

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTIONS UNDER SECTION 11 READ WITH SECTION 11B OF THE SEBI ACT, 1992 AGAINST M/S SHREE VAISHNAVI DYEING & PRINTING LIMITED AND ITS DIRECTORS, SHRI VIJAY KUMAR AGARWAL, SHRI SURESH PATEL, SHRI BHAGWATI PRASAD KANORIA, SHRI BRIJ KUMAR PODDAR, SHRI RAJENDRA KUMAR KANORIA, SHRI RAM GOPAL MUNDRA, SHRI SHASHIKANT KANORIA, SHRI ZULFIKAR ALI KAGZI, SHRI YAKUB K. MULLA AND SHRI SAIYED_NIZZAMUDIN

WTM/TCN/ERO/64/10/2007

1.0 BACKGROUND

- 1.1 A Co-ordination and Monitoring Committee (hereinafter referred to as the 'CMC') was set up jointly by the Department of Company Affairs (hereinafter referred to as 'the DCA') and the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') in 1999 in respect of companies which raised money from the public and which were not traceable. These companies were identified as vanishing companies. Seven Task Forces for each region were also set up consisting of Officers of DCA, SEBI and the concerned Stock Exchange to assist the CMC in identifying vanishing companies in the region and recommending the action to be taken by DCA and SEBI against such companies.
- 1.2 In the fifth meeting of the CMC held on 1.7.2000, the criteria for identifying vanishing companies has been laid down and companies that met the following criteria were to be considered as vanishing companies:
- a) Companies which have not complied with listing requirements / filing requirements of Stock Exchange / Registrar of Companies respectively for a period of 2 years.
 - b) Where no correspondence has been received by the Exchange from the company for a long time.
 - c) Where no office of the company is located at the registered office address at the time of Stock Exchange inspection.

2.0 PUBLIC ISSUE BY SVDPL

- 2.1 Shree Vaishnavi Dyeing & Printing Limited (SVDPL) came out with a public issue of 32,40,000 equity shares of Rs 10/- each for cash at par through a prospectus dated 19.08.1994. The issue opened on 15.9.1994, the earliest closing date was 19.09.1994 and the latest closing date 26.09.1994. It has been stated in the prospectus that applications have been made to the Stock Exchanges at Magadh (Regional Stock Exchange), Bombay, Ahmedabad, Madras and Calcutta for listing of the shares.
- 2.2 In the prospectus, the address of the registered office of SVDPL is given as Krishna Building, 2nd Floor, S.P. Varma Road, Patna - 800001. The names, addresses, qualifications and experience of the directors are also mentioned in the prospectus.

3.0 SVDPL – A VANISHING COMPANY.

- 3.1 The Registrar of Companies, Bihar and Jharkhand has informed vide his letter dated July 24, 2007 that SVDPL has not been filing statutory returns since March 31, 1997 and is traceless. ROC has filed prosecution under the Companies Act, 1956 and FIR has also been filed against SVDPL under various sections of the Indian Penal Code.
- 3.2 MSE vide letter dated 04/05/2000 stated that SVDPL could not be traced at its Registered Office address during the physical verification conducted by MSE.
- 3.3 It has been found that SVDPL has not been complying with various clauses of the Listing Agreement entered into by it with Magadh Stock Exchange (MSE), its Regional Stock Exchange viz., not submitting statutory reports, director's reports and other required reports, not furnishing of financial results including Cash Flow Statements, Balance sheet and Profit & Loss Account etc. to the concerned

Stock Exchange. The non-compliance of listing agreement by the said company is in violation of the provisions of section 21 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as SCRA). Magadh Stock Exchange vide its letter dated 21.12.2001 confirmed that SVDPL has been delisted from the Exchange.

- 3.4 In the 1st meeting of the Calcutta Task Force held on 28/04/1999, SVDPL was identified as one of the vanishing companies of eastern region. In its 2nd meeting held on 24/05/1999, the Calcutta Task Force decided to initiate prosecution against SVDPL. Further, in the meeting of the Co-Ordination and Monitoring Committee held on 25/02/2003, SVDPL was identified as one of the vanishing companies of the Eastern Region.

4.0 SHOW CAUSE NOTICE AND PERSONAL HEARING

- 4.1 In view of the above, a show cause notice dated May 17, 2000 was issued by SEBI to SVDPL calling upon them to explain why action, including prohibiting SVDPL from accessing the capital market for a period of five years should not be taken under the SEBI Act and the Securities Contracts (Regulation) Act, 1956, specifically directions under section 11B of the SEBI Act. Similar show cause notices dated May 17, 2000 were also issued to the directors namely Shri Vijay Kumar Agarwal, Shri Shashikant Kanoria, Shri Bhagwati Prasad Kanoria, Shri Suresh Patel, Shri Rajendra Kumar Kanoria, Shri Brij Kumar Poddar, Shri Ram Gopal Mundra. While the show cause notices addressed to the company and 3 of the directors viz., Shri Vijaykumar Agarwal, Shri Ram Gopal Mundra and Shri Bhagwati Prasad Kanoria returned undelivered, no replies were received from the remaining directors.
- 4.2 SVDPL and its directors namely Shri Vijay Kumar Agarwal, Shri Shashikant Kanoria, Shri Bhagwati Prasad Kanoria, Shri Suresh Patel, Shri Rajendra Kumar Kanoria, Shri Brij Kumar Poddar, Shri Ram Gopal Mundra were also given a

personal hearing before the Member, SEBI on 14.8.2003 vide our letter dated July 25, 2003. The letters addressed to SVDPL and four of its directors viz., Shri Vijaykumar Agarwal, Shri Ram Gopal Mundra, Shri Shashikant Kanoria and Shri Bhagwati Prasad Kanoria returned undelivered. While no replies were received from the remaining directors, one director namely Shri Suresh Patel appeared before the Member at the hearing and submitted the Notice for the AGM on September 30, 2002 and the financial results of SVDPL for the year 2001-02.

4.3 On perusal of SVDPL's AGM Notice for its meeting on September 30, 2002 and its financial results for the year 2001-02, it has been observed that three new directors have been appointed by the company, namely Shri Zulfikar Ali Kagzi, Shri Yakub K. Mulla and Shri Nizzamudin J. Saiyed. Based on this information, it was further decided to issue show cause notices to the company and its directors afresh. Accordingly, show cause notices dated April 05, 2005, July 05, 2005 and October 07, 2005 were also issued to the company and all its directors (past and present) namely Shri Vijay Kumar Agarwal, Shri Shashikant Kanoria, Shri Bhagwati Prasad Kanoria, Shri Suresh Patel, Shri Rajendra Kumar Kanoria, Shri Brij Kumar Poddar, Shri Ram Gopal Mundra, Shri Zulfikar Ali Kagzi, Shri Yakub K. Mulla and Shri Nizzamudin J. Saiyed. While the show cause notices addressed to SVDPL and seven of its directors viz., Shri Suresh Patel, Shri Zulfikar Ali Kagzi, Shri Saiyed Nizzamudin, Shri Rajendra Kumar Kanoria, Shri Vijaykumar Agarwal, Shri Shashikant Kanoria and Shri Bhagwati Prasad Kanoria returned undelivered, no replies were received from the remaining 3 directors viz., Shri Brij Kumar Poddar, Shri Ram Gopal Mundra and Shri Yakub K. Mulla though the notices were delivered and receipt acknowledged.

4.4 The name and addresses of the company and its directors are as given below :

Shree Vaishnavi Dyeing & Printing Limited
Krishna Building, 2nd Floor
S. P. Verma Road
PATNA – 800 001, BIHAR

Shree Vaishnavi Dyeing & Printing Limited
269, G.I.D.C. Estate, Sachin
SURAT - 394230

Shri Vijay Kumar Agarwal
Chairman
Mahatma Gandhi Nagar, Kankarbag
PATNA

Shri Suresh Patel
Director
11, Yogikrupa Housing Society
New Civil Road, SURAT

Shri Bhagwati Prasad Kanoria
Director
Mahatma Gandhi Nagar, Kankarbag
PATNA

Shri Brij Kumar Poddar
Director
102, Shyam Apartment, Ghod Dhod Road
SURAT

Shri Rajendra Kumar Kanoria
Director
102, Shyam Apartment, Ghod Dhod Road
SURAT

Shri Ram Gopal Mundra
Director
201/202, Vandana Apartment
New Civil Road
SURAT

Shri Shashikant Kanoria
Managing Director
103, Govinda Palace, Parin Point
SURAT

Shri Zulfikar Ali Kagzi
Director
205, Vishram Nagar
Ved Road, SURAT

Shri Yakub K. Mulla
Director
Begumpura
Falsa Wadi
SURAT

Shri Saiyed Nizzamudin
Director
Navsari Bazar
Putli
SURAT

5.0 PUBLIC NOTICE

As a final opportunity to the company and its directors, SEBI issued a Public Notice on August 17, 2006 to submit their replies to the said notice or the various show-cause notices issued to them within 15 days from the date of the public notice. In case of failure to submit replies within the prescribed time period, it was to be presumed that the company and the directors have no explanation to offer in respect of the action proposed to be taken against them vide the said notice. Accordingly, it was also stated that SEBI will be at liberty to take appropriate ex-parte action as mentioned in the said notice.

6.0 CONSIDERATION OF ISSUES

6.1 In view of the fact that SVDPL and its directors namely Shri Vijay Kumar Agarwal, Shri Shashikant Kanoria, Shri Bhagwati Prasad Kanoria, Shri Suresh Patel, Shri Rajendra Kumar Kanoria, Shri Brij Kumar Poddar, Shri Ram Gopal Mundra, Shri Zulfikar Ali Kagzi, Shri Yakub K. Mulla and Shri Nizzamudin J. Saiyed failed to submit any explanation to the said notice and appear before me, I conclude that they have no explanation to offer in respect of the violations of the clauses of the listing agreement and in respect of the proposed directions under section 11B of SEBI Act, as mentioned in the show cause notices issued to them. The failure to submit the reports and annual accounts by such companies to the stock exchange is in violation of the provisions of the Listing Agreement read with section 21 of Securities Contracts (Regulation) Act, 1956.

6.2 I further note that the vanishing of companies after raising moneys from the public is a matter of grave concern. These violations and the non-traceability of the companies of this kind are detrimental to the interest of investors and to the integrity of securities market. Besides they have also eroded the confidence of the investors and the credibility of the capital market, which calls for suitable preventive action. Therefore, it is necessary in the interest of investors and for healthy development of the securities market, that companies such as SVDPL and its directors who have vanished after raising money from the public should be prevented from accessing the capital markets again in future. Such a step would protect the investors from being duped by such vanishing companies. The above measure would also help in restoring confidence of investors and promoting integrity of securities market as it would give signal to the market that the fly by night operators will not be allowed to access the capital market.

6.3 I also note that the Supreme Court in RadhGeysyam Khemka v. State of Bihar¹, observed as follows:

“Originally the concept of a company implied an association of persons for some common object having a juristic entity separate from that of its members. In due course the gap between the investors in such companies and those in charge of management widened. A situation has been reached today where in the bulk of the companies many individuals who have property rights as shareholders and to the capital to which they have directly or indirectly contributed, have no idea how their contributions are being utilized. It can be said that the modern shareholder in many companies has simply become a supplier of capital. The savings and earnings of individuals are being utilized by persons behind such corporate bodies, but there is no direct contact between them. The promoters of such companies are not even known to many investors in shares of such companies. It is a matter of common experience that in some cases later it transpires to the investors that the promoters had the sole object to form a bogus company and

¹ [1993] 77 COM CAS 356.

foist it off on the public to the latter's detriment and for their own wrongful gain. In this process the public becomes the victim of the evil design of the promoters who enrich themselves by dishonest means without there being any real intention to do any business....”

6.4 In *Status Management Services Ltd. v. SEBI*,² the Securities Appellate Tribunal (SAT) has observed that there can be no two views on question of taking deterrent action in accordance with the procedure established by law, against those companies which had duped the public and vanished.

I further note the SAT, in *Integrated Amusements Ltd. v. SEBI*, has held that SEBI has power under sections 11 and 11B of the Securities and Exchange Board of India Act, 1992 (hereinafter referred to as “the SEBI Act”) to debar vanishing companies and their directors from accessing capital markets for fixed periods of time. I also note that clause 17.1(b) of the SEBI (Disclosure and Investor Protection) Guidelines, 2000 also empower SEBI to issue such directions.

6.5 In view of the above, SVDPL and its directors as a preventive measure in the interest of investors are to be restrained from accessing the capital market for a suitable period. However notwithstanding such restraint, the directors of SVDPL may resort to floating new companies, acquiring existing companies or using companies in which they hold substantial interest to raise money from the public. Hence, it is necessary to take preventive measures restraining companies in which directors of SVDPL have controlling or substantial interests from directly or indirectly raising moneys from the capital market.

² [2000] 26 SCL 491

7.0 ORDER

- 7.1 Therefore I, in exercise of the powers conferred upon me under section 11(1) and 11B read with Sub Section (3) of Section 4 of the SEBI Act, hereby direct Shree Vaishnavi Dyeing & Printing Limited and its directors namely Shri Vijay Kumar Agarwal, Shri Shashikant Kanoria, Shri Bhagwati Prasad Kanoria, Shri Suresh Patel, Shri Rajendra Kumar Kanoria, Shri Brij Kumar Poddar, Shri Ram Gopal Mundra, Shri Zulfikar Ali Kagzi, Shri Yakub K. Mulla and Shri Nizzamudin J. Saiyed to disassociate themselves in every respect from the capital market related activities and not to access the capital market for a period of five years. I further direct more specifically that the public companies in which the above directors hold controlling or substantial interest shall not be allowed to raise funds from the capital market for a period of five years.
- 7.2 Any person aggrieved by this Order can make his / its representation within 15 days from the date of this Order.
- 7.3 This Order shall come into force with immediate effect.

Date: 18.10.2007
Place: Mumbai

T. C. NAIR
WHOLE-TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA