

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTIONS UNDER SECTION 11B OF THE SEBI ACT 1992 READ WITH REGULATIONS 65 AND 73 OF SEBI (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999.

M/S. SUMAN MOTELS LTD., Mumbai (hereinafter referred to as "Company") had filed certain information/details with SEBI regarding its Collective Investment Scheme viz. 'Suman Earth Bond' pursuant to SEBI Press Release dated November 26, 1997.

Consequent to the notification of SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as the "said Regulations") dated October 15, 1999, every person who, immediately prior to the commencement of the said Regulations, was operating a Collective Investment Scheme(s), was required to make an application to SEBI for the grant of registration within a period of two months from the date of notification, under the provisions of the said Regulations.

In terms of Regulation 73 (1) of the said Regulations, an existing Collective Investment Scheme which has failed to make an application for registration with SEBI, is required to wind up the existing scheme(s) and repay the investors. Further as per regulation 74, an existing Collective Investment Scheme which is not desirous of obtaining provisional registration from SEBI is required to formulate a scheme of repayment and make repayment to the existing investors in the manner specified in Regulation 73.

SEBI vide a letter dated December 29, 1999 and also by way of a public notice dated December 10, 1999, had given intimation to the Company in terms of regulation 73 (2) which cast an obligation on it to send an Information Memorandum to all the investors detailing the state of affairs of the scheme(s), the amount repayable to each investor and the manner in which such amount is determined. Accordingly, the Company was required to send the Information Memorandum to the investors latest by February 28, 2000.

In the meanwhile, SEBI having regard to the interest of the investors and requests received from various entities, extended the last date for submitting application for grant of registration by existing entities upto March 31, 2000. The same was intimated by SEBI to the Company vide a letter, a press release and a public notice. However, the Company still did not apply for grant of registration with SEBI in terms of the said Regulations.

As a matter of fact, the Company, neither applied for registration under the said Regulations nor has taken any steps for winding up of the scheme(s) and making payment to the investors in the manner provided under the said Regulations and thus has prima-facie violated the provisions of Section 12 (1B) of SEBI Act, 1992 and Regulations 5 (1) read with Regulation 68 (1), 68 (2), 73 & 74 of the SEBI (Collective Investment Schemes) Regulations, 1999.

SEBI had also issued a public notice in various newspapers in this regard inviting attention of the concerned entities including the Company herein about the statutory requirements under the provisions of SEBI Act and the said Regulations.

Further, by way of a Show Cause Notice dated May 12, 2000, the Company was asked to show cause as to why the action mentioned therein be not initiated against it for the aforesaid violations/non-compliance. The Company vide its reply dated May 16, 2000 informed SEBI that Information Memorandum has been circulated to its members on 28-02-2000 and it has taken further steps for realising the assets and for making payments to the investors. Further, the Company vide its letter dated October 4, 2000 submitted that it will be submitting the "Winding Up and Repayment Report" to SEBI in a short while. However, the Company has failed to wind up its Collective Investment Scheme (s) to make repayments to its investors and submit the "Winding Up and Repayment Report" to SEBI in accordance with the said Regulations, despite its confirmation to do so.

As requested, the Company was granted personal hearings on February 6, 2001, February 7, 2001, February 20, 2001, June 20, 2001, September 26, 2001, December 4, 2001, February 11, 2002 and on May 08, 2002 before Chairman, SEBI to explain the reason of such non compliance of the said Regulations. The said hearings were attended by the Company officials wherein they submitted that the Company does not want to continue with its Collective Investment Scheme (s) and therefore it has not applied for registration. However, they promised that the Company is taking all the steps for the repayment to the investors and sought further time for such repayment to the investors.

During the personal hearing on 26.09.2001, which was attended by Shri Mukhtar Hussain, Chairman and Shri Surendra Khandhar, Managing Director of the Company, both of them had given a written assurance to SEBI, interalia, to the effect that the Company would make all the efforts to repay the investors at the earliest but not later than December 31, 2002, it would make an application in Company Application No. 340/2001 filed by it before the Hon'ble Bombay High Court amending the proposed scheme of repayment in terms of the aforesaid assurance and shall also publish this commitment in four newspapers within 45 days from the date of such commitment. During the hearing it was noted that the Company has made contradictory statements regarding the number of its Collective Investment Scheme (s), number of investors therein and amounts raised under its Collective Investment Scheme (s).

When the enquiry was made during the personal hearing on 08.05.2002 regarding the compliance of the aforesaid commitment, the officials of the Company could not offer any evidence to establish that they have complied with any of such commitment.

Therefore, having regard to submissions made by the Managing Director of the Company during the said hearing and after taking into consideration the interests of investors the Company was directed, interalia :

1. to take immediate steps to redress the investors complaints;
2. to take steps to fulfil its commitments dated September 26, 2001, and,
3. to submit a detailed compliance report with SEBI by May 20, 2002.

While the Company forwarded letters dated May 18, 2002 and July 8, 2002 submitting certain information, it has failed to comply with the aforesaid directions and file the compliance report in terms of directions given during personal hearings dtd. 08.05.2002.

Proceedings have been held on number of occasions. Opportunity has been given several times. Having regard to the above, I am of the view that the Company has been given number of opportunities for making repayment to the investors. At every occasion, the representatives of the Company has assured SEBI that it would repay the investors and would take every possible action in this regard. However, the conduct of the Company is such that it wants to pay lip service to what is committed to SEBI. Therefore, I am constrained to take a view, on the basis of the facts of the case, that the Company is not serious about fulfilling its promises and making the repayment to the investors. In any case, the fact remains that the Company has not complied with SEBI (CIS) Regulations, 1999.

Now, therefore, in exercise of the power conferred upon me under section 11B of the SEBI Act, 1992 read with Regulation 65 of SEBI (CIS) Regulations, I hereby direct the Company to refund the money collected under its Collective Investment Scheme (s) with returns which is due to the investors as per the terms of the offer within a period of one month from the date of this Order failing which the following actions would follow:

1. Initiation of prosecution under section 24 of SEBI Act, 1992 which prescribes imprisonment for a term which may extend to one year, or with fine, or with both against the Company /its promoters /its directors/managers / persons in charge of the business of its scheme (s).
2. The Company / its promoters /directors / managers / persons in charge of the business of its scheme (s) would be debarred from operating in the capital market and from accessing the capital market for a period of 5 years.
3. Writing to the state governments / local police to register civil /criminal cases against the Company/its promoters /directors/managers/persons in charge of the business of its scheme (s) for the offences of fraud, cheating, criminal breach of trust, dishonest misappropriation of public funds.
4. Writing to the Department of Company affairs to initiate the process of winding up of the Company.

Place : Mumbai
Date : July 19, 2002

G.N. Bajpai
Chairman
Securities and Exchange Board of India