

WTM/AB/IMD-CIS/SRO/17/2019-20

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: ANATA BARUA, WHOLE TIME MEMBER**

FINAL ORDER

Under Sections 11(1), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 and Regulation 65 of the Securities and Exchange Board of India (Collective Investment Schemes) Regulations, 1999

In respect of –

Notice No.	Name of Noticee	PAN
1.	Wisdom Agro Tech India Limited	AABCW0397G
2.	Mr. Anantharaman Nallaperumal	AFXPN3719D
3.	Mr. Govinda Pillai Reghukumaran	ANAPR9836Q
4.	Mr. Gilbert James Dhason	ASJPG9315B
5.	Ms. Kumaresan Vasanthakumari	AGVPV7290A
6.	Ms. Jeyashoba Thankappan Rajam	AVFPR0171D
7.	Mr. Prabhu Kannan	AVMPP5039K

The aforesaid entities are hereinafter individually referred to by their respective names/serial numbers and collectively as “the Noticees”.

1. Securities and Exchange Board of India (hereinafter referred to as (“**SEBI**”) received a complaint vide e-mail dated August 25, 2013, wherein *inter-alia* it was alleged that a few companies in the State of Tamil Nadu are collecting monies from public through various schemes. Wisdom Agro Tech India Limited (hereinafter referred to as “**WATIL**” or “**the Company**”) was one of the companies mentioned in the said complaint.
2. Based on the aforesaid complaint, SEBI had conducted preliminary examination of the case. From the documents provided by the company and those available with RoC, it was found that WATIL was *prima-facie*

carrying on activities of ‘collective investment scheme’ (hereinafter referred to as “**CIS**”) as defined under Section 11AA of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “**SEBI Act**”). In view of the findings of the preliminary examination, SEBI passed an *ad-interim ex parte* order cum show cause notice on December 10, 2014 (hereinafter referred to as ‘**the interim order**’) against the Noticees, *inter-alia* directing the following:

- i. *not to collect any fresh money from investors under its existing schemes;*
 - ii. *not to launch any new schemes or plans or float any new companies to raise fresh moneys;*
 - iii. *to immediately submit the latest inventory of the assets including land obtained through money raised by WATIL;*
 - iv. *not to dispose of or alienate any of the properties/assets obtained directly or indirectly through money raised by WATIL;*
 - v. *not to divert any funds raised from public at large which are kept in bank account(s) and/or in the custody of WATIL.*
3. The aforesaid interim order also gave liberty to the Noticees, to file their reply, if any, within 21 days of the interim order and also to indicate their willingness to avail opportunity of personal hearing. As desired by the Noticees, personal hearing was given to them and after hearing the parties, SEBI passed an order dated October 20, 2015 (hereinafter referred to as ‘**the confirmatory order**’) wherein *inter-alia*, the following observation was made:

“.....In view of the above, it would be necessary that SEBI conducts an investigation into the entire business operations of the Company and Wisdom Asset Promoters India Limited to find whether the activities of the Company are in the nature of CIS as prima facie observed in the interim order. The investigation shall examine the

submissions and documents produced by the Company and also seek further documents information as required.”

4. The confirmatory order *inter-alia* also confirmed the directions issued vide SEBI's interim order dated December 10, 2014 against Noticee no. 1 and its Directors and ex-Directors i.e. Noticee no. 2 to 7, subject to the modification that the directions in the interim order were not to cause any hindrance to the Company in respect of execution and registration of sale deeds in favour of its existing customers.
5. Subsequent to the confirmatory order, an investigation was carried out by SEBI into the business activity of Noticee no. 1 for the period 2010-11 to 2015-16 to find out whether the business activities of Noticee no. 1 have the features of CIS.
6. Vide hearing notice dated October 26, 2018, the Noticees were given opportunity of personal hearing on December 21, 2018. On the said date of hearing, Noticee no. 1 and 7 did not appear and Noticee no. 2 to 6 were represented through Shri B. Anandan, Advocate.
7. Thereafter, a show cause notice (hereinafter referred to as “**SCN**”) dated April 03, 2019 was issued to the Noticees alleging the violations of Section 12(1B) of the SEBI Act, Regulation 3 of SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as “**CIS Regulations**”) and calling upon the Noticees to show cause as to why the schemes offered by the Noticee no. 1 should not be declared as CIS and further and why appropriate directions under Sections 11(1), 11(4)(b) and 11B of the SEBI Act read with Regulation 65 of the CIS Regulations should not be issued against all of them for the aforesaid violations. SCN also alleged that Noticee no. 2 to 7 were the directors of the Noticee no. 1 and were responsible for the conduct of the business of the Noticee no.1 during the period of mobilization and thus also allegedly violated Section 12(1B) of SEBI Act, 1992 and Regulation 3 of the CIS Regulations, 1999.

8. For making the aforesaid allegations against the Noticees, SCN relied upon certain documents which were annexed to the SCN and the details of which are as hereunder:

S. No.	Description of the document relied	Annexure No.
1.	Copy of the email dated August 25, 2013 containing complaint about money collection by the Company	I
2.	Copy of the Interim order dated December 10, 2014 passed by SEBI against the Noticees	II
3.	Copy of the Confirmatory order dated October 20, 2015 passed by SEBI against the Noticees	III
4.	Copy of letters dated March 29, 2016, April 26, 2016 and May 17, 2016 received by SEBI from the Company	IV
5.	Print out of data, contained in the CD received from the Company, with its letter dated April 11, 2016	V
6.	Copy of letter dated July 31, 2014 received by SEBI from the Company	VI
7.	Copy of letter dated January 16, 2015 received by SEBI from the Company	VII

9. Subsequently, vide hearing notice dated June 03, 2019, Noticees were given an opportunity of personal hearing on July 05, 2019. Again, on the said date of hearing, Noticee no. 1 and 7 did not appear and Noticee no. 2 to 6 were represented through Shri B. Anandan, Advocate.
10. I have perused the material available on record and also taken into account the submissions advanced during the personal hearings held before me. None of the Noticees have filed their reply to the SCN.

Noticee no. 1 and 7 did not even appear for personal hearings granted in the matter. Noticee no. 2 to 6, in their submissions made through their Advocate, submitted that proceedings by Economic Offences Wing-II, Madurai (hereinafter referred to as “**EOW**”) has been initiated under Tamil Nadu Protection of Interest of Depositors (in Financial Establishments) Act, 1997 (hereinafter referred to as “**TNPID Act**”). In support of this contention, it was submitted that EOW has attached the properties of Noticee no. 1 under the provisions of the TNPID Act. In this regard, the Advocate submitted a copy of the list of assets of the Noticee no. 1 and Wisdom Assets Promoter India Limited, which were claimed to have been attached by EOW. It was also informed that EOW had arrested the directors of the Company out of which three are on regular bail whereas two have been granted anticipatory bail by the Hon’ble Chennai High Court. The Advocate also furnished a copy of the charge-sheet filed by EOW with the Special Court, Madurai, for cases under TNPID Act.

11. A perusal of the said copy of charge-sheet shows that it has been filed in Criminal Case No. 11/2016 before Special Court for TNPID case at Madurai. The Company, Noticee no. 2, Noticee no. 4, Noticee no. 5, Noticee no. 6 and Noticee no. 7 have been arrayed as accused no. 1, 5, 6, 10, 7 and 3, respectively, for the offences under Section 5 of TNPID Act and Sections 406, 420 and 120B of Indian Penal Code, 1860. Charge-sheet alleges that the accused persons were running 6 deposit schemes. The charge-sheet states that the accused named therein lured the investors in big way during the period from 2010 to November, 2016 and collected a sum of Rs. 90,72,500/- from a total of 227 depositors and that the affected depositors have filed claims with EOW.
12. During the hearing held on July 05, 2019, the advocate representing Noticee no. 2 to 6 informed that Noticee no. 3 has died on January 28, 2019 and in this regard, he submitted the death certificate dated February 26, 2019 issued by Nagercoil Municipality.

13. The material available on record also suggests that EOW has registered a case against the Company under TNPID Act. EOW has identified the properties of the Company and frozen its Bank account. EOW have also given publicity in southern districts of Tamil Nadu through advertisement in vernacular dailies inviting further complaints in the matter and investigation by EOW was under process.
14. On perusal of the material available on record, I also find that the Company had been collecting money under its various schemes. Even though the Advocate for the Noticee no. 2 to 6 has given the proof of action by EOW under TNPID Act by treating the money collection by the Company as “deposit”, however, the Noticees have not filed any specific reply denying allegation of carrying unregistered CIS, as alleged in the SCN. Therefore, the findings recorded in the interim order, confirmatory order and allegations in SCN, regarding the schemes of the Company being CIS, do not stand vitiated. It is further noted that as a performance of the condition of the schemes offering land to the investors/depositors, the Company has submitted proof of only 25 sale deeds executed in favour of the investors/depositors. Whereas under its various other schemes, as alleged in the SCN, the Company has been found to be repaying the outgoing investors through the deposits made by the incoming investors in the scheme. Thus the schemes run by the Company also seems to be money circulation schemes which are prohibited under the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. Accordingly, SEBI may make a reference to the Government of State of Tamil Nadu, for taking suitable actions under the said Act.
15. In this case, the EOW has treated the schemes of the Company as falling under TNPID Act and proceedings thereunder are underway. I note that in the case of Disc Assets Lead India Limited wherein EOW proceedings, initiated under TNPID Act, were brought to the notice of

SEBI after passing of a direction for refund to an unregistered CIS, SEBI passed an order dated September 21, 2016 *inter alia* stating SEBI shall not take any further coercive steps for implementation of its Order dated March 30, 2016 till EOW completes its proceedings.

16. I note that, in case any person raises fund through unregistered CIS, SEBI normally directs such entity not to access the securities market and not to deal in securities in any manner, for a particular period besides direction for making refund. In the present case before me, the refund to the investors/depositors/purchasers of land, is being undertaken by the EOW/ Competent Authority under the TNPID Act, therefore, I find that directing the Noticees to make refund under these proceedings, which would lead to another set of proceedings overlapping with the proceedings under TNPID Act, is not desirable, when both the proceedings, are mainly aimed at refund to the investors/depositors. Further, such directions, if any, may give an opportunity to the Noticees to wriggle out of the proceedings initiated under TNPID Act. Already, the properties have been attached by the Government of Tamil Nadu under TNPID Act and EOW has also given an advertisement inviting further complaints from the investors/depositors/purchasers of land. Any direction which is being passed under para 19 below shall not come in the way of payment of money by EOW/Competent Authority to the investors/depositors/purchasers of land under TNPID Act. Investors/depositors of the scheme referred in the SCN may also file their complaints with EOW in terms of advertisement issued by EOW, as referred to in para 13 above.
17. SEBI shall provide the details of the investors in the schemes of the Company and amount collected, if available with it, to EOW - Tamil Nadu Police for refund to such investors/depositors under TNPID Act.

18. As regards debarment aspect of these proceedings, it is observed that EOW/ Competent Authority appointed under the TNPID Act, has already started the proceedings under the TNPID Act including for the attachment and sale of the properties of the Company for default in return of deposits by the Company. As noted in para 15 above, the findings recorded in the interim order, confirmatory order and allegations in SCN, regarding the schemes of the Company being CIS, do not stand vitiated. Therefore, the conduct of Noticees calls for appropriate direction including debarment for violations as alleged in the SCN.
19. Taking into consideration, all the aforesaid facts, I, in exercise of the powers conferred upon me under Sections 11(1), 11(4) and 11B of the SEBI Act read with Section 19 of the SEBI Act, direct that the Noticees except Noticee no. 3,:
- (a) shall not launch any new collective investment schemes without seeking registration from SEBI in accordance with the provisions of SEBI Act, 1992 and CIS Regulations;
 - (b) shall not collect money from investors under its existing schemes;
 - (c) shall not dispose of or alienate any of the properties/assets obtained directly or indirectly from the funds raised by Noticee no. 1 except for the purpose of making refunds to the investors/depositors/purchasers of land, by the EOW/Competent Authority under the TNPID Act;
 - (d) are restrained from accessing the securities market and also prohibited from buying, selling or otherwise dealing in securities, directly or indirectly, or being associated with the securities market in any manner, whatsoever, for a period of four years or till the completion of proceedings under TNPID Act, whichever is later. During the period of restraint, the existing holding, including units

of mutual funds, of the Noticees except Noticee no. 3, shall remain frozen;

20. The aforesaid directions shall not come in the way of EOW/Competent Authority in making refunds to investors/depositors/purchasers of land, under the TNPID Act; and
21. The proceedings against Noticee no. 3 stand abated, in view of the facts stated in para 12.
22. Any direction issued in this order would not absolve the Noticees, to whom directions have been given above, from their liability under TNPID Act or Prize Chits and Money Circulation Schemes (Banning) Act, 1978 or any other law and the same can be enforced under the provisions of the relevant laws.
23. This order shall come into force with immediate effect.
24. A copy of this order shall be served upon all recognised stock exchanges, depositories and the Registrar and Share Transfer Agents of all Mutual Funds, to ensure compliance with the above directions. A copy of this order shall also be served upon Economic Offences Wing – II, Madurai, Tamil Nadu and the Competent Authority appointed under the TNPID Act.

Sd/-

Place: Mumbai

ANANTA BARUA

Date: August 14, 2019

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA