, 1956 and the Companies (Acceptance of Deposits) Rules, 1975, broadly on the lines indicated in the draft amendments subject to such modifications as the draftsman may deem necessary:—

- (1) *Definition to be inserted at the end of Rule 2, Companies (Acceptance of Deposits) Rules, 1975.*

“Small Depositors” means depositors, the principal amount, of whose individual deposit in a particular company does not exceed Rs. 11,000.

- (2) *New provision to be inserted as rule 10A in the companies (Acceptance of Deposits) Rules, 1975:—*

“10A. (1) Every Company which accepts deposits from small depositors shall intimate to the Company Law Board any default which might have been made in repaying in due time the amount of deposit in whole or in part with the interest accrued thereon.

(2) Such intimation shall be given within 60 days of the due date for repayment of the deposit and shall give full details of the names and addresses of the depositors, specifying the principal sum of the deposit and the interest accrued thereon, separately, for each depositor.”

- (3) *A new sub-section, sub-section (9A), to be inserted in section 58A of the Companies Act, 1956:—*

“(9A) Where a company has failed to repay any deposit or part thereof in accordance with the terms and conditions of such deposit, being a deposit made by a small depositor as defined in the rules made under this Act, the following provisions shall apply.—

- (a) the Company Law Board, on receipt of an intimation as regards default of the company in accordance with the rules made under this Act, shall exercise the power conferred by sub-section (9) on its own motion;
- (b) it shall not be necessary for the depositor to be present at the hearing of the proceedings taken by the Company Law Board in exercise of the said power; and
- (c) the Company Law Board shall pass an appropriate order in the proceedings within a period of 30 days of the receipt of the intimation from the company, unless the Board, after giving the depositor an opportunity of hearing, extends the period.”

- (4) *A new provision to be inserted as rule 3(5) in the Companies (Acceptance of Deposits) Rules, 1975.*

“(5) No company shall, at any time, accept further deposits from small depositor, so long as every depositor whose deposit has matured has not been repaid the amount of the deposit and the interest accrued thereon:

Provided that this sub-rule shall not require the repayment of—

- (a) any deposit which has been renewed by the depositor voluntarily; or
- (b) any deposit, whose repayment has become impracticable, because of the death of the depositor or whose repayment has become illegal by reason of any stay order issued by a competent court.”

- (5) *A new provision to be inserted as rule 4(2A) in the Companies (Acceptance of Deposits) Rules, 1975.*

“(2A) Every company which has on any occasion made a default in the repayment of the principal or interest of a small depositor shall state, in every future advertisement inviting deposits from the public, the total amount of small deposits in respect of which such default has been committed.”

- (6) *A new provision to be inserted as rule 4(2B) in the Companies (Acceptance of Deposits) Rules, 1975.*

“(2B) Where any depositor with a company has, in the past waived the payment of interest accrued thereon, that fact shall be mentioned by the company in every advertisement inviting deposits issued after such waiver.”

- (7) *Provision to be inserted as rule 4A in the Companies (Acceptance of Deposits) Rules, 1975.*

“4A. Where a company has accepted deposits from small depositors and obtains funds by taking a loan from any nationalised bank, the company shall utilise the funds so obtained in the repayment of the small deposits before applying the funds to any other use.”

- (8) *Provision to be inserted as rule 5(3) in the Companies (Acceptance of Deposits) Rules, 1975.*

“5(3). The form of application referred to in sub-rule (2) shall contain a statement to the effect that the applicant had been apprised of—

- (a) every past default by the company in the repayment of deposit (if any such default has occurred); and
- (b) the waiver of interest by any depositor in the past in regard to any deposit in the company (if any such waiver has occurred).”

- (9) *New rule to be inserted in the Companies (Acceptance of Deposits) Rules, 1975.*

- (1) If a company or any other person contravenes any provision mentioned in sub-rule (2), every person, who at the time the contravention was committed was a Director of the Company, as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

- (2) The provisions referred to in sub-rule (1) are—

- (a) provisions of sub-section (9A) of section 58A of the Act;
- (b) provisions of these rules which apply where the company has accepted a deposit from a small depositor;
- (c) provisions made in these rules in so far as they require the mention in any advertisement issued under the rules, of the waiver of the accrued interest by the depositor;
- (d) provisions made in these rules, requiring that application form for a deposit shall contain a statement regarding past defaults in repayment of deposits or past waiver of interest by depositors.

- (3) An offence under this rule shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that where the director of the company is guilty under this rule, he shall be punishable with a minimum imprisonment of 15 days, unless the court, for reasons to be recorded, is satisfied, that a lesser sentence would meet the ends of justice.

- (10) *New section 624C to be inserted in the Companies Act, 1956.*

“624C. Notwithstanding anything contained in sections 621 and 624, rules made under this Act may provide that an offence connected with or arising out of the acceptance of deposits from the public by a company shall be,—

- (a) cognizable within the meaning of the Code of Criminal Procedure, 1973;
- (b) punishable with imprisonment upto three years and fine, with a minimum punishment of imprisonment not exceeding fifteen days.

No. 6(2)(11)/87/LC(LS)
 Government of India
 Ministry of Law and Justice
 Law Commission

Shastri Bhavan, New Delhi,
 Dated the.....

To,

Subject : Non-refund of Company Deposits.

Sir,

The Commission in the course of an exercise undertaken by it has invited through media and newspapers all small depositors or their legal representatives or their nominees, whose deposits upto Rs. 11,000 were not refunded even after expiry of 90 days from date of maturity to furnish full particulars of their case mentioning the name and address of the Company, the amount of deposits, the date of maturity and the reasons, if any, mentioned by the Company for not refunding the deposits even after such time lag.

2. In response thereto one Shri.....
 R/o.....has addressed to the Commission his application dated..... in this regard. We enclose herewith a Photocopy of the complaint which is self explanatory.

3. It is considered appropriate and necessary to impress upon you that the *small depositors*, particularly those whose deposits are in the range of Rs. 5,000 or less, cannot afford to take appropriate measures to enforce their rights by approaching the competent authority, such as, the Company Law Board or a civil court exercising summary jurisdiction. *They cannot afford to do so on account of the time-cost and the money cost, both of which would be beyond their reach by reason of their lack of resources in the context of the smallness of the amount. In case they are obliged to initiate appropriate proceedings. You will also have to incur time-cost and money-cost which would possibly exceed the extent of the claim made against you.*

4. *Besides, whatever be your financial constraints, it certainly appears to be unconscionable to violate the trust reposed in your organisation particularly by the small depositors.*

5. It is, therefore, expected that you would take immediate steps to repay the afore named complainant as also all the other depositors whose deposits range in the neighbourhood of Rs. 5,000 in the first instance at the earliest and then the claims of the other small depositors whose deposits range in the neighbourhood of Rs. 10,000 very soon thereafter. It would be expected that the repayment in the case of the former is made within a time-span of *thirty days* and in the case of the rest within a time-span of *sixty days* of the receipt of this letter.

6. It is hoped that you will appreciate the spirit in which this communication is being addressed will discharge your obligations as indicated hereinabove.

7. It is also essential for the Commission to get the detailed information on the undermentioned point with a view to equipping the Law Commission with relevant material in connection with the relevant project. The information sought for is of basic nature which can be supplied by you and you alone as it is available in your records :—

- (i) Concrete factual information pertaining to the complaint of the said person and cause of delay.
- (ii) Number of depositors and the total amount involved where the deposits have remained unrefunded for the period exceeding ninety days commencing from the date of maturity separately in respect of (a) deposits of less than Rs. 11,000 and (b) deposits of more than Rs. 11,000.
- (iii) Reason(s) for the deposits remained unrefunded.
- (iv) Number of cases pending in Courts/Company Law Board for the refund of the amount and the total amount involved in such cases.

8. You are requested to respond to this communication within 10 days.

Thanking you.

Yours faithfully,

(Sd./-)

(DR. SATISH CHANDRA)
 Additional Law Officer

Encl. : As above.

Statement showing refund/non-refund of Company Deposits by various Companies declared Sick/Relief Units

Sl. No.	Name of Company	No. of Complaints received from the depositors		Information furnished by the Company			No. of cases pending before			Refund/Remarks
		Amounts involving		No. of Deposits		Total amount involved	CLB	Courts		
		Less than Rs. 11,000	Above Rs. 11,000	Less than Rs. 11,000	Above Rs. 11,000					
1	2	3	4	5	6	7	8	9	10	
1.	M/s Amar Dye-Chem, Ltd., Rang Udyan, Sitladevi Temple Road, Post Box No. 64.71, Mahim, BOMBAY-400 016.	01	..	5240	Rs.	Rs. 87,99,400	..	..	..	As per the scheme approved by the BIFR and Bombay High Court, Company is required to repay the principal amount in ten quarterly instalments and interest thereafter in 4 instalments. Company has paid under the scheme, Rs. 132 lakhs during 1990-91 vide Co's letters dated 22-2-91 and 26-6-91.
2.	M/s Andhra Cement Co. Ltd., 111, Chandralok, Sarojini Devi Road, SECUNDE-RABAD.	116	3	..	..	..	..	..	..	Refund ordered by, CLB are being paid (Co. letter dated 14-7-90).
3.	M/s Associated Precision Spindles Ltd., NH No. 8, Post GIDC, VADOD-ARA-390 101.	01	9	..	..	Rs. 0.3 lakhs	..	..	..	There are no overdue unpaid deposits except 9 amounting to Rs. 30,500 for not surrendering deposit receipts (Co. letter dated 28-2-91.)
4.	M/s Bengal Potteries, Thapar House, 25, Brobournne Road, CALCUTTA-700 001.	..	..	..	..	..	..	..	..	FDs of Rs. 6.14 lakhs lying since 15-9-76. The Co. is not in a position to pay back and FDR vide letter of 26-4-91.
5.	M/s Calico, Post Box No. 12, Jamalpur Gate, AHMEDA-BAD.	02	12	822 Rs. 31,94,677	12 Rs. 251,700	Rs. 34,46,377 plus Rs. 3.41 lakhs as interest.	..	6/19	..	Case is pending before BIFR. ICICI is operating agency and will soon submit report to BIFR. It is difficult to say anything regarding payment of deposits. (Co. letter dated 13-5-91). BIFR has suspended the operation of CLB order to refund the deposits for one year or till finalisation of rehabilitation package. Co. letter dated 24-6-91.
6.	M/s Centron Industries & Alliance Ltd., 219, Adhyon, Industrial Estate, Indl. Assurance Building, BOMBAY-400 020.	04	..	..	..	..	..	..	..	Company started making payment of deposits according to scheme sanctioned by Bombay High Court. Co. letter dated 25-2-91.

1	2	3	4	5	6	7	8	9	10
7.	M/s Central Paper & Pulp Mills Limited, 1183, Shivaji Nagar, Pune-411 005.	385	5	3572 for Rs. 103.99 lakhs	62 for Rs. 23.41 lakhs	Rs. 127.40 lakhs	..	..	BIFR published rehabilitation packages and invited offers from interested parties to revive the Company. Therein a provision has been made for payment of FDRs with interest at 14% p.a. (Co. Ltr. 18.7 & 12-4-91.)
8.	M/s Champagne India Ltd., Indage House, 82, Dr. Annie Besant Road, Worli, Bombay-400 018.	03	..	266 Rs. 10,12,000	3 Rs. 60,000	Rs. 10,72,000	..	..	The Company vide letter dated 18-7-91 is hopeful to make the repayment very shortly.
9.	M/s Deccan Paper Mills Company Ltd., Mundhwa, Pune.	01	01	..	18	Rs. 15.02 lakhs	..	..	The Company is closed for the past 3 years. Application with BIFR pending. The company has not complied with the provisions of 5.38 (A) of the Companies Act, 1956. (letter dated 25-2-91).
10.	M/s Deccan Dyes and Chemicals Industries, 38, Vijay Nagar Colony, Pune-411 030	02	..	30 Rs. 11.70 lakhs	25 Rs. 0.70 lakhs	Rs. 12.40 lakhs	..	..	Company has paid Rs. 6 lakhs during past 4-5 years. As on 31-3-1991 total old deposits with interest amount to Rs. 9.47 lakhs only (Co. letter dated 11-5-91). (Rs. 12.40 lakhs according to letter dated 23-2-91). Thus paid Rs. 2.93 lakhs between Feb. 91 to May, 91.
11.	M/s Emulsel Industrial Products, 771, Upper Mogal Lanes, Mahim, Bombay-400 016.	02	01	..	..	..	..	..	Reminder sent on 20-6-91.
12.	M/s Experto Industrial Engravers Pvt. Ltd., Plot No. 1814, 1914, Hadapsar Industrial Estate, Pune.	01	..	90	..	Rs. 2.5 lakhs	..	..	95% of the depositors have been repaid. Therefore, Co. refunded about Rs. 2.4 lakhs to 86 depositors (Companies' letter dt. 29-8-90).
13.	M/s Gonloc Ltd. Magnet House, 6, Chittaranjan Avenue Calcutta-700 072.	04	..	..	..	..	..	..	The case is under the consideration of BIFR (Co. letter dated 7-5-91).
14.	M/s Gold Mohur Mills Ltd., D. Phalke Road, Dadar, Bombay-14.	01	..	..	..	Rs. 4,46,500	..	..	Company is under the management of NTC Ltd. All the deposits remain un-refunded prior to take over i.e. 18-10-1983. (Co. letter 13-6-91).
15.	M/s Gujarat Setco Clutch Ltd., Baroda, Ghodhra Highway, Karol-389330.	01	..	153 Rs. 6,19,800	3 Rs. 49,000	Rs. 6.68 lakhs	..	..	The Co. is sick under S. I. P. Act, 1985. IRBI is operating agency. The viability plan is under consideration and it includes proposal to repay deposits/Interest. (Co. letter dated 28-7-91.)

1	2	3	4	5	6	7	8	9	10	
16.	M/s H.E.S. Ltd., Jogeshwari Estate, Jogeshwari, Bom- bay-400 102.	03		34 Rs. 1.45 lakhs	14 Rs. 3.55 lakhs	Rs. 5 lakhs				ICICI has been appointed as the operating agency with instructions to prepare rehabilitation scheme by the BIFR. (Co. letter dt. 16-4-91).
17.	M/s Hoist-O-Mech Ltd., 101, Sharda Chambers, 15, New Marine Lines, Bombay-20.	07	..		..	..				Unable to furnish data, promise to furnish the same shortly (Co. letter 26-2-91. Reminder on 12-6-91.)
18.	M/s I.A.E.C. (India) Ltd., Mandap, 196, LB Shastri Marg, Bhandup, Bombay.	06	..		..	..				Company requested to bear with till the proposal is accepted by BIFR (Company letter dated 25-2-91.)
19.	M/s Juggilal Kamla- pat Cotton spinning and Weaving Mills Co. Ltd., Post Box No. 25, Kamla Tower, Kanpur.	07	03	701 Rs. 29.05 lakhs	19 Rs. 3.17 Lakhs	Rs. 32.22 Lakhs				1 Applied to CLB for extension of time. (Company letter dt. 28-8-90.)
20.	M/s Khatau Makan- ji Spinning & Weav- ing Co. Ltd., Laxmi Building, 6, Shoorji Vallabh Dass Marg, Fort. Bombay.	24	..	..	..	..				The Company has paid interest of FDRs upto 31-12-90 (Company letter dated 19-4-1991).
21.	M/s Machinery Ma- nufacturing Corpn. Ltd., MMC Eucho- ristic Congress Build- ing No. 2, 5, Lanvent Street, Bombay-39	44	01	..	..	..				Government of India vide letter dated 1-4-91 informed that the Company is under liquidation and creditors should approach the official liquidator.
22.	M/s The Modern Mills Ltd., 29/101, K. Khadye Marg, Gadge Maharaj Ch- owk, Bombay-11.	1	28	..	..	Rs. 2.58 Lakhs				IDBI has been appointed as operation agency for preparing a rehabilitation scheme for the Co. (letter dt. 20-5-91).
23.	M/s Modi Industries, Modi Nagar (UP).	15	..	..	..	..				124 involv- ing 211 depo- sits CLB vide order dt. 9-1-91 directed the company to issue post dated cheque amounting to Rs. 1 Cr. for making payment to the depositors (Co. ltr. dt. 5-3-91.)
24.	M/s New Gujarat Synthetics Ltd., Naroda Road, Ah- medabad-380 025.	12	..	..	..	..				GOI vide letter dated 15-4-91 infor- med that payment shall be made on pro-rata basis and it is not possible to make any payment at this stage.
25.	M/s Nirlon Synth- etic Fibres & Chem- icals Ltd., Worli, Nirlon House Bom- bay.	41	1	14323 Rs. 605.19 Lakhs	300 Rs. 193.43 Lakhs	Rs. 798.62 Lakhs				The Commission advised the company to pay to 14323 small depositors vide letter dt. 24-3-91. But the Company expressed its inability to do so vide letter dt. 18-4-91.

1	2	3	4	5	6	7	8	9	10
26.	M/s Orsons Electronic Ltd., 209/210 "ARCADIA" Back-bay Reclamation, Nariman Point, Bombay-21.	39	1	..	..	..	..	..	Company's case is pending with BIFR. Company has requested to bear with till the decision of BIFR. Company's letter dt. 31-5-1991.
27.	M/s Ogale Glass Works Ltd., Ogale-wadi (District Satara) Maharashtra.	02	04	188	5	Rs. 6.30 lakhs	..	..	Final proceeding expected by BRIF shortly. (letter 23-2-91.)
28.	M/s Otoklin Plants & Equipments Ltd., Plot No. 1, Shah Industries Area, Vira Desai Road, Andheri (W) Bombay-58.	08	..	710 Rs. 29.06 lakhs	2 Rs. 0.41 lakhs	Rs. 29.47 lakhs	..	2	Company Vide letter dated 24-4-91 has expressed its ability to repay FDRs in a short-while.
29.	M/s Palghar Rolling Mills Pvt. Ltd., Mitta Chambers, Nariman Point, Bombay.	02	..	175	Rs. 0.95 lakhs	Rs. 6.83 lakhs	..	8	The rehabilitation package has been approved by the Board of Directors, State Bank of India and Bank of Baroda, but the banks have not yet released the Funds. The company efforts are in advanced stage and shall start paying the deposits as soon as funds are released. (Co. letter dated. 8-4-91).
30.	M/s Paper & Pulp Conversions Ltd., 1183, Shivaji Nagar, Pune.	154	07	1175 Rs. 53.76 lakhs	40 Rs. 8.83 lakhs	Rs. 62.6 lakhs	2	2	Operation of the mills of the company is closed (Co. letter dated 26-4-91).
31.	M/s Podar Mills Ltd. Podar Chambers, SA Brelvi Road, Fort Bombay-1.	14	..	104	42	Exceeds Rs. 1 cr.	2	20	Company in its letter dated 27-4-91 intimated that the total amount of deposits together with interest exceeds Rs. 1 crore. The Co. is not in a position to make payment.
32.	M/s Phoenix Mills Ltd., 462, Lower Parel, Bombay-13.	06	..	672 Rs. 23.95 lakhs	6 Rs. 3.10 lakhs	Rs. 27.05 lakhs	..	8	Made payment of 1 deposits of Rs. 2000. Co. letters dated 23-7-90 & 3-6-91.
33.	M/s Raja Bahadur Motilal Poonna Mills Ltd., Hama House, Ambalal Doshi Marg, Fort. Bombay-23.	15	01	421	25	Rs. 26.82 lakhs	..	..	Total amount including interest is Rs. 38 lakhs. Co. has paid Rs. 36.89 lakhs to 423 depositors and 26 depositors would be paid Rs. 1.10 lakh on surrender of FDRs. Co. letter dt. 3-8-91.
34.	M/s Shri Chamundi Mopeds Ltd., 15, Cotton Complex, Residency Road, Bangalore-25.	16	..	..	..	..	..	..	BIFR has passed orders for winding up the company and necessary instructions have been sent to the High Court of Karnataka. the depositors should approach the High Court and the official liquidator. (Co. letter dated 17-6-91).

1	2	3	4	5	6	7	8	9	10
35.	M/s SLM Maniklal Industries Ltd., Vaswani Mansion, Bombay-20.	7	..	..	..	Rs. 102 lakhs	33	..	It is not possible to pay back deposits selectively. Company shall continue to pay intt. as per scheme submitted to the BIFR. Co. letter dated. 4-8-90.
36.	M/s Standard Motor Products of India Ltd., 3, Murrays Gate Road, Madras-18.	01	..	2429 Rs. 109.13 lakhs	94 Rs. 25.28 lakhs	Rs. 134.41 lakhs	65	..	Deposits to be refunded after rehabilitation scheme is formulated. Co. letter 5-3-91.
37.	M/s Swastic Rubber Products Khadi, Pune-411003.	90	01	1582	24	..	37	9	With the consent of the depositors, the Co. has incorporated a scheme to repay deposits in 3 yearly equal instalments during 1989 to 1992. Co. letter. dated. 18-2-91.
38.	M/s Shri Ambika Mills Ltd., Kankaria, Ahmedabad-380 009	2	..	..	..	..	..	..	The company has been declared sick. A scheme for rehabilitation has been accepted by BIRF. The payment of deposits will be made before 31-3-1992 along with interest. Co. letter. dated 12-6-91.
39.	M/s Vallabh Glass Works Ltd., Vithal Udyog Nagar, 388/121, Dist. Kheda, Gujarat.	13	01	6031	..	Rs. 253.13 lakhs	..	..	The Company worked out a scheme requesting the repayment to small depositors up to Rs. 5000 who voluntarily waive the interest on humanitarian grounds. Many of the depositors responded and in pursuance to this scheme company repaid 1641 depositors amounting to Rs. 69.50 lakhs. The company is expected to repay to 1600 depositors during 1991-92 amounting to Rs. 70 lakhs. There were 6031 depositors and amount involved was Rs. 252.27 lakhs.
40.	M/s Vanaz Engineering Pvt. Ltd., 85/1 Paud Road, Pune-410 029	14	..	314 Rs. 12.61	14 Rs. 11.66	Rs. 24.27 lakhs	2	..	Total amount involved for repayment to the depositors including whose deposits have not matured is Rs. 38.40 lakhs and total depositors are 480 vide company's letter dated 20-4-1991.
Total No. of Companies		40 1022	79	39-032 involving Rs. 16,36,55,577	708 involving Rs. 2,78,09,700	More than Rs. 19,14,65,277	271	69	Paid to 7583 depositors Rs. 252.76 lakhs and expected to pay 2809 depositors Rs. 206.12 lakhs.

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1	2	3	4	5	6	7	8	9	10
15.	M.s VANAZ Engineering Pvt. Ltd., 85/1, Paud Road, Pune-29	12	..	314 for Rs. 12.61 lakhs	14 Rs. 11.66 lakhs	Rs. 24.27 lakhs	Sick company, IDBI sanctioned 80 lakhs, 130 depositors paid 6.60 lakhs, 2.42 lakhs paid to 62 depositors vide letter dt. 7-7-90. Total amount involved for repayment to the depositors including whose deposits have not matured is Rs. 38.40 lakhs and total depositors are 480 vide company's letter dt. 20-4-91.
TOTAL		39	..						

(Private companies which are sick relief units are not counted for the totalling purpose. Repaid Rs. 12,460 to 3 depositors.)

1	2	3	4	5	6	7	8	9	10
58.	M/s IPCO Paper Mills, Elphinston Mills Compound, Bombay-13.	21	..	..	..	..	..	..	Reminded on 20-6-91.
59.	M/s. Indian Sewing Making Co. Ltd., 3, Nehru Place, New Delhi-17.	1	..	..	..	..	..	..	—do—
60.	M/s Indico Constructions, Omex Apartment, 64, Sahar Road, Andheri (E), Bombay-69.	3	3	..	..	..	..	..	—do—
61.	M/s Iravati Industries, Shankar Seth Road, Pune.	11	1	..	..	..	..	..	Reminded on 20-6-91. The concern is a fixed constituted by Mr. G.S. Ekbote invited deposits and cheated the depositors. A criminal case has been filed against him at pune.
62.	M/s Indian Motors Corpn. Ltd., Madan Mohan Malvia Marg, Lucknow.	1	..	..	..	..	..	..	Reminded on 21-6-91.
63.	M/s Jindal Steel Tubes, Sahibabad, Hyderabad.	1	..	..	3	..	..	..	Refunded Rs. 3,000 FDRs amounting to Rs. 15,000/- remaining unpaid as on 7-3-91.
64.	M/s Jyoti Ltd., Chemical Ltd., PO Baroda, Pin-390 003.	5	..	..	..	..	..	..	The Co. shall be making payment before the end of July, 91. Co. letter dated 1-3-91.
65.	M/s Janpriya Finance Industrial Investment (India) Ltd., Central Regional Office 4B/10, Jhandawalan, New Delhi.	428	..	..	..	..	..	..	The Co. management vest upon the management constituted by the Calcutta High Court. Co. is not authorised to sign any cheque to sanction payment. Co. letter dated 21-2-91. A letter dated 7-6-91 has been written to Justice S. Mitra (Retd.) to intervene.
66.	M/s J.K. Synthetics Ltd. Kamala Tower, Kanpur.	1	..	..	..	..	..	..	A case of pre-matured FDR. Co. letter 24-5-91.
67.	M/s Kusum Constructions Co., A-2/203, Laxmi Centre, S.V. Road, Andheri(West) Bombay.	1	..	..	..	..	..	..	Reminded on 20-6-91.
68.	M/s K.T. Dangre & Co. Ltd., 82, N. Master Road, Bombay-23.	4	1	..	..	..	..	..	—do—
69.	M/s Krishna Super Mills, P.O. Krishna Kuttar, Distt. Belgaum (Karnataka).	1	..	..	..	..	..	..	—do—
70.	M/s Keena Barrels Mfg. Co. Ltd., 92, Raviwar Peth, Pune-2.	7	..	..	..	..	..	..	—do—
71.	M/s Khandelwal Tube Industries, Rehman Mansion-448, Bhagat Singh Road, Colaba, Bombay-39.	1	..	..	..	..	..	..	—do—

1	2	3	4	5	6	7	8	9	10
72.	M/s Kranti Industries, C/o Pestril Growth Fund & Management Services (P) Ltd., 32/2-C, Modi Mansion, Shankar Sheth Road, Pune-37.	21	..	..	..	..	..	..	Reminded on 20-6-91. The concern is a firm constituted by Mr. G.S. Ekbote invited deposits and cheated the depositor. A criminal case has been filed against him at Pune.
73.	M/s Krishna Engg. Works, A-107, Wazirpur Industrial Area, Delhi-52.	10	..	..	..	..	..	..	Concern is a firm. Refunded all deposits.
74.	M/s Kulkarni Foundries, Hadapsar Industrial Estate, Pune-13.	20	..	..	..	..	..	..	Reminded on 20-6-91.
75.	M/s Kulkarni Constructions, 19, Ganesh Chambers, Karve Rd. Pune-4.	6	1	..	..	..	..	..	—do—
76.	M/s Khaitan Spinning & Weaving Co. Ltd., Bombay-38.	1	..	..	..	..	..	..	—do—
77.	M/s Krishna Sugar Mills Ltd., P.O. Krishna, Belgaum, Karnataka.	1	..	..	..	..	..	..	—do—
78.	M/s Kala Bharati Granthalaya, 1712/1-B, Sadashiv peth, Udyan Bhavan, near Bhikar Das Maruti Pune-30.	3	..	..	..	..	..	..	The concern is a shop and running a small library. The deposit has been refunded. (Proprietor's letter 7-3-91)
79.	M/s Karnataka Ball Bearings Corpn. Ltd., 21-B, Belwadi Industrial Area, Belwadi, Mysore-571186.	1	..	..	..	..	..	..	Reminded on 20-6-91
80.	M/s Laxmi Chand Bhaji Ltd., 75, Nehru Bill Urle (East), Bombay-99.	31	..	..	..	..	..	..	—do—
81.	M/s Laghate Enterprises, Unit No. 115, 383, S & P Road, Bombay-4.	116	..	..	..	..	..	..	—do—
82.	M/s Lohia Machines Ltd., Kanpur.	6	..	..	..	..	..	..	Payments made to four depositors of Rs. 2849/- Co. letters 21-5-91, 28-5-91 and 5-6-91.
83.	M/s Lords Group Housing Finance Ltd., 1644, Near New Post Office, Gandhi Nagar, Delhi-31.	4	1	..	..	..	..	..	The company is hopeful to pay to all the depositors after May '91. Co. letter 1-5-91 and Commission letter dated. 21-5-91.
84.	M/s Mazda Industries & Leasing Ltd., 317 Maker Chamber No. 221, Nariman Point, Bombay-21.	50	..	..	..	..	..	..	Refunded Rs. 5,523/- they will be paying to all the depositors whose deposits are Rs. 3,000 or less as suggested by the Commission letter dt. 27-2-91.

1	2	3	4	5	6	7	8	9	10
85.	M/s Maithili Industries, C/o Perfect Growth Fund & Management Services (P) Ltd., 37-2-C, Modi Mansion, Shankar Sheth Road, Pune-37.	9	7	..	..	..	..	..	Reminded on 20-6-91. The concern is a firm constituted by Mr. G. S. Ekbote, invited deposits and cheated the depositors. A criminal case has been filed against him at Pune.
86.	M/s Modi Rubber Ltd., Modi Nagar.	2	..	263	16	Rs. 15.29 lakhs	..	..	Refunded as per terms of deposit pending deposits have not been claimed. Co. letter dated 18-7-90.
87.	M/s M. S. Parekh & Co., 1183, Shivaji Nagar, Pune.	390	280	..	..	..	..	..	Reminded on 20-6-91
88.	M/s Mava Udyog, 45, Bajaj Bhawan, Nariman Point, Bombay.	1	..	..	..	..	..	..	Reminded on 26-6-91.
89.	M/s Mass Communication Marketing (P) Industrial Assurance Bldg., Bombay.	1	..	..	..	..	..	..	--do--
90.	M/s Machinery Mfg. Corpn. Ltd., Congress Nagar, Bldg. No. 25, Convent Street, Bombay-39.	15	..	..	..	..	..	..	--do--
91.	M/s Maharashtra Scooters Ltd., C/o Bajaj Auto Ltd., Bombay-Poona Road, Pune-35.	1	..	..	..	..	..	..	Refunded Rs. 500 Co. letter dated 24-5-91.
92.	M/s Mee Metal Boxes Co. of India Ltd., Devnar Sadhu Sovide, Bombay-88.	2	..	..	..	..	..	..	Reminded on 26-6-91
93.	M/s MCS Ltd., C-3, Community Centre, Safdarjang Development Area, New Delhi.	1	..	..	..	..	..	..	Refunded Rs. 1,250. Co. letter dated 2-5-91.
94.	M/s Malasi Savings & Finance Co. Ltd., 21/23, EC Road, Dehradun.	1	..	..	Deleted Pvt. Co.			..	Reminded on 26-6-91.
95.	M/s Maharashtra Savings, M/4, Chiranjiv Tower, Nehru Place, New Delhi.	1	..	..	..	..	..	..	Letter returned addressee left.
96.	M/s Nava Industries. Licencee Perfect Industries, Shankar Sheth Road, Near HG Society, Pune.	13	1	..	..	..	..	..	Reminded on 20-6-91. The concern is a firm constituted by Mr. G. S. Ekbote, invited deposits and cheated the depositors. A criminal case has been filed against him at Pune.
97.	M/s Nirmam Mechanical Erectors Ltd., A-61, Rajashri Shahu, Satara Road, Pune-37.	1	..	..	..	..	..	..	The Company is taking all steps to make payments as soon as possible. Co. ltr. 12-10-90.
98.	M/s Noble Electricals Co. Mohin Industrial Estate, Bombay-16.	1	..	..	..	..	..	..	Reminded on 20-6-91.

1	2	3	4	5	6	7	8	9	10
114.	M/s Pure Drinks Ltd. 5, Mohan Singh building, Connaught Lane, New Delhi.	58	2	..	..	..	..	..	Rs. 3-68 Lakhs has been refunded. Co. letter 10-5-91, 15-3-91 and 23-5-91.
115.	M/s Perfect Growth Funds and Management Ltd., 37/2-C, Shankar Sheth Road, Pune-37.	17	4	..	..	..	..	..	Reminded on 20-6-91.
116.	M/s Perfect Motors, Co. Ltd. Modi Mansions, Shankar Sheth Road, Pune-37.	16	2	..	..	..	..	..	—do—
117.	M/s Prashant Industries C/o Perfect Growth Fund & Management Services (P) Ltd., 37/2-C, Modi, Mansion, Shankar Sheth Road, Pune-37.	15	4	..	..	..	..	..	Reminded on 20-6-91. The concern is a firm constituted by Mr. G.S. Ekbote, invited deposits and cheated the depositors. A criminal case has been filed against him at Pune.
118.	M/s Perfect Industries, 37-2/C, Shankar Sheth Road. Pune-37.	7	2	..	..	..	..	..	Some of the employees of the company have informed that one Mr. Chandu Alias G.S. Ekbote has floated various Cos. accepted the deposits to the tune of Rs. 3 Crs. A criminal case is pending against him.
119.	M/s Peter and Park Commission Ltd., 1183, Shivaji Nagar, Pune.	1	..	..	..	..	..	..	Reminded on 20-6-91.
120.	M/s Parkash Paper & Jutes Ltd., Hissar.	1	..	..	..	..	..	..	No FDR remains unrefunded (Vide Co. letter 4-3-91).
121.	M/s Pentagom Engineers, Hadhumkund, Plot No. 33, 243, East Bombay-22.	1	..	..	..	..	..	..	Reminded on 20-6-91
122.	M/s Panipat Woollen and General Mills Ltd., Kharar (Punjab)	1	..	..	..	..	..	..	—do—
123.	M/s Republic Forge Co. Ltd., Moula Ali, Hyderabad-40.	3	..	..	..	..	..	..	—do—
124.	M/s Raja Bahadur Motilal Mills Ltd., Ambalal Dashai Marg, Bombay-23.	2	..	..	..	..	..	..	—do—
125.	M/s Ritz Contract Hotels Ltd., 12, Jawahar Lal Nehru Road, Calcutta-13.	1	..	..	..	..	..	..	—do—
126.	M/s Rustam Mills & Industries Ltd., Briz House, Station Road, Ahmedabad-14.	1	..	..	..	..	..	..	—do—
127.	M/s Ross Murarka Finance Ltd., Sterling Centre, 2nd floor, Dr. Annie Besant Road, Worli, Bombay-18.	1	..	..	..	..	..	..	Reminded on 20-6-91. No overdue deposits. Co. letter dt. 26-6-91.
128.	M/s Raymonds Synthetic Ltd., Bilaspur (MP).	3	..	..	..	..	..	..	Reminded ¹ on 20-6-91.

1	2	3	4	5	6	7	8	9	10
129.	M/s Sanchayani Savings & Investment (India), 82-2A, Bidhan, Sarani, 27, 157/2AA P.C. Road, Salt Lake Calcutta-4.	4	..	..	..	..	..	..	Letter returned without any remarks.
130.	M/s Siemens Ltd., Bombay.	1	..	..	..	..	..	..	Rs. 5,000. No deposit is unpaid.
131.	M/s Shalimar Financers Regd. Office, Bangalore.	6	..	..	..	..	..	..	Reminded on 26-6-91.
132.	M/s Swarna Finance, and Investment, Blue Moon Complex, P.B. No. 5064, 66, M. G. Road, Bangalore, Karnataka.	12	..	..	..	..	..	..	Letter returned (left).
133.	M/s Suyash Industries C/o Perfect Growth Fund & Management Services (P) Ltd., 37/2-C, Shankar Sheth Road, Pune-37.	22	3	..	..	..	..	..	Reminded on 26-6-91. The concern is a firm constituted by Mr. G. S. Ekbotet, invited deposits and cheated the depositors. A criminal case has been filed against him at Pune.
134.	M/s Shevdes Camera Works Ltd., 427/1, Congress Wall Road, Tilakwadi, Belgaum.	1	..	..	..	..	..	..	The Co. will take little time to supply information. Letter dated 25-5-91 of Company.
135.	M/s Sachin Travels, Chhaya Bldg., R. I. Vaid Road, Dadar, Bombay-25.	1	..	..	..	..	..	..	Reminded on 26-6-91.
136.	M/s Shridhar Balchandra Construction, Bhaveswar Vihar, 383 Sardar Patel Road, Bombay-9.	10	..	..	..	..	..	..	—do—
137.	M/s Shree Shakti Mills Ltd., Mahalaxmi, Bombay-11	3	..	..	..	..	..	..	—do—
138.	M/s Swadeshi Cotton Mills Ltd., Kanpur.	2	..	..	..	..	..	..	—do—
139.	M/s Synbiotics Ltd., Wadi-Wadi, P. B. No. 129, Baroda-7.	1	..	158	1	Rs. 7,65,500	..	..	Refunded Rs. 6,000 (5-4-91). Co. has assured to pay all the 159 deposits before the end of August 91. Co. letter dated 2-7-91. Commission has advised to issue post dated cheques to the depositors vide letter dated 17-7-91.
140.	M/s SS Builders. Haji Adams Mansion, Bombay.	7	..	..	..	..	..	..	Reminded on 20-6-93
141.	M/s CIL India Ltd., Siman House, Trausput Deptt. Road, Calcutta-88.	1	..	..	..	..	..	..	—do—
142.	M/s Sahib Singh & Sons B.I.H./B. No. 70739, Fort, Bombay.	2	..	..	..	..	..	..	Letter returned.
143.	M/s Sanchaita Investment, 586, Fanly Lane, Calcutta-1.	4	..	..	..	..	..	..	Letter returned without remarks.

1	2	3	4	5	6	7	8	9	10
159.	M/s W. G. Forge Allied Industries Ltd., Central Bank Building, Mahatma Gandhi Road, Bombay-23.	18	..	..	..	..	..	..	Undelivered. Company Closed.
160.	M/s Wipro Industries Limited, Bakhtwar Building, 14th Floor, Nariman Point, Bombay.	1	..	..	..	..	..	..	Rs. 4,000 refunded one deposit. Co. ltr. dated 8-5-91.
TOTAL . . .		2738	112	3,387	158	113.73 lakhs	Rs. 94,30,181 paid to 2190 depositors. Rs. 8.83 lakhs are likely to be paid shortly.		

APPENDIX 'C'

Statement showing refund of Deposits by companies on Initiative of the Law Commission
(As per information furnished by the Companies)

Sl. No.	Name of the Company	No. of depositors whose deposits have been refunded	Total Amount	Remarks
1	2	3	4	5
A. SICK COMPANIES				
1.	M/s. Amar Dye-Chem Ltd., Bombay	5,240	Rs. 132 lakhs	Vide Company letters dt. 22-2-91 and 26-6-91 Rs. 88 lakhs would be paid during 1991-92.
2.	M/s. Champagne India Ltd., Bombay	Not furnished	Rs.	Company is taking steps to repay Rs. 10.72 lakhs to 266 depositors vide letter dated 18-5-91.
3.	M/s. Deccan Dyes & Chemicals Industries, Pune.	..	Rs. 2.98 lakhs	Vide Company letter dt. 23-2-91 and 11-5-91.
4.	M/s. Exporto Industrial Engravers Pvt. Ltd., Pune.	86	Rs. 2.40 lakhs	Vide company letter dated 29-8-90.
5.	M/s. Khatau Makanjee Spinning and Weaving Company Limited, Bombay.	Not furnished	Not furnished	Company has paid interest on FDRs upto 31-12-90 (Company letter dt. 19/24-5-91).
6.	M/s. Otokline plants & Equipments Ltd., Bombay.	..	..	Company has expressed its ability to pay FDRs amounting to Rs. 29.47 lakhs to 742 depositors in shortwhile, vide letter dated 24-4-91.
7.	M/s. Palghar Rolling Mills Pvt. Ltd., Bombay.	..	..	Company is expected to pay shortly to 175 depositors Rs. 6.63 lakhs (Company letter dated 8-4-91).
8.	M/s. Phoenix Mills Limited, Bombay	1	Rs. 2,000	Company letter dt. 3-6-91.
9.	M/s. Raja Bahadur Motilal Poona Mills Limited, Bombay	423	Rs. 36.89 lakhs	Rs. 1.10 lakh would be paid to 26 depositors on surrender of FDRs by them. Company letter dated 3-8-91.
10.	M/s. Vallabh Glass Works Limited, Anand (Gujarat).	1,641	Rs. 69.50 lakhs	Company is expected to repay to 1,600 depositors during 1991-92 amounting to Rs. 70 lakhs, vide Company letter dt. 26-2-1991.
11.	M/s. Vanaz Engineering Pvt. Ltd., Pune	192	Rs. 9.02 lakhs	Vide Company's letter dated 7-7-1990.
	Total	7,583	Rs. 252.76 lakhs	Companies are expected to repay Rs. 206.12 lakhs to 2,809 depositors in near future.
B. PRIVATE COMPANIES (OTHER THAN SICK)				
12.	M/s. Sallgence Marketing Co. Pvt. Ltd., Pune.	2	Rs. 9,000	Company letter dated 16-3-1991.
13.	M/s. Malari Saving & Finance Co. (P) Limited, Dehra Dun.	1	Rs. 3,460	Company letter dated 2-8-91.
	Total	3	Rs. 12,460	
C. COMPANIES OTHER THAN PRIVATE AND SICK				
14.	M/s. Andhra Pradesh Scooters Limited, Aitenchar, PIN-502 319.	1	Rs. 500	Company letter dated 11-5-1991.
15.	M/s. American Refrigerators Company Limited, Calcutta-1.	1	Rs. 4,749	Company letter dated 25-4-1991.
16.	M/s. Ambalal Sarabhai Enterprises Limited, Baroda.	1456	Rs. 77.11 lakhs	Order by CLB on reference by Law Commission.
17.	M/s. Gestetner (India) Limited, New Delhi	1	Rs. 4,000	Company letter dated 29-1-1991.

1	2	3	4	5
18.	M/s. G.P. Upadhye & Sons, Bombay-2 .	2	Rs. 2,500	Firm letter dated 16-3-1991.
19.	M/s. H.P. Agro Industries, Shimla .	148	Rs. 12.50 lakhs	Order by CLB on a reference by the Law Commission.
20.	M/s. Jindal Steel Tubes Limited Sahibabad, Hyderabad.	3	Rs. 15,000	Vide Company's letter dt. 1-3-91.
21.	M/s. Krishna Engineering Works, Delhi-52	10	..	Firm letter dated 11-3-91.
22.	M/s. Loha Machines Limited, Kanpur .	4	Rs. 2,849	Company letters dated 21-5-91, 28-5-1991 and 3-6-1991.
23.	M/s. Lords Group Housing Finance Ltd., Delhi-31.	Not furnished	Not furnished	**Company is hopeful to repay to all the depositors after May, 1991. Company's letter dt. 1-5-91.
24.	M/s. Maharashtra Scooters Ltd., Pune .	1	Rs. 500	Company letter dated 24-5-91.
25.	M/s. MCS Limited, New Delhi . . .	1	Rs. 1,250	Company letter dated 2-5-91.
26.	M/s. Mazda Industries & Leasing Limited, Bombay-21.	1	Rs. 5,328	**Company will be paying all the depositors whose deposits are Rs. 5,000 or less as suggested by the Law Commission. Company letter dated 27-2-91 & 4-6-91.
27.	M/s. Nirman Engineering Corporation, Pune.	2	Rs. 6,000	Company letter dated 7-5-91.
28.	M/s. Orissa Industries Ltd., Rourkela .	1	Rs. 3,000	**Company Assured to repay all 20 depositors amounting to Rs. 1.7 lakhs by July, 1991. Company letters dated 20-4-91 and 25-5-1991.
29.	M/s. OTA India, Bombay . . . .	..	..	Company is paying in instalments of Rs. 250 to Rs. 1,000 p.m. to the depositors who have not gone to the Court (Company letter dated 6-3-91).
30.	M/s. Orient Abrasions Limited, New Delhi.	2	Rs. 10,513	..
31.	M/s. Pure Drinks Limited, New Delhi-1	545	Rs. 3.68 lakhs	Letters dt. 10-5-91, 15-5-91 and 23-5-91.
32.	M/s. Siemens Limited	1	Rs. 5,000	..
33.	M/s. Synbiotics Limited, Baroda .	1	Rs. 6,000	**Company letter dt. 5-4-1991. Company has assured to pay all depositors by August, 1991. Company letter dt. 2-7-1991.
34.	M/s. Thapar Agro Mills Limited, New Delhi.	1	Rs. 2,250	Company letter dated 16-5-91.
35.	M/s. Phoenix Mills Ltd., Bombay-30 .	1	Rs. 2,000	Company letter dated 3-6-91.
36.	M/s. Udayan Credit & General Investment Co. Ltd., Calcutta.	3	Rs. 12,060	Company letter dated 11-4-91 .
37.	M/s. Uniscans & Sonics Ltd., Chandigarh.	1	Rs. 17,371	Company letter dated 30-7-91.
38.	M/s. United Diamonds Limited, Chandigarh.	3	Rs. 10,311	Company letters dated 26-3-91. and 11-6-91.
39.	M/s. Wipro Industries Limited, Bombay	1	Rs. 4,000	Company letter dated 8-5-91.
	Total	2,190	Rs. 94,30,181	Plus **Companies.
	Grand Total (A+B+C)	9,776	Rs. 34,718,641	Companies are expected to repay Rs. 206.12 lakhs to 2,809 depositors, plus **Companies.

Telegram

State/Ordinary
Ase
Baroda-390 007

YOUR REPLY DATED 26 FEBRUARY TO COMMISSIONS COMMUNICATION DATED 14 FEBRUARY UNSATISFACTORY BECAUSE OF NON-COMPLIANCE WITH DIRECTION TO FURNISH PARTICULARS; DETAILS AND DATA (STOP) PLEASE SEND NAMES ADDRESSES OF DEPOSITORS MENTIONING DEPOSIT AMOUNT AND DATE OF MATURITY QUICKLY.

KRISHNAMURTHY
Member Secretary
Law Commission

Not to be Telegraphed :

Sd./-
(G. V. G. KRISHNAMURTHY)
Member Secretary
Law Commission
7th Floor, Shastri Bhavan,
New Delhi-110 001

LAW COMMISSION OF INDIA
MINISTRY OF LAW AND JUSTICE
(DEPARTMENT OF LEGAL AFFAIRS)

March 19, 1991

No. 6(2)(ii)/87/LC(LS)(IF)(13)

Copy by post in confirmation to :

M/s. Ambalal Sarabhai Enterprises Ltd.,
Wadi, Vadodara,
BARODA

(DR. SATISH CHANDRA)
Additional Law Officer
Law Commission
7th Floor, Shastri Bhavan,
New Delhi-110 001

LAW COMMISSION
GOVERNMENT OF INDIA
SHASTRI BHAWAN
NEW DELHI-110 001

April 19, 1991

JUSTICE M. P. THAKKAR
Chairman

No. 5/LC(CH)

Sub. : Request for the exercise of *suo motu* powers under sub-section (9) of section 58A of the Companies Act.

Dear Chairman of Company Law Board,

The Law Commission is engaged in a study in regard to the problem posed by default of companies in refund of fixed deposits on maturity with particular reference to the plight of the small depositors in the context of post-audit of socio-economic legislation.

2. In the course of the investigative exercise, a communication was addressed to M/s Ambalal Sarabhai Enterprises Ltd., Wadi Vadodara, Baroda, in order to elicit information as regards number of depositors whose deposits had remained unrefunded for a period exceeding 60 days commencing from the date of maturity. In view of the failure of the company to furnish information, a communication was addressed to the said company on 14-2-91, a copy whereof is annexed hereto (Annexure 'A'). In response thereto of the company has informed the Commission by its communication dated 26th Feb., 1991, to the effect that Rs. 71.96 lakhs have remained unrefunded to 1,312 depositors for the period exceeding 60 days as on 31-1-1991. A copy of the said communication is annexed hereto and marked Annexed 'B'.

3. It will be noticed that the sum of Rs. 71.96 lakhs spread over 1,312 accounts work out at Rs. 5,485 per account. It means all the depositors were suffering on account of failure on the part of the company to refund the small depositors who cannot individually initiate appropriate legal proceedings in order to seek redress. They cannot do so individually because each of them would have to incur expenditure which would possibly exceed the amount due to them in the context of their individual deposits. Under the circumstances, the Commission addressed a communication to the company mentioning that the company would be well advised to make payment of the principal amount due to all of the 1,312 depositors along with interest accrued thereon within the time frame mentioned hereunder :

"25% of the depositors concerned, that is to say, 328 depositors should be refunded the amount within 15 days of the receipt of this communication. Payment to further 328 depositors would be required to be made within further 15 days thereafter. And the remaining 656 depositors would be required to be refunded the amount within one month thereafter. In making refunds, the priority should be arranged in accordance with the date of maturity that is to say, one who has been suffering the longest should be the one to be refunded his dues earliest."

A copy of the said communication is annexed hereto (*Annexure 'C'*).

4. The company has neither furnished information nor acceded to the recommendation made in the aforesaid communication, though the time limit indicated in the letter has expired since long. It appears that the company is not inclined to furnish the information or to accede to the recommendation made in the said letter. It may be stated that while no written response has been received from the company, the Resident Director and the Resident Chief Executive Officer of the company at Delhi sought a meeting with the Consultant/Joint Secretary and Law Officer for 9-4-91. The two officers did not give any specific information about the small depositors with the company nor did they indicate as to when the amounts would be refunded. They said that they would be writing to the head office to furnish the same to us. However, the company has not written to the Commission so far. The relevant paragraphs from the minutes of the meeting recorded by the Consultant/JS & LO are extracted and annexed as *Annexure D*. It, therefore, appears that the company is not interested in redressing the grievances of the small depositors. The number of small depositors would appear to be very large having regard to the fact that 1,312 depositors whose deposits range around Rs. 5,485 per account are put to suffering on account of the default of the company. These small depositors are helpless. For each of them individually cannot afford to initiate legal proceedings. Many of them may not be aware of their rights and many of them would not know what to do. They would also not be in a position to incur the necessary expenditure. The response of the company shows that though minutes of the meeting of 9-4-91 show that though the company has recently secured a loan, it refuses to refund the deposits on account of "(1) non-availability of funds; and (2) increase in losses". It causes a great deal of distress that a company which has assets worth 186.66 crores and has net profit of 61.54 lakhs in 1989-90 (see balance sheet, pages 8 and 9, at *Annexure B1*) should adopt this unedifying attitude and cause untold hardship to hundreds of poor depositors for their fault of placing trust in company.

5. It is in the aforesaid scenario that I am constrained to make this request for invoking your *suo-motu* powers under section 58A(9) of the Act. Even though the names of all the 1,312 small depositors are not available, this letter of request may be treated as the basis for exercise of *suo motu* powers collectively for the benefit of the said depositors.

6. May I suggest that no notices may be issued to the small depositors concerned and they may not be required to remain present having regard to the fact that most of these small depositors would find it extremely difficult to spend for travelling expenses and for their stay in a city like Bombay and the *suo motu* matters would appear to be capable of being disposed of without requiring their presence.

7. The commission will be grateful to you if you are good enough to act on this letter of request and do the needful.

8. The Commission will be grateful to you if you are good enough to treat this communication as one apprising the Company Law Board about the need for exercise of *suo motu* powers under sub-section (9) of section 58A on the basis of the information furnished by this communication and the annexures accompanying the same. The Commission hopes that the needful will be done at an early date and the Commission is apprised of the action taken in respect of the 1,312 depositors who are small depositors and are facing hardship in the circumstances narrated hereinbefore. The particulars regarding the names and the amounts due to the concerned depositors can be obtained by the Company Law Board in exercise of the powers under the Companies Act in as much as the Commission has not been able to procure this information.

With warm regards,

Yours sincerely,

(Sd./-)

(M. P. THAKKAR)

Shri S. P. Upasani,
Chairman,
Company Law Board, Western Region
Bench, Bombay,
C/o. Government of India,
Department of Company Affairs
(Ministry of Industry),
Room No. 504, 'A' Wing,
Shastri Bhawan,
New Delhi-110 001

Encl : As above

ANNEXURE 'A'

LAW COMMISSION OF INDIA
MINISTRY OF LAW AND JUSTICE
GOVERNMENT OF INDIA

Registered A.D.

Shastri Bhawan,
7th Floor, A Wing,
New Delhi-110 001
Dated 14-2-91.

No. 6(2)(11)/87/LC(LS)(IF)(15)

To,

M/s Ambalal Sarabhai Enterprises Ltd.,
Wadi Vadodara,
BARODA

Sub : Failure to furnish the information and data relating to public deposits.
Our reference No. 6(2)(11)/8/LC(LS)/535 dated 3-6-90, and subsequent four letters.

Dear Sir,

This has reference to the letter(s) issued by the Commission under the signature of Joint Secretary & Law Officer/Additional Law Officer of the Commission requesting your organisation to furnish particulars, details and statistical data pertaining to deposits made with you by members of the public which have remained unrefunded for a period exceeding sixty days commencing from the date of maturity for refunding the deposit which has remained un-complied with so far.

2. It is presumed that the non-compliance on your part for such a long time is on account of inadvertence or negligence on the part of the subordinate officers of your organisation. It is so assumed because your organisation is not expected to fail to furnish the information when the same is called for by the Law Commission of India in connection with the public functions entrusted to the Commission by the Central Government.

3. This Communication is being addressed to you by way of last reminder so as to enable you to comply with the requisition within fifteen days of the receipt hereof. If, however, there is non-compliance notwithstanding this reminder if would be reasonable to assume that your organisation has deliberately resolved to flout or disregard the requisition. In that event the Commission, notwithstanding the desire to avoid unpleasantness, may be constrained to pursue such course of action as is considered appropriate having regard to the circumstances in order that the public interest and the interest of the depositors with your organisation is protected. If your organisation publicly appears in a poor light as a result thereof, the responsibility, needless to say, will be solely yours.

4. It is hoped that this reminder will be appreciated in the light spirit and will evoke a favourable response.

Thanking you,

Yours faithfully,

(G. V. G. KRISHNAMURTHY)
Member Secretary
(Secretary to the Government of India)

ANNEXURE 'B'

Ref. No. ASE : FD : 125

26th February, 1991

Mr. G. V. G. Krishnamurthy,
Under Secretary in the
Government of India
Law Commission of India,
Ministry of Law and Justice,
Shastri Bhawan,
7th floor, 'A' Wing,
New Delhi-110 001

Dear Sir,

We are in receipt of your letter No. 6(2)(11)87/LC(LS)(IF)(3) dated 14th February, 1991.

It has always been our practice to reply Government Authorities promptly. Since we have not received your letter No. 6(2)(11)/87/LC(LS)/535 dated 3-6-90, the same could not be replied to you.

As you are aware, the Company is engaged in the manufacture and sale of basic and essential drugs vitally affecting the health care of the nation. Because of the rigorous price control of the Government of India, operations of the Company were affected causing serious liquidity strains. The company has also made a request to its bankers for additional working capital which has not been received for quite some time.

Due to the above reasons, there is delay in payment of deposits. However, the Company is sincerely making efforts to repay fixed deposits at the earliest. Please note that only Rs. 71.96 lacs have remained unrefunded for the period of exceeding sixty days as on 31-1-91 to 1,312 depositors. If you desire any other information, kindly let us know.

Thanking you,

Yours faithfully,

Sd. -

For Ambalal Sarabhai Enterprises
Limited

Secretary

ANNEXURE 'C'

Registered A. D.

March 22, 1991

(Annexure 'B1' Continued on Page No. 42)

No. 6(2)(11)/87/LC(LS)

To,

M/s Ambalal Sarabhai Enterprises Ltd.,
Sarabhai Enterprises Ltd., Wadi,
BARODA

Our reference No. 6(2)(11)/87/LC(LS)(IF)(13) dated 14-2-1991.

Your reference No. ASE : FD : 125, dated 26th February, 1991.

Dear Sirs,

This is in further continuation of the above referred correspondence which has passed between us on the subject pertaining to failure on your part to refund matured deposits of small depositors.

We have sent a telegram to you on March, 19, 1991, making further information from you which we hope must be on its way.

Even the adequate information furnished by you reveals that "Rs. 71.96 lacs have remained unrefunded period of exceeding sixty days as on 31-1-91 to 1,312 depositors". This information causes considerable anxiety of distress. The amount in question when spread over 1,312 accounts works out at Rs. 5,485/- per account. It means, almost all the depositors who are suffering on account of failure on your part to refund the deposits are small depositors who cannot individually initiate appropriate legal proceedings in order to seek redress. They cannot do so individually because each of them would have to incur an expenditure which would possible exceed the amount due to them in the context of their individual deposits. It is wondered whether only small depositors, who are virtually helpless in the circumstances, have been put to a suffering.

Be it realised that these small depositors have reposed their trust in your company because of faith in your company. It is not quite becoming to your company that a situation is created where such small depositors having trust in you would be made to suffer by your indifference to their fate merely because they are found to be helpless to act their own. Whatever be your financial constraints, their would appear no justification for meeting out such treatment to the aforesaid small depositors. It is evident that the total amount is a negligible one from your perspective as you have rightly referred to the total amount due "only Rs. 71.96 lakhs" (emphasis on only). It is a matter of great concern that such a situation should have arisen. The commission is, bound by its obligation to protect unwary citizens and considers it a matter of public interest to do the needful on this score even if your organisation appears in a poor light as a result thereof, as warned by us in our earlier letter. And to take such other measures as public interest may demand. You would be well advised to make payment of the principal amount due to all of the 1,312 depositors along with the interest accrued thereon within the time frame indicated hereinafter so that the grievances of the depositors are redressed :

25% of the depositors concerned, that is to say, 328 depositors should be refunded the amount within 15 days of the receipt of this communication. Payment to further 328 depositors would be required to be made within further 15 days thereafter. And the remaining 656 depositors would be required to be refunded the amount within one month thereafter. In making refunds, the priority should be arranged in accordance with the date of maturity, that is to say, one who has been suffering the longest should be the one to be refunded his dues earliest.

Please confirm that you will honour your obligate on the small depositors in the manner indicated herein above so that the Commission may stay its hands. You would be well advised to respond to the opportunity to make amends being afforded hereby.

You are desired to respond to this letter within ten days of the receipt thereof.

Yours faithfully,

Sd.:-

(K. C. KANKAN)
Consultant—Joint Secretary and
Law Officer, Government of India

Law Commission

With reference to our letter dated 22nd March, 1991 addressed to M/s. Ambalal Sara Enterprises Ltd., Baroda they had sought a meeting with me. I had informed the Hon'able Chairman about it and obtained his oral instructions as to the stand I should take at the meeting.

2. The Company's Resident Director Shri N. J. Kikani and Resident Chief Executive Shri T. K. Aiyah met me on 9-4-1991. Our Asstt; Law Officer, Shri Santhok Singh was present during the meeting.

3. Shri T. K. Aiyah explained that their company had been in financial difficulties for some time but the Government of Gujarat had come their rescue and they have now succeeded in obtaining financial credit from the Punjab National Bank. He stated that some reorganisation had been done in the company, and a new Managing Director had taken over. He further stated that the company would repay all the deposits with interest to the depositors, but this was said in a vague, non-committal manner.

4. Shri N. J. Kikani added that the company had at one stage outstanding deposits of over Rs. 6 crores but now this figure had been brought down to Rs. 2 crores. He indicated that the company had to meet certain statutory liabilities, and hence there was delay in repayment of the deposits.

5. I pointed out that the company had not yet furnished the information asked for by the Law Commission even though as many as 5 letters had been sent to it, and so it was not known to the Law Commission as to how much amount was outstanding repayment by the company and to how many depositors. From the meagre information given by the company in its letter dated 26-2-1991 that "only" Rs. 71.96 lakhs remained unpaid for a period of more than 60 days to 1312 depositors, the Commission had noted that only small depositors were being made to suffer financial hardship by the company. I emphasised upon them that the Commission had taken serious note of the fact of non-payment to small depositors by the Company and the reluctance shown by the company to furnish the basic data asked for.

6. The two representatives did not give any specific information about the small deposits with the company and when these would be repaid. They said that they would be writing to their Head Office to furnish the same to us.

7. I told them politely, but firmly, that mere furnishing of the data called for earlier would not be adequate response to the Commission's letter dated 22-3-91 at this stage, and that the Law Commission now expects from the company a positive response that the deposits would be repaid in accordance with the guideline indicated in that letter. I mentioned that their was a well known company and that they would not like their reputation to be sullied by withholding repayments to small depositors of amounts which would be insignificant compared to their large-scale financial transactions. I made it clear to them that the Chairman of the Law Commission was very much exercised over the inordinate delay in making repayments to small depositors, and that a specific, definite assurance from their company that they would observe the guideline given by the Law Commission was what we expected from them.

8. The representatives replied that they would be informing their Head Office.

9. The talks were held in a smooth and courteous manner. For Information.

(Sd./-)
(K. C. KANKAN)
Consultant—JS & LO
10-4-91

ANNEXURE

Ambalal Sarabhai

Profit & Loss Account

for the year ended 31-3-1990

	Schedule	1989-90 Rs. lakh	1988-89 Rs. lakh
Sales of Services	A	16,900.79	13,478.72
Other Income		301.62	255.82
Income		17,202.41	13,734.54
Cost of Sales and Services	B	15,163.94	11,823.20
Excise duty		1,616.16	1,323.98
Expenditure		16,780.10	13,147.18
Gross margin		422.31	587.36
Surplus resulting from Amalgamation	C	42.49	1,335.40
Write Back of interest provision	L(2)	899.31	..
		1,364.11	1,922.76
Less :			
Interest on other than term loans		548.28	489.21
Interest on term loans		635.97	955.69
Depreciation	270.90		300.45
Less : Transfer from Capital Reserve No. 2	152.58	178.44	122.01
	L(3)		
Net Profit		61.54	355.85
Add : Transfer from investments allowance Reserve No. 1		31.97	..
Transfer from Investment Allowance Reserve No. 2		23.83	31.52
Transfer from Investment Allowance Reserve No. 3		11.80	11.39
		129.14	398.76
Less :			
Provision for taxation for past years . . . . .		..	142.00
Shares & Debentures issue expenses		17.15	17.15
Deficit brought forward		821.46	1,061.07
Deficit carried to Balance Sheet		709.47	821.46

Notes

L

Schedules A, B, C, & L from Part of the Profit & Loss account

As per our report attached for and behalf of
Sorab S. Engineering & Co.
Chartered Accountants
M. P. Antia
Partner
25-7-1990

Gautam Sarabhai
Chairman
K. J. Divatia
Co-Chairman
K. Subramanian
Secretary
25-7-90

B I'

Enterprises Ltd. B*Balance Sheet as at 31-3-1990*

	Schedule	31-3-1990 (Rs. lakh)	31-3-1989 (Rs. lakh)
ASSETS			
Fixed Assets	D	..	..
Goodwill at cost		2,277.62	2,277.62
Other fixed assets less depreciation		3,576.11	3,973.83
Investments	E	289.09	323.15
Current Assets, Loans & Advances	F	11,774.29	11,137.94
Miscellaneous expenditure		39.67	56.83
Profit & Loss Account		709.47	821.46
Total Assets		18,666.25	18,590.83
SHARE CAPITAL & LIABILITIES			
Share Capital	G	1,878.33	1,878.33
Reserve & Surplus	H	1,988.90	2,251.89
Capital fund for Redemption of Bonds	L(2)	2,318.55	..
Secured Loans	I	..	..
Bonds & Debentures		4,034.90	6,618.73
Long-term loans		405.49	349.27
Short-term loans		2,810.16	2,655.06
Deferred payment Credits . . . . .		..	2.81
Unsecured loans	J	..	..
Long-term loans		360.87	455.82
Short-term loans		112.54	117.83
Current Liabilities & Provisions	K	4,756.51	4,261.29
Capital Employed		18,666.25	18,590.83

Notes L

Schedules D to L from part of the
Balance Sheet

Sorab S. Engineer & Co.
Chartered Accountants
M. P. Antia
Partner
25-7-1990

Gautam Sarabhai
Chairman
K. J. Devatia
Co-Chairman
K. Subramanian
Secretary
20-7-1990

ANNEXURE 'E'

M. P. THAKKAR
CHAIRMAN

Tel No. Off. : 384475
Law Commission,
Government of India,
Shastri Bhavan,
New Delhi-110 001.

No. 5/LC(CH)

6th May, 1991

Dear Chairman of Company Law Board,

Re. : Exercise of *suo moto* powers under section 58A(9).

This has reference to my communication No. 5/LC(CH), dated 19th April, 1991, regarding the exercise of *suo moto* powers by the Company Law Board under sub-section (9) of section 58A of the Companies Act in the case of M/s. Ambalal Sarabhai Enterprises Limited, Wadi Wadi, Baroda.

2. In para 8 of the said communication it has been mentioned that the particulars regarding names and amount due to the depositors can be obtained by the Company Law Board as the Law Commission has not been able to procure this information. After the aforesaid communication was despatched, we have received a letter dated 16th April 1991, from M/s. Ambalal Sarabhai Enterprises Limited, with which they have enclosed a list giving details of matured claimed and unpaid deposits as on 31st March, 1991 which have remained outstanding for a period exceeding 60 days from the date of maturity. The letter (with its enclosure) is annexed and marked as Annexure 'E'. It shows that an amount of Rs. 73.15 lakhs was due for repayment to 1,373 depositors; out of this, a sum of Rs. 64.65 lakhs was repayable to as many as 1,337 small depositors whose deposits were less than Rs. 11,000 each, and the balance of Rs. 8.50 lakhs to the remaining 36 depositors.

3. The analysis of the aforesaid data reveals a very disturbing state of affairs. Out of 1,337 small depositors as many as 1,259 are those whose deposits are of the order of Rs. 6,000 or less. Out of these :—

- 115 are waiting for nearly 5 years since 1986;
- 241 are waiting for nearly 4 years since 1987;
- 360 are waiting for nearly 3 years since 1988;
- 23 are waiting for nearly 2 years since 1989;
- 464 are waiting for nearly 1 year since 1990;
- 56 are waiting for nearly 6 months till now.

4. The aforesaid analysis underscores the helplessness of the disparate depositors who (1) cannot afford to initiate the legal process individually as the money-cost, time-cost and effort-cost would outstrip the amount at stake, and (2) cannot act collectively as they do not know the other depositor's identity. So also this analysis focusses on the need for urgent action by way of *suo moto* proceedings under section 58A(9).

5. The aforesaid analysis also reinforces the request made in para 6 of my previous communication dated 19th April, 1991 for dispensing with the presence of the concerned depositors.

6. In response to a complaint received by the Commission and forwarded to the Company on 1-4-1991, the Company has sent another communication dated 19th April, 1991 relating to non-payment of principal/interest to the depositors, a photostat copy whereof is annexed as Annexure 'F'.

7. The request made in my previous communication is therefore, reiterated. The Commission will be grateful to you for taking suitable action at an early date.

With warm regards.

Yours sincerely,

(Sd./-)
(M. P. THAKKAR)

Shri S. P. Upasani,
Chairman,
Company Law Board,
Western Region, Bombay,
C/o. Government of India,
Department of Company Affairs,
Room No. 504, 'A' Wing,
Shastri Bhavan,
NEW DELHI-110 001.

Encls. : Annexure 'E' & 'F'.

ANNEXURE 'F'

No. 1/91/Misc/CLBS.
S. P. UPASANI,
CHAIRMAN, CLB,
Tele. No. 382265

Government of India,
Ministry of Industry,
Department of Company Affairs,
Company Law Board,
New Delhi.
6-5-1991.

Dear Justice Thakkar,

Please refer to your letter No. 5/LC(CH) dated 19-4-91 regarding exercise of *suo motu* powers under section 58A(9) of the Companies Act, 1956, in the matter of 1312 depositors of M/s. Ambalal Sarabhai Enterprises Limited, Wadi, Vadodara, Baroda.

2. As you might be aware, the provisions of Section 58A(9) of the Act have been brought into force with effect from 1-9-89. Since then, the four Regional Benches of the Company Law Board, at Bombay, Calcutta, Madras and New Delhi, have been receiving a spate of applications from the depositors against a number of companies who have not repaid their deposits after the due date of maturity. During the year ending 31-3-91, a total number of 15,900 applications (which include 3,727 applications brought forward from the previous years) were received u/s 58A(9) of the Act as many as 9,947 applications were disposed of during the said period, leaving a balance of 5,953 applications pending for disposal. The Company Law Board does not have its full complement of Members. As against one Chairman and 6 Members, myself as Chairman and Shri A. M. Chakraborti as Member are in position. Besides Shri Y. A. Rao, Joint Secretary in the Department of Company Affairs is also assisting the Board as ex-officio Member. As per provisions of Section 10E, as amended by Companies Amendment Act, 1988, the Independent Company Law Board with full complement of Members is yet to be constituted. In view of the position, the CLB is not able to cope up with the work in respect of pending applications made by depositors on the prescribed application forms alongwith application fee of Rs. 50, and it would be difficult for this Board at this stage, to take up *suo motu* cases. However, as suggested by you, the representatives of the Company are being called for a hearing by me at the Regional Bench of the Company Law Board, Western Region, NTC House, 2nd Floor, 15, N. M. Marg, Ballard Estate, Bombay on 16-5-1991 at 10.15 A.M. for appropriate action, and a copy of the notice sent is enclosed for information,

With regards,

Yours sincerely,

(Sd./-)

(S. P. UPASANI)

Encl. : As above,

Justice M. P. Thakkar,
Chairman,
Law Commission,
Shastri Bhavan,
NEW DELHI.

REGISTERED A.D.

Company Law Board

24-4-1991

1. The Managing Director,
M/s. Ambalal Sarabhai Enterprises Limited,
Wadi, Sarabhai Enterprises Limited,
Wadi Wadi,
BARODA.
2. The Secretary,
M/s. Ambalal Sarabhai Enterprises Limited,
Wadi, Sarabhai Enterprises Limited,
BARODA.

Subject : Action under Section 58A(9) of the Companies Act, 1956.

Dear Sir,

I am directed to invite your attention to letter No. 6(2)(11)/87/LC(LS) (IF) (13) dated 14-2-1991, addressed by Law Commission of India to M/s. Ambalal Sarabhai Enterprises Limited and your reply No. ASE : FD : 125 dated 26-2-1991 and subsequent communications dated 22nd March, 1991 addressed by the Law Commission to the Company and to say that you were advised to make payment of the principal amount due to all of the 1,312 depositors along with the interest accrued thereon within the time frame indicated therein so that the grievances of the depositors are redressed.

2. The Law Commission has informed that you have neither furnished the required information nor acceded to the recommendations made in the aforesaid communication. You are hereby called upon to furnish detailed particulars of the aforesaid communication. You are hereby called upon to furnish detailed particulars of the aforesaid, 1,312 depositors stating whether repayment of principal amount and interest due thereon has been made and if not, the reason thereof. You are also called upon to appear at the hearing before Shri S. P. Upasani, Chairman, Company Law Board at the Regional Bench of the Company Law Board at NTC House, 2nd Floor, 15, N. M. Marg, Ballard Estate, Bombay, on 16-5-1991 at 10-15 A.M. alongwith following documents/information :—

- (i) A copy of the latest audited balance sheet and profit and loss account of the company.
 - (ii) The present constitution of the Board of Directors of the company indicating the name and address of each Director.
 - (iii) A certified true copy of the latest Return of Deposits filed in the office of the Registrar of Companies, under Rule 10 of the Companies (Acceptance of Deposits) Rules, 1975.
 - (iv) A certified true copy of the latest advertisement issued or inviting the deposits as also a certified true copy of the statement in lieu of advertisement filed with the Registrar of Companies under Rule 4/4A of the Companies (Acceptance of Deposits) Rules, 1975.
 - (v) Total amount of outstanding deposits, as on date.
 - (vi) A complete set list of depositors including their name, address and amount of deposit in each case in respect of deposits which have matured and not paid.
 - (vii) A complete list of depositors including their names, addresses and amount of deposit in each case, in respect of deposits claimed for payment before the date of maturity and not repaid.
 - (viii) Suggestions, if any or a scheme for repayment of all matured deposits with details thereof.
 - (ix) Any other information as may be considered relevant.
3. No TA/DA will be paid for attending the hearing.

4. Please acknowledge receipt under intimation to Shri M.A. Kuvadia, Bench Officer, Regional Bench, Western Region, Company Law Board, NTC House, 2nd Floor, 15, N. M. Marg, Ballard Estate, Bombay-400 038.

Yours faithfully,

(Sd./-)

(U. P. MATHUR)
Secretary,
Company Law Board

Endorsement No. 1/91/Misc/CLBS/24-4-91

Copy forwarded for information and necessary action to Shri M. A. Kuvadia, Bench Officer, Regional Bench, Company Law Board, NTC House, 2nd Floor, N. M. Marg, Ballard Estate, Bombay.

(Sd./-)

(U. P. MATHUR)
Secretary, CLB

Encl : As above

ANNEXURE 'G'

U. P. MATHUR.,
Secretary/CLB,
Tele. No. 389172

DO No. 1/91/Misc/CLBS
Government of India,
Ministry of Industry,
Department of Company Affairs
(Company Law Board),
New Delhi
30th May, 1991.

Dear Shri Kankan,

Kindly refer to your DO No. 5/LC(LH), dated 23rd May, 1991, regarding exercise of *suo moto* powers under Section 58A(9) of the Companies Act, 1956 in respect of M/s. Ambala Sarabhai Enterprises Limited, Baroda.

2. The Regional Bench of the Company Law Board at Bombay gave a hearing to the company on 16-5-1991 and the written submission made by the company *vide* their letter dated 25-5-1991 is enclosed for information. A copy of the Order, as and when passed by the Bench, will be forwarded to the Law Commission.

With regards.

Yours sincerely,

(Sd./-)
(U. P. MATHUR)

Encl. : As above.

Shri K. C. Kankan,
Consultant—Joint Secretary & Law Officer,
Ministry of Law and Justice,
Department of Legal Affairs,
Law Commission,
Shastri Bhavan,
NEW DELHI.

Ambalal Sarabhai Enterprises Limited, Post Box : 231, Wadi Wadi, Baroda-390 007. Phones : 321213; 221331, 321455 Gram : ASETelex 0175.221 SARA IN

May 25, 1991

Mr. S. P. Upasani,
Chairman,
Company Law Board,
Government of India,
Dept. of Company Affairs,
5th Floor, 'A' wing, Shastri Bhavan,
Dr. Rajendra Prasad Road, New Delhi-110 001.

Dear Sir,

Sub. : Action under Section 58A(9) of the Companies Act, 1956.

We thank you for the patient hearing given to us by your Honour and Mr. Mehta, Member of the Board when the undersigned accompanied by Mr. K. Subramanian, the Secretary of the Company, appeared at a hearing before you on 16th May, 1991 pursuant to the directions contained in the letter marked Secretary-Company Law Board, New Delhi, No. 1/91/Misc/CLBS dated 24th April, 1991.

During the meeting, we submitted to you various documents and information required by you about public deposits which is summarised in the following table :

	Total Deposit as on 1st April	Fresh Deposits accepted	Repaid during the year	Balance Deposits		
				Current	Matured and remaining unpaid	Total
1-4-1987 to 31-3-1988	627.37	..	125.93	115.49	385.95	501.44
1-4-1988 to 31-3-1989	501.44	24.46	161.47	54.30	312.13	366.43
1-4-1989 to 31-3-1990	366.43	104.71	223.12	131.81	116.21	248.02
1-4-1990 to 31-3-1991	248.02	57.08	112.22	115.77	77.11	192.88

The Company had thus over a period of time substantially reduced the fixed deposits which were around Rs. 627.37 lakh as on 1-4-1987 to Rs. 192.88 lakh. Similarly, the fixed deposits matured but remaining unpaid, which aggregated to Rs. 385.95 lakh as on 31-3-1988 have been brought down to Rs. 77.11 lakh as on 31-3-1991. Thus would show the intention and bonafides of the Company in meeting its obligations to the public deposit holders.

The Company has always been making sincere efforts to repay the matured fixed deposits at the earliest. But certain factors which were beyond the control of the company had adversely affected its operations and the company has been incurring heavy operating losses for the last few years which has imposed severe liquidity constraints on the Company.

The following factors have largely contributed to this situation :—

- (1) Although the consortium banks had assured financial assistance for additional Rs. 600 lakh as early as in October 1988, so far the banks have not released any funds. As a result there has been gross under utilisation of the capacities although there is a good demand for the company's products in the market.

- (2) The Company is engaged predominantly in the manufacture of basic and essential drugs, prices of which are controlled by the Government under Drug Price Control Order. The prices fixed for the products of the Company were uneconomic. There was inordinate delay in sanctioning legitimate revision in prices and as a result in the intervening period the cost of inputs got further hiked.

In spite of these constraints and the losses incurred from year to year the company has maintained a delicate balance between meeting corporate obligations like repayment of fixed deposits, etc. on the one hand and continued production of even larger volume of life saving drugs on the other hand. This has naturally resulted in delay in repayment of fixed deposits within the prescribed time. It will, however be appreciated that the Company had brought down substantially the level of matured deposits remaining unpaid from about Rs. 386 lakh as on 31-3-1988 to Rs. 77 lakh as on 31-3-1991.

Your honour appreciated our aforesaid difficulties and had kindly suggested that the Company should repay by August 1991 deposits which have matured upto 31-12-1987, and have remained unpaid and repay the balance before 30-6-92. We give below the break-up of the fixed deposits which are matured and have remained unpaid and shall repay the same as suggested by you.

Maturity Period	No. of Accounts	Amount (Rs. lakhs)	Repayment Schedule
Upto December 1986	143	9.60	Before 30-6-1991
1-1-1987 to 31-12-1987	253	14.07	July/August 1991
1-1-1988 upto 31-3-1991	1,060	53.44	Upto June 1991
		77.11	

In addition we shall ensure that the interest on current live deposits is paid in time and we shall undertake payment of overdue interest on delayed payment of fixed deposits, once the principal amount of deposits is paid.

We request you to kindly approve the above scheme of payment.

Thanking you.

Yours faithfully,

For AMBALAL SARABHAI
ENTERPRISES LTD.

(Sd./-)
(M. N. PARIKH)
Director

D.O. No. 1/91Misc./CLBS

U. P. Mathur,
Secretary, Company Law Board,
Tele : 389172

Company Law Board,
Shastri Bhavan,
5th Floor, 'A' Wing,
New Delhi.
5th June 1991

Dear Shri Kankan,

Kindly refer to your DO No. 5/LC(LH), dated 23rd May, 1991 and my d.o. letter of even number dated 30-5-91 regarding exercise of *suomoto* powers under section 58A(9) of the Companies Act, 1956 in respect of M/s. Ambalal Sarabhai Enterprises Limited, Baroda.

2. A copy of the Order dated 4-6-1991 passed by the Company Law Board, Western Region Bench, Bombay is enclosed for information. The same will also be released to the press.

Yours sincerely,

(Sd./-)
(U. P. MATHUR)

Enc' : As above.

Shri K. C. Kankan,
Consultant—Joint Secretary & Law Officer,
Ministry of Law and Justice,
Department of Legal Affairs,
Law Commission,
Shastri Bhavan,
NEW DELHI.

BEFORE THE COMPANY LAW BOARD, WESTERN REGION BENCH, BOMBAY

PRESENT : Shri S. P. Upasani, Chairman,

IN THE MATTER OF M/S AMBALAL SARABHAI ENTERPRISES LTD.

AND

IN THE MATTER OF SECTION 58A(9) OF THE COMPANIES ACT, 1956

Company Applns. No. 17132, 17190 to 17199, 17279 to 17288, 17342 to 17344, 17394 to 17407, 17500, 17502 to 17507/58A(9)/CLB/WR/91.

ORDER

There are in all 45 applications made by depositors under section 58A(9) of the Companies Act, 1956 for non-repayment of deposits by M/s. Ambalal Sarabhai Enterprises Limited (hereinafter referred to as the 'Company'). It is stated that inspite of reminders, the company has not repaid deposits on due dates.

2. A reference dated 19-4-91 was received on 22-4-91 from the Commission of India, pointing out that the company has also not repaid to 1,312 depositors a sum of Rs. 71.96 lakhs of principal amount and interest due thereon, as per the terms and conditions of the deposits. As the grievances of depositors have not been redressed by the company, it was suggested in the reference that the Company Law Board should initiate *suomoto* proceedings in respect of these outstanding deposits. The matter was considered by the Company Law Board and a notice was issued to the company on 24-4-91 calling for information about the status of repayment of principal as well as interest on overdue deposits of 1,312 depositors and directing the company to remain present for hearing on 16-5-91 at Bombay.

3. The matter was heard on 17-5-1991, when Shri M. N. Parikh, Director and Shri K. Subramanian, Secretary of the Company appeared. It was stated that the company has over a period of time (from 1-4-87 to 31-3-1991) substantially reduced the fixed deposits which were around Rs. 627.37 lakhs as on 1-4-1987 to Rs. 192.88 lakhs. Similarly, the fixed deposits matured but remaining unpaid, which aggregated to Rs. 385.95 lakhs as on 31-3-1988 have been brought down to Rs. 77.11 lakhs as on 31-3-1991. It was also submitted that the company has been making sincere efforts to repay the matured fixed deposits at the earliest, but certain factors, which were beyond the control of the company, had adversely affected its operations and the company has been incurring heavy operating losses for the last few years, which has imposed severe liquidity constraints on the company. The company has given a scheme for repayment of deposits remaining unpaid as under :—

"Maturity period"	No. of accounts	Amount (Rs. in lakhs)	Repayment Schedule
Upto December, 1986	143	9.60	Before 30-6-1991
1-1-1987 to 31-12-1987	253	14.07	July/August, 1991
1-1-1988 upto 31-3-1991	1,060	53.44	Upto June, 1991
		77.11	

in addition, the company shall ensure that the interest on current live deposits is paid in time and it shall undertake payment of overdue interest on delayed payment of fixed deposits, once the principal amount of deposits is paid".

4. I have carefully considered the submission made by the company. It is noted that there are in all 1,456 depositors whose deposits of the aggregate value of Rs. 77.11 lakhs have matured upto 31-3-1991 and the company has not been able to repay these deposits on the date of maturity. It is also noted that some of the deposits have matured as

early as in 1986, Considering the submissions made by the company and having regard to the nature of its operations, I, hereby order that the company shall make repayment of the principal amount of the deposits as per following schedule. The deposits, which have matured upto December, 1986 will be repaid on or before 30-6-1991, the deposits which have matured from 1-1-1987 to 31-12-1987 will be repaid on or before 31st August, 1991, and deposits which have matured from 1-1-1988 upto 31-3-1991 will be repaid on or before 31st March, 1992. The interest due thereon till the date of repayment shall be paid within four months from the date thereafter, as mentioned above. While repaying the principal amount of the fixed deposits, the company will also ensure to send to the depositors post dated cheques towards overdue interest. Affidavits in compliance of these orders will be filed by the company before the Bench Office at Bombay on or before 15th July, 1991 in respect of deposits which have matured upto December, 1986, on or before 15th September, 1991 in respect of deposits which have matured from 1-1-87 to 31-12-87 and on or before 15th April, 1992 in respect of deposits which have matured from 1-1-1988 to 31-3-1991. The Company will also send a circular to all the depositors before 30th June, 1991 informing them about the above programme of repayment and file a copy of the circular with the Bench Office at Bombay alongwith the affidavit in compliance to be filed on or before 15th July, 1991. The company, its directors and concerned officers shall ensure compliance of this order within the stipulated period under intimation to the Bench Officer, Bombay and the Registrar of Companies, Gujarat, Ahmedabad.

In the event of company's failure to comply with the orders of CLB, the Registrar of Companies, Gujarat shall take necessary action in terms of section 58A (10) of the Companies Act, 1956, to whom a copy of this order be also sent. Let a copy of this order be also sent to all the depositors who have filed applications under section 58A (9) of the Companies Act, 1956 before the Company Law Board.

Dated : 4th June, 1991.

(Sd./-)
(S. P. UPASANI)
Chairman

HIMACHAL PRADESH AGRO-INDUSTRIES CORPORATION LIMITED

Phones :

Managing Director { Office : 2883
Res. : 2971
Executive Officer { Office : 3621
Res. : 5073

(A Government Undertaking)
(Regd. Office : SADIG RAM BHAVAN,
SHIMLA-171 002)

Ref. : AIC Accounts/2438

Grams : "HIMAGRO"
SHIMLA-2
(H.P.)

Dated 14-5-1990

To,

The Joint Secretary & Law Officer,
Law Commission of India,
Ministry of Law & Justice,
Shastri Bhavan,
7th Floor, 'A' Wing,
NEW DELHI-110 001.

Your Reference : 6(3)(4)/88 L.C. (LS) Dated April 16, 1990, Regarding Company Deposits.

Dear Sir,

With reference to your above sighted letter, we wish to inform you as under :

1. No of depositors and total amount involved where the deposits have remained unrefunded for a period of exceeding sixty days commencing from the date of maturity, separately in respect of (a) deposits of less than Rs. 11,000, and (b) deposits of more than Rs. 11,000.

Lists are placed below Deposits of more than Rs. 11,000

Number of Depositors
22

Principal Amount
Rs. 5,80,000

Deposits less than Rs. 11,000
126

Rs. 6,70,000

2. Reason(s) for the deposits remaining unrefunded :

1. The Board of Directors decided not to renew the fixed Deposits on Maturity w.e.f. 1-4-1987.
2. Non-availability of funds.
3. Increase in losses.

3. Number of cases pending in Courts/Company Law Board for the refund of the outstanding amount and the total amount involved in such cases.

The details may please be asked for from Company Law Board.

Thanking you.

Yours faithfully,

(Sd./-)
(EXECUTIVE OFFICER)

ANNEXURE 'J'

D. G. No. 3/90/Ch (LC)

New Delhi, the 25th May, 1990

Dear Chairman, Company Law Board,

The Law Commission is engaged in a study in regard to the problem posed by default of companies in refund of fixed deposits on maturity with particular reference to the plight of the small depositors in the context of post-audit of socio-economic legislation.

2. In the course of the investigatory exercise, a communication was addressed to the Himachal Pradesh Agro Industries Corporation Ltd., Simla, in order to elicit information as regards number of depositors whose deposits had remained unrefunded for a period exceeding sixty days from the date of maturity. A photo-stat copy of the response received from the aforesaid Corporation is enclosed herewith in the context of the request being made for exercise of *suo moto* powers under sub-section (9) of section 58A of the Companies Act.

3. The Communication received from the aforesaid Corporation shows that 126 small depositors (deposits of less than Rs. 11,000) are suffering on account of the default on the part of the Corporation. A sum of Rs. 6 lakhs and 70 thousands of these 126 persons is locked up. These small depositors are helpless. For, each of them individually cannot afford to initiate legal proceedings. Many of them may not be aware of their rights and many of them would not know what to do. They would also not be in a position to incur the necessary expenditure. The response of the Corporation shows that though it is a Government undertaking it refuses to refund the deposits on account of "(1) non-availability of funds; and (2) increase in losses". It causes a great deal of distress that a Government undertaking should adopt this unifying attitude and cause untold hardship to hundreds of poor depositors for their fault of placing trust in a Government undertaking.

4. It is the aforesaid scenario that I am constrained to make this request for involving your *suo moto* powers under section 58A(9) of the Act. Even though the names of all the 126 small depositors are not available, this letter of request may be treated as the basis for exercise of *suo moto* power collectively for the benefit of the said depositors.

5. I am also enclosing herewith a list of companies against whom complaints regarding defaults have been made by small depositors in local newspapers recently. The Commission shall be grateful to you if you can initiate some action for their benefit as well.

6. May I suggest that no notices may be issued to the small depositors concerned and they may not be required to remain present having regard to the fact that most of these small depositors would find it extremely difficult to spend for travelling expenses and for their stay in a city like Delhi and the *suo moto* matter would appear to be capable of being disposed of without requiring their presence.

7. The Commission will be grateful to you if you are good enough to act on this letter of request and do the needful.

Thanking you.

Yours sincerely,

(Sd./-)

(M. P. THAKKAR)

Shri S. P. Upasani,
Chairman,
Company Law Board,
Room No. 504, 'A' Wing,
Shastri Bhavan,
New Delhi

APPENDIX 'K'

D.O. No. 15/2/90-CLB

S. P. Upasani,
Chairman,
Company Law Board,
(Tel. No. 382265)

Government of India,
Ministry of Industry
Department of Company Affairs
New Delhi, 23rd Oct. 1990

Dear Chairman, Law Commission,

Please refer to your d.o. letter No. 3/90/Oh-LC dated 25th May, 1990 regarding non-payment of company deposits by Himachal Pradesh Agro-Industries Corporation Ltd. The case was fixed for hearing on 15th October, 1990 before Shri A. M. Chakraborty, Member, Company Law Board. However, on that day representative of the company failed to appear. In order to give a final opportunity of hearing, next date of hearing has been fixed on 8th November, 1990. Notice has also been sent to the Directors of the company pointing out lapse on the part of the company. If the company fails to attend the hearing, an *ex-parte* order will have to be passed directing payment of overdue deposits. I shall let you know further developments in this case after 8th Nov. 1990.

With personal regards.

Yours Sincerely,

(Sd./-)

(S. P. UPASANI)

Justice M. P. Thakkar,
Chairman,
Law Commission,
Shastri Bhavan,
NEW DELHI

8—105 M of L&J/C.A./ND/93

ANNEXURE 'L

D.O. No. 10/90/Ch-LC

October 30, 1990

Ref. : My d.o. No. 3/90/Ch-LC, dated 25th May, 1990,
Your d.o. No. 15/2/90/CLB, dated 23-10-1990.

Sub. : Non-payment of company deposits by Himachal Pradesh Agro-Industries Corpn. Ltd.

Dear Shri Upasani,

Thanks for your d.o. under reply apprising me of the action taken in the wake of the personal discussion at the meeting between us on 26th September, 1990.

I have no doubt that you will do the needful in accordance with law in order to bring succour to the credulous and unwary small depositors who have been subjected to serious injury and grave injustice for many many years and that too by a state-owned corporation and are helpless to help themselves by approaching the company law board directly at a cost which might well exceed their dues. I have no doubt that the outcome will provide the requisite incentive and operate as a praiseworthy precedent for future rescue operations of this nature.

I hope you will be gracious and good enough to keep the Commission apprised of the developments.

With warm regards,

Yours Sincerely,

(Sd./-)

(M. P. (THAKKAR))

Shri S. P. Upasani,
Chairman,
Company Law Board,
Department of Company Affairs,
Shastri Bhavan,
New Delhi-110 001

ANNEXURE 'M'

BY REGD. A. D.

IN DUPLICATE

GRAM : TUFEX V. V. NAGAR

FAX No. : (02692) 30560

SHRI VALLABH GLASS WORKS LTD.

P.B. No. 12, P.O. VITHAL UDYOG NAGAR-
388 121 (DIST. KHEDA), GUJARAT.Telephone : 30917, 30966
30870, 30820.

26th February, 1991

Ref. : SVG : AHD : SHA : 1241

Mr. G. V. G. Krishnamurthy,
Member Secretary
Law Commission of India,
Ministry of Law and Justice,
Government of India,
Shastri Bhavan, 7th floor,
New Delhi-110 001.

- Sub. : 1. Public deposits remaining unrefunded beyond the date of maturity.
2. Furnishing of information and data relating to public deposits.

- Ref. : 1. Your letter No. 6(2)(ii)/87/LC(LS)(RD)(15), dated 14-2-1991.
2. Your letter No. 6(2)(ii)/87/LC(LS)(IF)(15), dated 14-2-1991.

Dear Sir,

We acknowledge receipt of your above quoted letters. We very much regret that your earlier letters to the company have not been appropriately replied by our concerned officers. We have taken a very serious note of the same and please rest assured that we hold the law Commission in the greatest esteem and we have initiated corrective action against the erring officers and have strictly warned them to be very particular in future for prompt replies. We are however with due respect forwarding the information required by you :—

- (a) We are enclosing herewith a copy of the latest return of deposits filed in the office of registrar of Companies Gujarat under Rule 10 of the Companies (Acceptance of Deposits) Rules 1975 as on 31-3-1990. The same is annexed herewith and marked Annexure-A.
(b) During last five years the company has not accepted any fresh deposits from public. All these deposits relate to period 1982-83 which have matured during the period 1984-85.
(c) Reasons for non-payment of deposits are as under :—

That as a consequence of losses incurred the liquidity position of the company has substantially eroded. The company was declared as a Relief Undertaking under the provisions of Bombay Relief Undertakings (Special Provisions) Act by Government of Gujarat on 31st March, 1984 to serve as a measure of employment relief by different further declarations dated 18th December, 1984, 12th January, 1986, 12th August, 1986, 12 November, 1986, 12th February, 1987 and 9th June, 1987 the company was declared as Relief Undertaking upto 8th December, 1987.

On 27th August, 1987 the company was declared a Sick Industrial Company within the meaning of Sec. 3 (1)(o) of Sick Industrial Companies (Special Provisions) Act 1985. The set of orders passed by Board for Industrial & Financial Reconstruction (BIFR) on 27-8-1987 are enclosed herewith and marked Annexure-B.

M/s. Wallace Flour Mills Ltd. have filed a winding up to petition No. 178 of 1983 on 9th December, 1983. As per provisions of Companies Act, 1956 winding up was deemed to have commenced from 9th December 1983 if the winding up order was ultimately passed by Honourable Gujarat High Court. Any disposition of property after commencement of winding up is void under Section 536(2) of the Companies Act against the liquidator unless the transactions are validated by Honourable Court. As per the judgement of Gujarat High Court the transactions can be validated by Court even before the passing up on winding up order. In view of this legal position the company filed Company Application No. 66 of 1987 before Gujarat High Court requesting the repayment to small depositors upto Rs. 5000 who voluntarily waive the interest on humanitarian grounds. The petitioner creditor in the winding up petition No. 178 of 1983 has opposed the application as it offends the rule of pari-passu distribution of property Bank of Baroda as a debenture trustee has also opposed the application.

As all the winding up petitions were subsequently dismissed by Honourable Gujarat High Court, a scheme was circulated to all depositors that all depositors with deposits upto Rs. 5000 who need their deposits back for urgent need on medical grounds and who are ready to waive the interest voluntarily shall be paid back the deposits. Many of the depositors have positively responded to the scheme and during the year April, 1989 to March, 1990, 1641 depositors were paid back Rs. 69.50 lacs. This is continued in the current year also and it is expected that during current year also about 1600 depositors will be paid back approx. 70.00 lacs. There about 40% depositors would be covered by that time and balance depositors, it is expected to complete payment in a phased manner in the next three years time.

It is only in the view of the fact that the company is in extreme financial difficulties and has been declared a sick unit that company has been unable to repay the deposits to the deposit holders. The company although a sick unit realises the plight of small depositors and has therefore against all odds already started paying back to small depositors their principal amounts of deposits.

It is respectfully submitted that Board for Industrial and Financial Reconstruction is fully seized of the matter and as per provisions of the Act viz. Sick Industrial Companies (Special Provisions) Act, 1985, it is a specialised legislation dealing with Sick Industrial Companies like ours.

The Board for Industrial and Financial Reconstruction takes care of all sections of members, financial institutions, secured creditors, debenture holders, unsecured creditors, workmen, statutory dues of the Government. The matter is under active consideration of Board. I.C.I.C.I. has been appointed as operating agency. It has already submitted its report to BIFR and recommended revival of the unit with sacrifices from all sections viz. Central Government, State Government, Promoters, Company depositors, workmen, financial institutions, banks, etc. The Bench has now

prepared a draft rehabilitation scheme for circulation to all concerned for giving their consent under section 19(2) of Sick Industrial Companies (Special Provisions) Act, 1985. This scheme is circulated on 17th of February, 1990. on page 3 of the draft rehabilitation scheme following provisions has been made for depositors :—

Public Deposits :

To agree to one time settlement proposal on following terms :—

- (a) Waiver of interest accrued and due upto 31-3-1990.
- (b) Public deposits to be interest free with effect from 1-4-1990.
- (c) Repayment of the public deposits in 3 annual instalments during 1991-92 to 1993-94 with 40% of the amount payable in 1991-92, 40% in 1992-93 and balance 20% to be repaid in 1993-94.

No sooner the draft circulated scheme becomes final on the next date of the Board Meeting, the repayment shall be strictly made as provided for in cash flow by BIFR.

We appreciate your anxiety in the matter on behalf of the small depositors. We ourselves are very much grateful to small depositors and appreciate their anxiety. Due to this only we had put up the scheme in 1987 itself before Honourable High Court of Gujarat but the same was opposed by big lenders on ground of pari-passu distribution. Only on dismissal of winding up petitions we moved in the matter of repayment of small depositors.

Although we may very much like to pay back all small depositors upto Rs. 5,000 within 30 days and other within 60 days as kindly suggested by you vide your letter No. 6(2)(ii)/87/LC(LS)(RD)(15) dated 14-2-1991 in the circumstances as explained above it shall not be possible at all to do so. The company is being revived by sacrifices of all concerned and if the cash flow is upset like this the whole revival scheme will fail and it will be impossible for the company to run. Under the provisions of Sec. 22 of Sick Industrial Companies (Special Provisions) Act, 1985 notwithstanding any other law, no distress or winding up petition shall lie or be continued against a sick industrial company. This is because of interests of all concerned. B.I.F.R. has already appointed a nominee director on the Board of Directors of the company. We have been directed to follow strictly the directions issued by Board for Industrial and Financial Reconstruction.

However, to immediately mitigate the difficulties of such depositors who have approached you and are facing hardship you may forward the names, addresses of such depositors with deposits upto Rs. 5000 with particulars of FDRs. Such applicants upto 50 in number of the amount of R. 5000 or less for whom you send directions for repayment without accumulated interest and who send us the original FDR duly discharged and willingness to accept deposit without interest in full settlement and in case such application are received with your directions for repayment on or before 15th March, 1991, all such directions in respect of 50 depositors shall be honoured and they shall be refunded the full principal amounts of deposits on or before 15th of April, 1991. This is only to show our genuine desire to repay. All that has happened is most unfortunate but was only due to reasons entirely beyond our control.

No sooner the final scheme is approved by BIFR at their next meeting all small and big depositors will receive their deposits back strictly in three years time as proposed in the scheme. We hope we have supplied all the information and shall be pleased to give any other specifically required.

Thanking you and expressing our regrets once again for failure to reply to your earlier letters.

Yours faithfully,

for SHRI VALLABH GLASS WORKS LTD.

(Sd./-)

(S.H. ASRANI)

Legal Adviser and Constituted Attorney.

Encl. : As above.

FORM

[See Rule 10 of the Companies (Acceptance of Deposits) Rules, 1975]

Registration No. 04.974

Company Code (To be filled in by RBI)

Return of deposits with non-banking Companies other than the financial Companies

As on the 31st March, 1990
(Please see instruction No. 1).

ZONE

TYPE

For Office use only

1. Name of the Company

Shri Vallabh Glass Works Ltd.

2. Full Address of :—

(i) Registered Office

Anand Sujitra Road,
Vallabh Vidyanagar.

Post : Vithal Udyognagar.
Pin Code : 388 121.

(ii) Head/Administrative office

do
Pin Code

- * 3. Whether a Government Company Yes _____ No _____
- † 4. State in which the Company is having its Registered Office Gujarat
- ‡ 5. Status : Public Ltd. Company/
Private Ltd. Company/
Deemed Public Ltd. Company Public Limited Company
- ‡ 6. Date of closing of the accounts 31st March
- ‡ 7. Main Business : (Agriculture/Plantation/Manufacturing/
Loading/Shipping and other transport/Hotels/Any other)
(Please specify) Manufacturing
- ‡ 8. Type of Industry
(Cotton Textile, Sugar, Engineering, etc. (Please specify) Glass
- ‡ 9. Name(s) of the Company's auditors and address(es) M/s C. C. Chokshi &
Company,
Chartered Accountants,
8/83, Swastik Society,
Perangpura,
Ahmedabad-380 009

*If it is place other than the Registered Office.

**Tick the box which is applicable.

†Enter the name of the State in the space provided therefore.

‡Strike off the categories not applicable.

- Note.**—1. (a) Every company to which these rules apply, shall on or before the 30th day of June, of every year, file with the Registrar of Companies, a return in the form annexed to these rules and furnishing the information continued therein as on the 31st day of March of that year (duly certified by the auditors of the Company).
- (b) The return after completion, should be held with the registrar of Companies with a copy to the Joint Chief Officer, Department of Financial Companies (Central Office Cell), Reserve Fund of India, 16th Floor, NCOB, S. B. Road, Bombay-400 028.
2. The submission of this return should not be delayed for any reason such as the finalisation/completion of the audit of the annual accounts. The return should be completed on the basis of the figures available in the books of accounts of the Company.
3. The number of accounts should be given in actual figures while the amounts of deposits should be given in thousands of rupees. Amount should be rounded off the nearest thousands, for example, an amount of Rs. 4,560 would be shown as 5 and not as 4.6 or 5000. Similarly an amount of Rs. 61,495 is to be shown as 61 and not 61.4 or 61,000.
4. The period-wise classification of deposits should be made against the various heads under item Nos. 2(4) and 4(a). Part of the return according to the periods for which they have been originally received/last renewed and not according to the period they have to run as from the 31 March i.e. date of the return.
5. In case there is nothing to report in any part of the return it should be marked 'Nil' and the Director's/Authorised Official's Certificate appended to the return should be duly signed.

PART I Particulars of Depositors etc.

Item No.	Particulars	Item Code	No. of Accounts	Amounts (in thousands of Rs.)
1	2	3	4	5
1.	Deposits of the kind referred to in Rule 3(2)(i) of the Rules :			
	(i) Amount of deposits brought forward from the previous year	101	2060	11121
	(ii) Amount of deposits accepted and renewed during the year	102	..	..
	(iii) Total	103	2060	11121
	(iv) Amount of deposits re-paid during the year	104	406	1881
	(v) Balance of deposits outstanding at the end of the year	105	1654	9240
	(a) Unsecured debentures	111	..	..
	(b) Deposits received by a Public Company from its shareholders [vide note (1) below]	112	..	..
	(c) Deposits including secured loans personal capacity	113	1	1000
	Total	110	1655	10240

Item No.	Particulars	Item Code	No. of Accounts	Amount (in thousands of Rs.)
1	2	3	4	5
2.	Of the total deposits at item 1 (v) (b) above those :			
(a)	(i) Repayable on demand or on notice or otherwise in less than 6 months	121	1	1000
	(ii) For a period of 6 months or more but less than 1 year	122	..	..
	(iii) For a period of 1 year or more but less than 2 years	123	1	100
	(iv) For a period of 2 years or more but less than 1 year	124	5	21
	(v) For a period of 3 years	125	1448	9119
	(vi) More than 3 years	126	..	..
	(vii) Total	120	1655	10240
(b)	(i) Free of interest	131	..	..
	(ii) Below 6%	132	..	..
	(iii) 6% or more but less than 9%	133	..	..
	(iv) 9% or more but less than 11%	134	..	..
	(v) 11% or more but less than 13%	135	5	21
	(vi) 13% or more but less than 14%	136	..	..
	(vii) At 14%	137	..	..
	(viii) More than 14%	138	1650	10219
	(ix) Total	130	1655	10240
(c)	(i) Those which have matured but not claimed	141	17	61
	(ii) Those which have matured and claimed but not paid	142	1637	9179
3.	Deposits of the kind referred to the Rule 3(D)(ii) of the Rules :			
	(i) Amount of deposits brought forward from the previous year	151	7266	30382
	(ii) Amount of deposits accepted or renewed during the year	152	..	..
	(iii) Total	153	7266	30382
	(iv) Amount of deposits repaid during the year	154	1235	5069
	(v) Balance of deposits outstanding at the end of the year	155	6031	25313
	(a) Fixed deposits	161	6031	25313
	(b) Any other deposits	162	..	..
	(c) Total	160	6031	25313

Deposits matured and claimed and matured but not claimed in (c) above does include unsecured loans approved by director being not deposited.

Item No.	Particulars	Item Code	No. of Accounts	Amount (in thousands of Rs.)
1	2	3	4	5
4.	Of the total deposit at 3(v)(c) above those :			
	(a) (i) Repayable on demand or on notice or otherwise in less than six months	171	..	..
	(ii) For a period of 6 months or more but less than 1 year	172	..	..
	(iii) For a period of one year or more but less than 2 years	173	..	..
	(iv) For a period of two years or more but less than 3 years	174	41	210
	(v) For a period of 3 years	175	5990	25103
	(vi) For more than 3 years	176	..	..
	(vii) Total	170	6031	25313
	(b) (i) Free of Interest	181	..	..
	(ii) Below 6%	182	..	..
	(iii) 6% or more but less than 9%	183	..	..
	(iv) 9% or more but less than 11%	184	..	..
	(v) 11% or more but less than 13%	185	41	210
	(vi) 13% or more but less than 14%	186	..	..
	(vii) At 14%	187	..	..
	(viii) More than 14%	188	5990	25103
	(ix) Total	180	6031	25313
	(c) (i) Those which have matured but not claimed	191	26	86
	(ii) Those which have matured and claimed but not paid	192	6005	25227

Notes—

1. Ref : Item 1 (v) (b) : If the Company is a public company and a declaration as specified in note (1) of Part 3 has not been obtained from its directors such deposits should be shown against this item.
2. Ref : Item 2 : Amount at item 1 (v)(d), Item 2 (a) (vii) and Item 2(b) (ix) should tally with each other.
3. Ref : Item 3 : Amount at item 3 (v)(e), 4 (a) (vii) and 4(b) (ix) should tally with each other.
4. Ref : Item 3(v) (b) : If the company is a private company and a declaration as specified in note (1) of the Part 3 has not been obtained such a paper, should be shown against this item.
5. Ref : The amounts shown in Part 3 should not be included in Part 1.

PART 2

Particulars of Liquid Assets (Rule 3A)

Item No.	Particulars	Item Code	Amounts (in thousands of rupees)	Date of investment/Deposit
1	2	3	4	5
	(a) Amount of deposits maturing before 31st March next.	210	..	..
	(b) Ten per cent of the above	220	..	..
	(c) Details of liquid assets	230	..	..
	(1) Amount in current or other deposits account, free from charge or lien with any scheduled bank	231	The Company has not invested any amount in liquid assets (See Annexure-A)	
	(2) Unencumbered securities of Central/State Government :			
	(i) Face value	241	..	..
	(ii) Market Value	242	..	..
	(3) Unencumbered Trust Securities			
	(i) Face Value	251	..	..
	(ii) Market Value	252	..	..
	(4) Total 1+2(ii)+3(ii)	206	..	..

Particulars of advertisement inviting deposits/Statement in lieu of advertisement (Rule 4/4-A)

- (a) Date of publication of the advertisement inviting deposits from the public/Statement in lieu of advertisement. (1) Sandesh, dated 20-12-82
(2) Economic Times, dated 18-12-82
- (b) Period of currency of the previous advertisement/Statement in lieu of advertisement. From 20-12-82 to 31-12-83

During the year the company has neither accepted nor renewed any fixed deposit from public funds, no advertisement was published or statement in lieu of Advertisement was filed with the Registrar of Companies. Last advertisement was published as above.

PART 3

Particulars of exempted borrowings, etc. not considered as deposits [Rule 2(b)(i) to 2(b)(x)]

Item No.	Particulars	Item Code	No. of Accounts	Amount (in thousands of Rs.)
1	2	3	4	5
1.	Money received from the Central or State Government's or money received from others the repayment of which is guaranteed by the Central or a State Government or money received from a local authority [Rule 2(b)(i)]	301	..	..
2.	Money received from a foreign Govt. or any other foreign citizen authority of persons (See also note 3 below) [Rule 2(b)(i)]	302	..	..
	(a) Foreign Government	303	..	..
	(b) Foreign citizen authority or person	304	..	..
3.	Borrowings from banks and other specified financial institutions [Rule 2(b)(ii) & (iii)]	305	30	244832
4.	Money received from any other company [Rule 2(b)(iv)]	306	36	69973
5.	Money received from directors (see note 1 below) [Rule 2(b)(ix)]	307	..	..
6.	Money received by a private company from the shareholders vide notes (1) and (2) below [Rule 2(b)(ix)]	308	..	..
7.	Money received from employees of the company by way of security deposit. [Rule 2(b)(v)]	309	..	..
8.	Money received by way of security or advance from purchasing selling or other agents in the course of company's business or advance received against orders for supply of goods or properties or for rendering of services [Rule 2(b)(vi)]	310	9	27
9.	Money received by issue of debentures secured by mortgage of immovable properties or convertible debentures. [Rule 2(b)(x)]	311	1	4000
10.	Money received by way of subscription to any shares or secured debentures pending allotment or money received by way of calls in advance on shares in accordance with the Articles of Association of the company so long as such amounts is not repayable to shareholders under the Articles of Association of the Company. [Rule 2(b)(vii)]	312	..	..
11.	Money received in trust or money, in transit [Rule 2(b)(viii)]	313	18	13026
1	Total (1 to 11)	320	94	330858

Notes :—

- Only money received from such persons on a declaration in writing that the money has not been given by such persons out of funds acquired by him/them by borrowing or accepting deposits from another person should be shown against these items. Otherwise, it should be shown against item Nos. 1 or 4 of Part-1 as the case may be, as indicated in items 1 and (4) of Part-1.
- Money received from shareholders of a private company deemed a public company under section 43-A of the Companies Act, 1960 should also be made under this item subject to the obtaining of declaration referred to in Note (1) above.

Managers Certificate

Certified that :—

- (i) a copy of this Return has been sent/is having sent to the Joint Chief Officer, Department/Financial Companies (Central Office Cell) Reserve Bank of India, Bombay-400 023.
- (ii) the figures of deposits, liquid assets and interest rates under Parts 1, 2 and 3 have been verified and found to have been correctly prepared.
- (iii) the aggregate of the paid-up capital and free reserves, etc., as arrived at on the lines indicated in Explanation to Rule 3 of the Rules are as follows :—

Item No.	Particulars	Item Code	Amounts (in thousands of Rs.)
1	2	3	4
1.	Net owned funds (buyers to be furnished as per the latest audited balance sheet proceeding the date of the return) Balance sheet as on 31-3-89 audited on 19-9-89 and adopted on 25-10-89		
	(i) Paid up capital	331	28949
	(ii) Free Reserves	332	107924
	Total (i) + (ii)	333	136873
2.	(i) Accumulated balance of loss	341	464396
	(ii) Balance of deferred revenue expenditure	342	..
	(iii) Accumulated unprovided depreciation	343	..
	(iv) Miscellaneous expenses and preliminary expenses	344	..
	(v) Other intangible assets (please specify)	345	..
	Total : (i) + (ii) + (iii) + (iv) + (v)	340	464396
3.	Net owned fund (1+2)	350	(—)327523
4.	Deposits of the kinds referred to in Rule 3(2)(i) of the Rules [Vide item 1(v)(a) of part-1 of the return]	360	10240
	(% of paid up capital and free reserves) . . . . .		..
5.	Deposits of the kinds referred to in Rule 3(2)(ii) of the Rules [Vide item 1(v)(c) of part I of the return]		25313
	(% of paid up capital and free reserves.) . . . . .		..

for Shree Vallabh Glass Works Ltd.,

From Reserve

Gen. Reserve	667.43
Share Premium	111.64
Investment allowance Reserve	300.17
	<u>1079.24</u>

Signature of
Authorised Official

(Sd./-)

Authorised Signatories

Name : P. M. Patel

Dated 25-6-70

Designation : Chief Accountant