

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTIONS UNDER SECTION 11 B OF THE SEBI ACT 1992 READ WITH REGULATIONS 65 & 73 OF SEBI (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999 ISSUED IN THE MATTER OF M/S. SHIVAJI ESTATE LIVESTOCK & FARMS PVT. LTD., NAGPUR

M/s Shivaji Estate Livestock & Farms Pvt. Ltd., having its registered office at 14, Hindustan Colony, Amravati Road, Nagpur (hereinafter referred to as "the company") had filed certain information/details with SEBI regarding its Collective Investment Schemes pursuant to SEBI Press Release dated November 26, 1997.

Subsequent to the notification of SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "the Regulations") dated October 15, 1999, the company applied for registration under the provisions of the Regulations. As it was prima facie felt, on the basis of the details given in the application and other details available on record, that the company did not fulfil certain requirements of the Regulations, the company was granted personal hearings in terms of Regulation 12(1) of the Regulations on 09.11.2000, 27.12.2000, 11.04.2001 and 11.06.2001, which were attended by the representatives of the company.

As the company failed to satisfy SEBI that it fulfils all the statutory requirements even after the aforesaid opportunities of hearing, its application was rejected for non fulfilling the requirements of Regulation 70 (1)(b) & (c) of the Regulations. The said rejection was communicated to the company vide SEBI's letter dated 21.06.2001 whereby the company was inter alia directed to wind up its existing scheme(s) and make repayments to the investors in terms of Regulation 73. Vide the said letter, the company was also directed to send Information Memorandum (IM) to the investors, who had subscribed to the scheme(s), within two months from the date of receipt of the aforesaid intimation from SEBI in terms of Regulation 73 (2) of the Regulations. Further, vide the said letter, while enclosing a format of the "Winding Up and Repayment Report" to be submitted to SEBI, the company was directed to file the same so as to reach SEBI within 3 & ½ months of the date of the Information Memorandum, in terms of Regulation 73 (8).

As per Regulation 73 of the Regulations, an entity which has not been granted provisional registration by SEBI, is required to wind up the existing schemes and repay the investors in the manner provided in the said Regulation.

The company submitted a "Winding Up and Repayment Report" to SEBI which is not in conformity with the format specified by SEBI. From the report submitted by the company, it is observed that the company has not repaid to all those investors who have not given their positive consent to continue with the schemes in terms of Regulations 73 (6) and 73 (7) of the Regulations. The company has informed that out of 1,01,422 investors, it has received the consent from 38, 471 investors. It shows that the company was required to repay the amount to 62,951 investors. However, as per its own admission, the company has repaid to only 26,656 investors which includes part payment towards principal and returns to the investors from whom consent has been received. The rest of 36,295 investors who had not given positive consent, have not been repaid.

From the report submitted by the company, it is seen in the sub column "total number of investors" and "amounts in rupees" of column "amount mobilized" that the company has indicated details regarding those investors who have not given their positive consent in terms of Regulation 73(6) and 73(7) of the Regulations. Whereas as per the format specified by SEBI, the company was required to include details regarding the total number of investors and the amount mobilised from them under each of its schemes in the aforesaid column. Therefore, the company has not furnished the "Winding Up and Repayment Report" as per the format specified by SEBI.

In light of the aforesaid, I am of the view that the company has violated the provisions of Section 12(1B) of SEBI Act, 1992 and the provisions of Regulation 68(1) and 73 of the Regulations.

Therefore, in exercise of the power conferred upon me under section 11B of the SEBI Act, 1992 read with Regulation 65 and 73 of the Regulations, I hereby direct the company to refund the money collected under its schemes with returns which is due to the investors as per the terms of the offer, to all the investors who have not given the positive consent to continue with the schemes, within a period of one month from the date of this Order and submit the "Winding Up and Repayment Report", strictly in the format specified by SEBI, within 15 days thereafter.

In case the company is unable to repay to any of the investors for reasons such as non availability of the current address of those investors or for any other reason whatsoever, the company shall place the amounts payable to each of such investors in separate fixed deposits (FDs) for a period of 60 months, with any scheduled bank. The company shall furnish copies of the receipts of the said FDs alongwith an affidavit to SEBI, duly certified by the statutory auditors of the company, stating that FD Receipts would not be alienated or used in any manner whatsoever except to repay the concerned investors as and when they approach the company.

If the company fails to comply with the directions issued hereby, the following actions, depending on the compliance, would be considered:

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 /its managers/ persons in charge of the business of its schemes.
2. The company /its promoters/its directors/its managers/persons in charge of the business of its schemes 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 for apparent offences of fraud, cheating, criminal breach of trust and mis-appropriation of public funds.

4. Writing to the Department of Company Affairs to initiate the process of winding up of the company.

Place : Mumbai

Date : October 11 , 2002

G.N. Bajpai

Chairman

Securities and Exchange Board of India