

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11(1), 11(4) and 11B of Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999, in respect of Interim Order cum show cause notice dated May 16, 2014 in the matter of Green Buds Agro Farms Ltd (GBAFL).

In respect of:

Sr. No.	Noticees	PAN	DIN/CIN
Company			
1.	Green Buds Agro Farms Ltd	AACCG5554E	U01409KA1999PLC025634
Promoters / Directors			
2.	Bettahalli R. Lakshmegowda	N.A	00828755
3.	Aruna Prasad	N.A	03164425

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1. Securities and Exchange Board of India (“SEBI”), vide an ex-parte interim order dated May 16, 2014 (“interim order”), had *prima facie* observed that Green Buds Agro Farms Ltd and its promoter/Directors, Bettahalli R. Lakshmegowda, Aruna Prasad and Jayanthi Subbarayappa (“noticees”) were illegally mobilizing funds from the public through schemes in the nature of Collective Investment Schemes (“CISs”) without obtaining certificate of registration from SEBI and thus contravened section 12(1B) of the Securities and Exchange Board of India Act, 1992 (“the SEBI Act”) read with Section 11AA of the SEBI Act, 1992 and Regulation 3 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (“the CIS Regulations”). The noticees were also alleged to have contravened regulation 4(2)(t) of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practice Relating to Securities Market) Regulations, 2003 (“the PFUTP Regulations”), which was brought into effect from September 06, 2013.
 2. Prior to the passing of the interim order, a preliminary enquiry was conducted by SEBI into the alleged activities of mobilization of funds by the noticee company. Based on the preliminary enquiry, SEBI vide interim order cum show cause notice dated May 16, 2014 issued *inter alia* the following directions against GBAFL and its then promoter/Directors:-

- not to collect any money from investors from its existing "scheme" or to launch any new schemes;
 - to immediately submit the full inventory of the assets owned by GBAFL out of the amounts collected from the "Unit holders"/investors under its existing "Schemes";
 - not to dispose of any of the properties or alienate the assets of the existing "Schemes";
 - not to divert any funds raised from public at large, kept in bank account(s) and/or in the custody of GBAFL;
 - to furnish all the information/details sought by SEBI within 15 days from the date of receipt of this Order, including,
 - i. Scheme wise list of investors and their contact numbers and addresses, and
 - ii. PAN numbers of the aforementioned Directors.
3. The said interim order came into force with immediate effect. The interim order was served on the company by way of affixture at the premises where GBAFL was operating as per information available with SEBI. In respect of Jayanthi Subbarayappa and Aruna Prasad, the interim order was served by way of speed post with acknowledgement (SPAD). The interim order was served on Bettahalli Ravindranath Lakshmegowda, through the office of the Commissioner of Police, Mysore as he was lodged in Mysore jail on charges of fraud.
4. None of the noticees have filed replies to the interim order- cum-SCN, but for Jayanthi Subbarayappa. Summary of the reply filed by Jayanthi Subbarayappa is as follows:
- i She was not the director of the company.
 - ii She submitted that Bettahalli Ravindranath Lakshmegowda is responsible for running the company
 - iii She denied putting her signatures on any documents of the company and submitted that her signatures were forged.
 - iv In this regard she had lodged a complaint against Bettahalli Ravindranath Lakshmegowda, before the Nazarbad Police station, Mysore.
5. Subsequently, vide email dated October 4, 2016, a scanned copy of the death certificate of Jayanthi Subbarayappa was received from one Jeevan Maddur Nagesh. The name and address mentioned in the scanned copy of the death certificate matched with that of Jayanthi Subbarayappa. In view of this, I consider that the proceedings initiated against Jayanthi Subbarayappa shall stand abated without any further directions.

6. Even though the company and its two directors failed to respond to the interim order, an opportunity of personal hearing was granted to them in order to comply with the principles of natural justice and the same was scheduled on October 6, 2016. However the noticees failed to appear for the personal hearing. Thereafter, SEBI caused a publication on April 13, 2017 through Deccan Herald and Vijayvani, two local dailies one in English and one in vernacular language respectively regarding the personal hearing scheduled on May 19, 2017. However, even after the paper publication, none of the noticees appeared for the hearing nor submitted any reply or sought any extension. In view of the same, I am convinced that sufficient opportunities have been granted to the noticees and they are not keen to avail any opportunity of hearing in this regard. I further note that the noticees have not even filed any written reply/submission to the interim order cum show cause notice. In view of these facts and circumstances, I deem it appropriate to decide the matter *ex-parte* on the basis of material available on record.

7. I have taken into consideration the interim order and other material available on record. In the light of the above observations, it is to be determined whether the schemes launched and operated by the noticees are in the nature of Collective Investment Scheme as defined under section 11AA of the SEBI Act. The provisions of section 11AA to the extent relevant are extracted as below:

“Collective investment scheme.

“(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) or [sub-section (2A)] shall be a collective investment scheme.

Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under the exemptions from CIS sub-section (3), involving a corpus amount of one hundred Crore rupees or more shall be deemed to be a collective investment scheme.

(2) Any scheme or arrangement made or offered by any company under which,

- (i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement;*
 - (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement;*
 - (iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;*
 - (iv) the investors do not have day to day control over the management and operation of the scheme or arrangement.”*
- (3)”*

8. The basic allegation against the noticees is that they were involved in illegal fund mobilizing activity, without obtaining registration as a CIS and thereby violated section 12(1B) read with Section 11AA of the SEBI Act, 1992 and Regulation 3 of the CIS Regulations and Regulation 4(2)(t) of the PFUTP Regulations. To adjudicate the said allegation, the contents of the "schemes"/plans offered by

GBAFL need to be examined carefully as against the four ingredients enlisted in Section 11AA which are the characteristics of a scheme that constitute a CIS:

i. Pooling and utilization of contribution or payments for the purposes of the scheme or arrangement.

GBAFL invited funds from the public by offering various plans whereby the contribution of the "unit holders"/investors would be pooled and utilised for purchasing land for developing forestry and agriculture. The objective of such pooling of money is given on its web-page as follows,

"This Company is engaged in business with Forest and Agriculture as its primary activity. Land will be purchased using the investments made by the public; Forestry and Agriculture will be introduced in these lands and the profits there on will be distributed to the investors."

In the brochure, GBAFL declared that the amount received from the investors under various schemes would be invested in growing economic/cash crops, which generate high returns when sold in international markets. Therefore, it is clear that the contributions/investments from various investors are pooled for the purpose of the "scheme" of "purchase of land and introduction of forestry or agriculture" and the said scheme or arrangement is solely carried out from the funds pooled from the "unit holders"/investors. I, therefore, find that the instant "scheme"/plan satisfies the first condition stipulated in Section 11AA(2)(i) of the SEBI Act.

ii. Contributions made to such scheme or arrangement with a view to receive profits, whether movable or immovable, from such scheme or arrangement

It is observed from the website of the Company that the company offered 3 schemes to the unit holders with the promise to distribute the profits among them. The various schemes of the company are as follows:

1. Plan 1:- Under this plan, land will be purchased using the investments made by the public. Agriculture and forestry will be done in these lands and the profits will be distributed among the investors. Instalments can be paid by investors on a monthly, quarterly, half yearly or annual basis.
2. Plan 2:- Under this plan, the money invested by the investor gets doubled after 5 years and return is more than double if investment is made for 6, 7 and 8 years. Loan facility is available to the investors under this plan.
3. Plan 3:- Under this plan an investor has to deposit Rs. 10/- Rs. 20/- Rs. 30/- Rs. 40/- Rs. 50/- and Rs. 100/- for a period of 750 days. An investor will get an amount of Rs. 9,000/- by

investing Rs. 10/- daily after 750 days. The amount to be earned after the end of 750 days keeps increasing with the increase in daily investment.

On a perusal of the above plans, it appears that the company is luring the unit holders/investors with high returns on their investments under various scheme plans. It is clear therefore that the contributions are made by the unit holders/investors with an expectation to earn income/profit/return from such scheme/plan. In view of this, I find that the instant scheme/plan also satisfies the second condition stipulated in Section 11AA(2)(ii) of the SEBI Act.

- iii. **The contribution investment forming part of scheme or arrangement, managed on behalf of the investors; and,**
- iv. **The investors do not have day to day control over the management and operation of the scheme or arrangement.**

As noted from the website, GBAFL is using the funds pooled from "unit holders"/investors to purchase land for the purpose of carrying out activities like forestry, agriculture, industries etc. In this regard, it is noted that various clauses mentioned in the General Terms and Conditions of the "Application Form", state that the "unit holder"/investor shall have no right to participate in the development of farms, which is exclusively looked after by GBAFL and the "unit holder"/investor shall have no right over the product or output from the said land, which is the exclusive property of GBAFL. It is therefore, clear that the "scheme"/plan is managed by GBAFL on behalf of the "unit holders"/investors. A perusal of the contents of the brochure makes it apparent that the control over such purchase of lands and cultivation seem to be solely with the management of GBAFL and the "unit holders"/investors do not appear to have any day to day control or say over the management and operation of the "scheme"/plan. I, therefore, find that the instant "scheme"/plan also satisfies the conditions stipulated in Section 11AA(2)(iii) and (iv) of the SEBI Act.

- 9. From the above findings and observations, I conclude that the 'scheme' floated by Green Buds and its directors, as examined above, satisfies all the four conditions specified in section 11AA (2) of the SEBI Act and falls within the definition of a Collective Investment Scheme as defined thereunder which mandates a registration under the SEBI Act, 1992.
- 10. To launch or carry on the activity of CIS and mobilize public funds from such schemes, it is mandatory under law to obtain a certificate of registration from SEBI. Section 12(1B) of the SEBI Act mandates that no person, shall sponsor or cause to be sponsored or carry on or cause to be carried

on any CIS unless it obtains a certificate of registration from SEBI in accordance with the CIS Regulations. Regulation 3 of the CIS Regulations provides that no person other than a Collective Investment Management Company which has obtained a certificate of registration from SEBI, under the said regulations shall carry on or sponsor or launch a 'collective investment scheme'. Regulation 4(2)(t) was inserted in the PFUTP Regulations with effect from September 06, 2013, thereby making the illegal mobilization of funds through CIS schemes a “fraud” thereunder.

11. As observed in the interim order, it is gathered from some news reports that the Company has mobilized around Rs. 300 crores from six lakh depositors spread across the state of Karnataka. As mentioned in this Order, the noticees have not responded to the interim order. The noticees have failed to furnish the details sought by SEBI including details of the investors, amounts mobilised from them and their whereabouts. In absence of the above said vital information, it is difficult to ascertain the amount of money mobilized by the company; the period during which the mobilization continued and the number of investors affected by the schemes of the Company.
12. In view of the above analysis of the schemes and the conduct of the noticees, I conclude that Green Buds Agro Farms Ltd, and its directors Bettahalli R. Lakshmegowda and Aruna Prasad have contravened the provisions of section 12(1B) read with Section 11AA of the SEBI Act and Regulation 3 of the CIS Regulations and Regulation 4(2)(t) of PFUTP Regulations, by floating collective investment schemes without obtaining registration from SEBI.
13. During the course of the proceedings, the Government of Karnataka vide its Notification No. RD 03/GRC/2015 dated December 8, 2016 has informed SEBI that it has attached four plots of land belonging to the noticee company in 3 talukas of Kodagu District under the Karnataka Protection of Interest of Depositors in Financial Establishment Act, 2004 (“KPID Act”) and the said properties would rest with the Competent Authority appointed by the Government, pending further orders from the special court.

DIRECTIONS

14. In view of the foregoing and in the interest of investors and the securities market, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and Sections 11(1), 11B and 11(4) thereof and regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999, hereby issue the following directions:
 - (a) Green Buds Agro Farms Ltd (PAN- AACCG5554) and its noticee directors namely, Bettahalli R. Lakshmegowda and Aruna Prasad shall abstain from collecting any money, either directly or indirectly, from the investors or launch or carry out any Collective Investment Schemes

including the scheme which have been identified as a Collective Investment Scheme in this Order;

- (b) In continuation of the directions at para 11 of the interim order, Green Buds Agro Farms Ltd and its above named noticee directors shall not alienate the properties acquired out of the money mobilized through the aforesaid schemes;
- (c) Green Buds Agro Farms Ltd and its above named noticee directors shall be restrained from accessing the securities market and are prohibited from buying, selling or otherwise dealing in the securities market, directly or indirectly, for a period of 4 years from the date of this order;
- (d) The Noticee directors shall disassociate themselves as directors of any other company for a period of 4 years from the date of this order. SEBI shall intimate the Ministry of Corporate Affairs regarding the said direction for their information and necessary action, as deemed appropriate;
- (e) As the quantum of money mobilized by the Company is not certain, SEBI shall make a reference to the Government of Karnataka based on the above directions, so as to utilize the assets of the company for the purpose of effecting repayment to the investors covered under the scope of this order along with other depositors before them, as they deem fit and proper.

15. This order shall come into force with immediate effect. Copy of this Order shall be forwarded to the stock exchanges and depositories for necessary action.

Date: July 18, 2017

Place: Mumbai

G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA