

SECURITIES AND EXCHANGE BOARD OF INDIA

DIRECTIONS UNDER SECTION 11B READ WITH SECTION 11 OF SEBI ACT, 1992 READ WITH REGULATION 65 OF SEBI (COLLECTIVE INVESTMENT SCHEMES) REGULATIONS, 1999 IN THE MATTER OF M/S AVANI PLANTATIONS LTD

1. M/s Avani Plantations Ltd (hereinafter referred to as the company) applied to the Securities and Exchange Board of India (hereinafter referred to as SEBI) for the grant of registration under SEBI (Collective Investment Scheme) Regulations, 1999 (hereinafter referred to as the said regulations). After considering the application filed by the company, SEBI granted provisional registration to the company on April 1, 2001 subject to the fulfillment of the conditions specified in regulation 71 of the said Regulations.
2. Thereafter, SEBI vide its letters dated July 23, 2001, August 14, 2001 and September 21, 2001 advised the company to submit an interim report on the status of compliance of the conditions specified in regulation 71 of the said Regulations. The company was also informed about the pending investor complaints and was also advised to redress the same. The company vide its letter dated August 14, 2001, inter alia, informed SEBI that they were negotiating with financially strong corporate companies to increase their existing project net worth to Rs. 5 crores.
3. As the company failed to comply with the conditions specified in regulation 71 of the said Regulations, and also failed to submit the interim report on the current status of compliance with the provisions of the said Regulations, SEBI vide its letter dated January 7, 2003 called upon the company to show cause as to why the provisional registration granted to them should not be revoked. The company was also granted an opportunity of personal hearing before me on January 18, 2003 before proceeding with further action against them in the matter. However, the hearing was adjourned to February 12, 2003, on the request of the company made vide letter dated January 16, 2003. Vide the said letter, the company further informed that they had redressed almost all the complaints received by them and that the said fact had been reported to SEBI vide letter dated October 31, 2000. Thereafter, during the course of hearing held on February 12, 2003, the representatives who appeared on behalf of the company before me admitted that they had failed to comply with the required conditions of the regulations. They further mentioned that they were negotiating with various companies regarding the credit rating, appraisal of the schemes, creation of trust etc., and hence requested for additional time for complying with the conditions stipulated in regulation 71 of the said Regulations. It was further submitted that if the company was granted final registration by SEBI, they would comply with the required conditions as laid down in the said Regulations.
4. The provisional registration is granted to an entity subject to the said entity complying with the various conditions stipulated in regulation 71 (1) of the said Regulations. As per regulation 71(2), the entity is required to submit a written undertaking to SEBI to comply with the conditions specified in regulation 71(1) of the said Regulations. Under regulation 73(1) (c) of the said Regulations, if an existing collective investment scheme, after obtaining provisional registration, fails to comply with the provisions of regulation 71 of the said Regulations, has to wind up the existing scheme(s) in accordance with the procedure stipulated in regulation 73(2) to (9) of the said Regulations. The provisional registration was granted to the company on April 1, 2001 and the same expired on March 31, 2003. The company failed to submit any compliance report regarding the fulfillment of the conditions laid down under regulation 71 of the said Regulations.
5. Further, SEBI vide its letter dated 25.4.03 advised the company, inter alia, to comply with the conditions specified in regulation 71 of the said Regulations such as getting the existing schemes rated, appraised and formation of a trust, etc., within the stipulated period of 2 years from the date of grant of provisional registration. Vide the said letter, the company was also advised to wind up the existing schemes and make repayments to the investors and also send an Information Memorandum in terms of regulation 73 (2) of the said Regulations. Thereafter, a press release dated 2.5.03 was issued by SEBI to that effect. The company vide its letter dated 07.5.03 requested SEBI to keep the provisional registration alive for a period of atleast one year to enable the company to honour its obligations to its investors.
6. However, the company did not wind up its schemes to make repayment to its investors in accordance with the said Regulations. Further, the company failed to file the winding up report with SEBI. The request of the company for extending the validity of provisional registration for a period of one year could not be acceded to in view of the absence of an express enabling provision in the said Regulations in this regard. Thereafter, SEBI vide its order dated 27.11.03 passed an order directing M/s Avani Plantations Ltd to refund the money collected under the schemes with returns to the investors within a period of one month from the date of the order.
7. However, the company failed to comply with the directions contained in the order dated 27.11.03. In view of the non-compliance of the orders / directions issued by SEBI, I, in exercise of the powers conferred upon me under Section 11B read with Section 11 and Section 4(3) of the SEBI Act, 1992 and Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999, hereby prohibit the company/its promoters/ its directors / its managers / persons in charge of business of its schemes (whose names and addresses are mentioned in Annexure A enclosed herewith) from dealing in the securities market and also from accessing the securities market for a period of five years from the date of this order.
8. In case any aggrieved person whose name is mentioned in the enclosed annexure was not aware of the order dated 27.11.03 and the warning issued vide the said order and was not responsible for the conduct of the business of the company, may apply in writing within 15 (fifteen) days from the date of this order with all supporting documents to SEBI.

This is without prejudice to SEBI's right to take any other action as it may deem fit.

PLACE : MUMBAI

DATE : 22nd January, 04 G.N BAJPAI

CHAIRMAN

Annexure A

Names and addresses of Directors/Promoters/Managers/Persons in charge of the business of the schemes of M/s. Avani Plantations Ltd., Thane

1. Mr. Vasant Jagjivandas Kotak
12, New Ashirwad CHS Ltd.
Kolbad Road
Thane(W)- 400 601.

2. Mr. Deepak Dhirajlal Dalal
1, Gautam Villa
Ghantali Devi Path
Thane (W)- 400 602.

3. Mr. Lalit Shankar Mahadik
24/B, Kaupineshwar CHS Ltd.
Mithbunder Road, Chendani
Koliwada
Thane-400 601.

4. Mr. Arvind Kotak
12, New Ashirwad CHS Ltd.
Kolbad Road
Thane(W)- 400 601.

5. Mr. Jagjivandas Kotak
12, New Ashirwad CHS Ltd.
Kolbad Road
Thane(W)- 400 601.

6. Ms. Hiraben Kotak
12, New Ashirwad CHS Ltd.
Kolbad Road
Thane(W)- 400 601.

7. Ms. Kashmira Kotak
12, New Ashirwad CHS Ltd.
Kolbad Road
Thane(W)- 400 601.

8. Ms. Varsha Kotak

12, New Ashirwad CHS Ltd.

Kolbad Road

Thane(W)- 400 601.

9. Mr. Dhanji Kotak

14/260, Laxmi Bhavan

Scheme-6, Road No. 31-A

Sion (E)

Mumbai- 400 022.

10. Ms. Deepali Upasni

1, Gautam Villa

Ghantali Devi Path

Thane (W)- 400 602.

11. Mr. Ajit Panday

1, Gautam Villa

Ghantali Devi Path

Thane (W)- 400 602.