

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA, MUMBAI
CORAM: S. RAMAN, WHOLE TIME MEMBER**

ORDER

Under Sections 11(1), 11B and 11(4) of the Securities and Exchange Board of India Act, 1992 read with Regulation 65 of the SEBI (Collective Investment Schemes) Regulations, 1999 in the matter of M/s Bhoomi Devcon and Agritech Ltd. (PAN:AAECB4806G) and its Directors viz. Mr. Lal Chand Vishwakarma (PAN:AKLPV6427H), Ms. Radha Bai Vishwakarma (PAN:AKNPV1081D), Mr. Ghasi Ram Vishwakarma (PAN:AMZPV6270A) and Mr. Sanjay Kumar Agrawal (PAN:AHUPA0336L).

1. Securities and Exchange Board of India (hereinafter referred to as "**SEBI**") received information from Office of Collector, Rajnandgaon dated March 27, 2014 regarding the fund mobilization activity by M/s. Bhoomi Devcon and Agritech Limited (**hereinafter referred to as "Bhoomi Devcon"/"the Company"**). They also forwarded the copies of brochures, application forms, etc. pertaining to scheme offered by the company.
2. As a matter of preliminary examination into the alleged fund mobilization by Bhoomi Devcon, SEBI examined the details of the company available on the MCA website. Based on the information available on the website, including the details regarding the registered office of the company and details of its directors/promoters/share holders, SEBI vide separate letters dated April 2, 2014, advised the company and its Directors to furnish the following information in relation to its business activities:
 - a) *Copies of Memorandum and Articles of Association (**MoA and AoA**) of the company as filed with the Registrar of Companies,*
 - b) *Details of past and present directors of the company including addresses, PAN and contact details (email/fax/ contact no.),*
 - c) *Brochures pertaining to schemes/ offers of the company made available to the public,*
 - d) *Copies of applications forms that are required to be submitted by investors to participate in the scheme,*

- e) *Sample copies of registration letter and allotment letter issued to investor who subscribed to the scheme,*
- f) *Samples copies of agreement letter/ contract required to be entered into by investors,*
- g) *Details of scheme wise amount mobilized by the company till date along with the number of investors under the scheme,*
- b) *Certified copy of audited financial statements for the FY 2010-11, 2011-12 and 2012-13,*
- i) *Copy of income tax return filed by the company for the last three years,*
- j) *Details of any other similar scheme(s), if any, floated by the company or its group/ associate company.*

3. The company filed its reply vide letter dated April 16, 2014 and submitted the following information /documents:

- a. *Memorandum and Articles of Association of the company as filed with the Registrar of Companies,*
- b. *Details of past and present Directors of the company, along with their PAN card copies,*
- c. *Certified copies of audited financial statements for the year ended March 31, 2012 and March 31, 2013,*
- d. *Copy of the income tax return filed by the company for the last 2 years.*

3.1 Mr. Sanjay Kumar Agarwal (one of the Additional Directors of Bhoomi Devcon as per MCA Website), vide letter dated April 16, 2014 informed that he is no longer the Additional Director of the Company. Mr. Sanjay Kumar Agarwal also provided a copy of his resignation letter received by the company. It is however, observed that as per MCA Portal, he is still holding the position of Additional Director.

3.2 As the company failed to furnish the complete information, a letter dated April 16, 2014 was sent to the company advising them to furnish the documents/information sought by SEBI vide its earlier letter. Additionally, SEBI sought the bank account details of the company and its group/associate companies.

4. In response thereto, company vide letter, received by SEBI on April 22, 2014 and emails dated April 23, 2014 and May 07, 2014 submitted the following documents:

- a) *Brochures pertaining to schemes/ offers of the company made available to the public,*

- b) *Copies of applications forms that are required to be submitted by investors/applicants to participate in the schemes,*
- c) *Sample copies of registration letter issued to investor who subscribed to the scheme,*
- d) *Bank Account details of the company and its Directors,*
- e) *Bank Account Statements (Axis Bank A/c No.912020001828650 and IDBI A/c. No.10526102000001519) for the period 12.01.2012 to 21.04.2014 and 25.04.2011 to 21.04.2014 respectively.*

5. Subsequent to this, SEBI vide letters dated June 20, 2014 and July 18, 2014 sought the following additional information/documents:

- a. *Details of the scheme- wise amount mobilized by the company along with number of investors under the various schemes,*
- b. *Submit with necessary proof, whether on maturity of the scheme the investor was provided with land or the amount as indicated as “Estimated Real Value” in the brochures,*
- c. *Details of land available with the company as on date in a tabular form,*
- d. *Details of all the branch offices of the company along with contact details,*
- e. *The details of the plans that have crossed maturity date,*
- f. *Copies of the request made by the investor for claiming of land or money in respect of the matured plans (Plan D-11 and Plan D-01, as per the list furnished by the company),*
- g. *Copies of actual agreement forms of all the investors who had applied for Plan D11,*
- h. *Copies of acknowledgment of the investors who have got land/refund of the amount with assured returns under plan D11.*

5.1 In response to the aforementioned letter, company vide its letters dated July 3, 2014 and July 23, 2014 provided the following information:

- a. *Details of scheme wise amount mobilized and the amount refunded,*
- b. *Provided a list of 61 investors to whom amounts were refunded,*
- c. *List of land bank details of the company,*
- d. *Details of the plans that have crossed maturity date, such as the copies of registration letters, receipts, acknowledgments etc..*

6. The material available on record *i.e.* information received from Office of Collector, Rajnandgaon, correspondences exchanged between SEBI and Bhoomi Devcon, along with documents contained therein have been perused. The issue for determination in the instant matter is whether the mobilization of funds by Bhoomi Devcon is a '*collective investment scheme*' in accordance with Section 11AA of SEBI Act, 1992 (hereinafter referred to as "**SEBI Act**").

6.1 On examination of the material available on record, it is *prima facie* observed that :

- a) Bhoomi Devcon (CIN:U70101CT2011PLC022381) was initially incorporated as a "*Private Limited Company*" on March 22, 2011 and later converted into a '*Public Limited Company*' and obtained fresh certificate of incorporation dated June 29, 2011. It has the registered office at 2nd floor, Shop No. U59, Parivahan Complex, New Bus stand, Badhoriya Chowk, Above Axis bank Rajnandgaon – 491441 (CG).
- b) Mr. Lal Chand Vishwakarma (DIN: 03468327), Ms. Radha Bai Vishwakarma (DIN: 03468309), Mr. Ghasi Ram Vishwakarma (DIN: 03533189) and Mr. Sanjay Kumar Agrawal (DIN: 03576379) are the Directors of Bhoomi Devcon.
- c) Main objectives of the company are *inter alia* "*....to carry on all kinds of real estate and construction activities, to carry on the business of sale and purchase of property. Taking civil contracts of construction and / or development of roads, building, highway and to develop construct any type of infrastructure facilities express ways as contractor or sub- contractor for Government or Semi Government or for other parties under any of their to carry on the business of dairy farming, Horticulture, pisciculture and to engage in all kinds of agricultural activities, carry on business of marketing, multi level marketing.....*
- d) On perusal of the brochure submitted by the company, it is observed that they have existing projects pertaining to pig farming, goat farming, fish farming, real estate etc.. It is however, observed that Bhoomi Devcon invites funds from public through various plans for the scheme "*Advance property Booking plan*".

- e) As per the brochure issued by Bhoomi Devcon, it has offered 17 different plans towards "*Advance property Booking plan*" (hereinafter referred to as "***Scheme***"). These plans have been further categorized as "*Regular instalment plans*" (for 2 years, 3 years, 4 years, 5 years, 6 years and 9 years) , "*Monthly Income Plans*" (for 6 years) and "*Lump sum payment plans*" (for 1 year, 2 years, 3 years, 4 years, 5 years, 7 years and 10 years). A payment plan from each category are reproduced below (from the brochure)for reference purpose.

Regular payment plan for 2 years (Plan No. D-2)

<i>Unit plot size in sq. ft</i>	<i>Consideration value</i>	<i>Installment</i>				<i>Estimated Real Value</i>	<i>Accidental Risk Benefit</i>
		<i>Mthly</i>	<i>Qtrly</i>	<i>1/2 Yrly</i>	<i>Yrly</i>		
100	2400	100	295	580	1150	2700	2400
200	4800	200	590	1160	2300	5400	4800
300	7200	300	885	1740	3450	8100	7200
400	9600	400	1180	2320	4600	10800	9600
500	12000	500	1475	2900	5750	13500	12000
600	14400	600	1770	3480	6900	16200	14400
700	16800	700	2065	4060	8050	18900	16800
800	19200	800	2360	4640	9200	21600	19200
900	21600	900	2655	5220	10350	24300	21600
1000	24000	1000	2950	5800	11500	27000	24000

Monthly Income plan (MIP 6 year) (Plan No. D-19)

<i>Area in Sq. ft.</i>	<i>Consideration value</i>	<i>MIS 72 months</i>	<i>DA (5 time)</i>	<i>Bonus (5 time)</i>	<i>Estimated Real value</i>	<i>Accidental Risk Benefit</i>
500	10000	80	600	600	10000	10000
750	15000	120	900	900	15000	15000
1000	20000	160	1200	1200	20000	20000
1500	30000	240	1800	1800	30000	30000
2000	40000	320	2400	2400	40000	40000
2500	50000	400	3000	3000	50000	50000
5000	100000	800	6000	6000	100000	100000

Lump sum payment plan (Plan No. D11 to D17)

Area in sq. ft	Consideration Value	Estimated Real Value							Accidental Risk Benefit
		1year plan No. D11	1year plan No. D12	1year plan No. D13	4 year plan No. D14	5 year plan No. D15	5 year plan No. D16	10 year plan No. D17	
50	1,000	1,060	1,180	1,360	1,600	2,008	2,840	4,080	1,000
100	2,000	2,120	2,360	2,720	3,200	4,016	5,680	8,160	2,000
150	3,000	3,180	3,540	4,080	4,800	6,024	8,520	12,240	3,000
200	4,000	4,240	4,720	5,440	6,400	8,032	11,360	16,320	4,000
250	5,000	5,300	5,900	6,800	8,000	10,040	14,200	20,400	5,000
500	10,000	10,600	11,800	13,600	16,000	20,080	28,400	40,800	10,000
1,000	20,000	21,200	23,600	27,200	32,000	40,160	56,800	81,600	20,000
1,500	25,000	31,800	35,400	40,800	48,000	60,240	85,200	122,400	30,000
2,500	30,000	53,000	59,000	68,000	80,000	100,400	142,000	204,000	50,000
5,000	1,00,000	1,06,000	118,000	136,000	160,000	200,800	284,000	408,000	1,00,000

- f) The contribution or investment to the “Scheme” is made by a "customer"/investor as per the payment schedule(s). An "Estimate Real Value” at the end of the term is also indicated in the payment schedule(s).
- g) The "customers"/investors who are interested in the “Scheme” offered by Bhoomi Devcon are required to apply through an “Application Form”. On examination of the aforesaid “Application Form”, the following clauses are noted.
- "On the basis of Terms and conditions contained in this agreement cum application and having study attached I hereby apply to you for allotment and subsequent transfer of land unit(s) and development and maintenance of same under your plans.
 - Allotment of land shall be made after receiving payment in the case of lump sum payment plan within 18 months and in the case of regular instalment payment plan after receiving 60% payment within 90

days. Subject to foregoing, the land ownership would be ordinarily transferred in the name of customer within a reasonable period after allotment.

- *In case Bhoomi Devcon commits a breach of agreement by not allotting the said land unit in favour of applicant in the manner agreed to, applicant shall be entitled to terminate the agreement, in which Bhoomi Devcon will refund the amount together with simple interest.*
- *Bhoomi Devcon & Agritech Limited shall have first charge on said property on account of its unpaid instalments for services / development charges and for other incidental expenses incurred by Bhoomi Devcon & Agritech Limited. The said property cannot, in any other manner be sold, assigned, mortgaged, pledged or alienated without obtaining NO DUES CERTIFICATE from the company in case of regular instalment payments plans.*
- *The management of Bhoomi Devcon & Agritech Limited reserves the right to discontinue / change / amend/ modify or alter prospectively any of the rules / regulations and plans and introduce new plans at any time at its sole discretion with or without any prior notice."*

h) Upon filing the "*Application form*", the investors are made to enter into an agreement with the company. It is however observed that the company has not furnished the copies of agreement, despite being asked to do so. Subsequent to the execution of the agreement, Bhoomi Devcon issues a "*Registration Letter*", which states that the "*customer/investor* has been registered for the plot booked by him. Following are noted from the "*General terms and Conditions*" of the said registration letter:

- ***"Cost of the Land"***-Cost of the said property includes, cost of the land, brokerage, development charges, other inputs, saplings, plants, trees, crops, planting expenses, maintenance and miscellaneous expenses.
- ***Plot's allotment*** :Primarily the land shall be allotted to the customer within one year period for LPP (Lumpsum payment plan) from the date of plot booking and for EIPP (easy installment Payment plan) after having receipt of 50% payment of plot through notarized sale deed if customer wants to inspect the location, he may do so any time after allotment of said land. As far as the subject of foregoing land ownership along with its possession is concerned it will be transferred by company to the customer by means of land registry at the end of development period."**(Condition No.7)**

- **Possession :** *After execution of notarized sale deed the customer shall be the owner in vacant physical possession of the plot at all times. The company shall enter upon the plot only for the purpose of undertaking development of the plot, as per the terms of this agreement between the customer and the company in that regard.* **(Condition No.8)**
- **Lands development :** *"As agreed between the parties company will undertake development work of the said land under it, first company will prepare land for crop production through making the lands surface plain, installing irrigation system, making the fencing etc. after that it will take suitable crop out of it through using necessary fertilizers, pesticides and insecticides under the supervision of experts, it will also appoint the personals and pay their wages. Produce out of the land shall be sold by the company at the best prevailing price in behalf of the customer."* **(Condition No.9)**
- **Resale of the land:** *The customer has the right to retain or sell the said property as he / she deem fit, on expiry of the tenure of this agreement. To facilitate easy liquidity, company provides re-sale services to the customer for the sale of developed plots. In case customer avail companies aforesaid services, he/ she must notify the company to that effect at least 90 days before the expiry of development period of the agreement. The sale can be made, only at the end of the tenure of Agreement at such price which may be mutually agreed between the parties. Company may also offer to buy back the same land on its appreciated price as accordance with market price of the said developed land as agreed between customer and company.* **(Condition No.10)**
- *The company has first charge over said property on the unpaid instalments for services / developments and other incidental expenses incurred by the company. The property cannot in any other manner be sold, assigned, mortgaged pledged or alienated without obtaining No Dues Certificate from the company in case of instalment payment"* **(Condition No.11)**
- *The customer wants to retain the said land he will be entitle receive the 5% of land cost against produce taken out of it."* **(Condition No.12)**
- **"OPTING OUT IN CASE OF (EIPP) :** *In case of Easy Installment Payment Plan (EIPP) if customer wants to opt out before completion of Lands development he may do so after 2" years 's completion form the date of plot's booking as under mentioned conditions –*
- *If Customer wants to opt out before allotment of the plot in such case, company will refund the amount on Customer 's written request, after deducting 20% of the consideration amount received towards various costs and other incidental expenses including brokerage incurred by the company.*

- *If Customer wants to opt out after allotment of the plot in such case the company shall be entitled to ; cancel the plot's allotment. The Company shall also be entitled to recover 60% of the development charges received towards various costs and other incidental expenses including brokerage incurred by the company and rest of the amount will be refunded to the customer with 10% of estimated annual appreciation in plots price after allotment for applicable months."*
- i) From the letter dated July 3, 2014 of Bhoomi Devcon, it is noted that the company has collected an amount of Rs.39,01,370/- from 885 "customers"/investors under its various schemes.
- j) On perusal of the list of the investors to whom moneys have been refunded, it is noted that the company has made refund to 61 "customers"/investors. It is intriguing to note that all the 61 investors invested moneys ranging between Rs.800/- to Rs.5000/- during the period August to November 2013 and the company has refunded the exact amount invested by the investors to them during the period March to June 2014, *i.e* the company has refunded the amount invested by them within 10 months from the date of deposit.
- k) The company also states that they have land bank. However, they have not provided any registration documents in support of the same. The details of the land bank as furnished by the company are as under:

<i>S.N o</i>	<i>Location of the Plot</i>	<i>Size of Plot</i>	<i>Date of Purchase/A cquisition</i>	<i>Whether still in possession of the company</i>
1	Vil- Medha, P.H.N.38 LB Nagar Dongargah Dist. Rajnandgaon	1 acr. 63 dec.	07.01.2014	Yes
2	Bhagyan Tola P.H.N.23 LB Nagar Dongargah Dist. Rajnandgaon	14 acr. 7 dec.	03.02.2014	Yes

7. The aforementioned features of the so called "*Advance property Booking plans*" by Bhoomi Devcon have to be considered in light of Section 11AA of the SEBI Act, which provides for the

conditions to determine whether a scheme or arrangement is a ‘collective investment scheme’:

“(1) Any scheme or arrangement which satisfies the conditions referred to in subsection (2) or sub-section (2A) shall be a collective investment scheme.

Provided that any pooling of funds under any scheme or arrangement, which is not registered with the Board or is not covered under the exemptions from CIS sub-section (3), involving a corpus amount of one hundred Crore rupees or more shall be deemed to be a collective investment scheme.

(2) Any scheme or arrangement made or offered by any person under which,

- (i) the contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement;*
- (ii) the contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement;*
- (iii) the property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors;*
- (iv) the investors do not have day to day control over the management and operation of the scheme or arrangement.”*

8. In the context of the abovementioned Section 11AA of the SEBI Act, the “scheme” offered by Bhoomi Devcon, is examined as under:

i. The contributions, or payments made by the investors, by whatever name called, are pooled and utilized solely for the purposes of the scheme or arrangement.

It is apparent from the plans offered by Bhoomi Devcon as noted from the "brochure", "Application Form", sample "Registration Letter" that the company is collecting funds from general public towards its scheme for the "Advance property Booking plans" as detailed in Paragraph No.6.1 (e) above. It is important to note that no plot/land is identified and demarcated at the stage when an individual "customer"/investor files the "Application Form" for allotment and subsequent transfer of land with Bhoomi Devcon or at the time of issuance of "Registration Letter" by Bhoomi Devcon.

The "Application Form" filed by the "customer"/investor does not specify any time period within which the land/plot is to be transferred to the "customer"/investor by way of a sale deed. As per the terms and conditions of the application form, "Allotment of land shall be

made after receiving payment in the case of lump sum payment plan within 18 months and in the case of regular instalment payment plan after receiving 60% payment within 90 days. Subject to foregoing, the land ownership would be ordinarily transferred in the name of customer within a reasonable period after allotment". The "Registration Letter" issued to the "customer"/investor does not indicate any specific particulars of the land/plot forming part of the *scheme* offered by Bhoomi Devcon. From this, it is not clear, as to when the plot/land would be transferred to the "customer"/investor (by way of a sale deed), even after the receipt of full consideration amount, in case of lump sum payment/single installment plan. An estimated amount ("*Estimated Real Value*"), which the "customer"/investor is entitled to at the end of the term is mentioned in the said registration letter. This leads to the inescapable conclusion that Bhoomi Devcon runs a money scheme rather than a sale of plots/units and the contributions or investments received from individual "customer(s)"/investors are pooled and utilized solely for the purpose of the scheme.

Hence, it is clear that the instant '*scheme*' satisfies the first condition of "*pooling of contribution or payments*", stipulated in Section 11AA(2)(i) of the SEBI Act.

- ii. ***The contributions or payments are made to such scheme or arrangement by the investors with a view to receive profits, income, produce or property, whether movable or immovable from such scheme or arrangement.***

The "customer"/investor makes contribution in the scheme of Bhoomi Devcon with a view to receive profits, income and return on their investments. It is observed that "*Estimated real value*" is indicated in the *Payment Schedule(s)* at the end of the tenure. The "customers"/investors invest in the "*Scheme*" with a view to receive profit/return/income. It is apparent that each "customer"/investor is a recipient of any one of the benefits contemplated in Section 11AA (2) (ii), *i.e.* either property or profit. For instance, if the "customer"/investor invests an amount of Rs.24,000/- in "*Regular Installment Payment Plan (2 Yrs- Plan No.D2)*" for a period of 2 years, the value he would receive on maturity is Rs.27,000/-, thus expected returned offered is Rs.3,000/- or he is entitled to get the land units as promised in the registration letter. Similarly, if the applicant chooses *6 years MIS plan (72 months – Lump sum amount – D-19)*, the total consideration of Rs.1,00,000/- is payable in lump sum. The "*Estimated real value*" at the end of the tenure is Rs.1,00,000/- besides a monthly income of Rs.800/- along with 5 times payment

of DA and Bonus of Rs.6000/- each during the plan period of 6 years. In view of above, it is clear that contributions of the "customers"/investors (whether by installments or lump sum payment) are made to such scheme or arrangement with a view to receive the "Estimated real value"/profit/return. I therefore, find that the instant scheme also satisfies the second condition stipulated in Section 11AA(2)(ii) of the SEBI Act.

- iii. ***The property, contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed on behalf of the investors and***
- iv. ***The investors do not have day-to-day control over the management and operation of the scheme or arrangement.***

Following clauses in the "Application Form and "Registration Letter" indicate that the contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed by Bhoomi Devcon, on behalf of the investors and the investors do not have day-to-day control over the management and operation of the scheme or arrangement,

- *"Cost of the said property includes, cost of the land, brokerage, development charges, other inputs, saplings, plants, trees, crops, planting expenses, maintenance and miscellaneous expenses,*
- *...The company will undertake development work of the said land under it. The company will prepare land for crop production through making the lands surface plain, installing irrigation system, making the fencing etc. after that it will take suitable crop out of it through using necessary fertilizers, pesticides and insecticides under the supervision of experts, it will also appoint the personals and pay their wages.*
- *Produce out of the land shall be sold by the company at the best prevailing price on behalf of the customer."*

The aforesaid clauses clearly indicate that the property, contribution or investment forming part of the scheme, is managed solely by Bhoomi Devcon on behalf of the investors and the investors do not have day-to-day control over the management and operation of the "Scheme". In view of the above, I find that the instant 'Scheme'/Plan satisfies the third and fourth conditions stipulated in Section 11AA(2) (iii) & (iv) of the SEBI Act, 1992.

9. It is noted that Hon'ble Supreme Court of India in *P.G.F Limited & Ors. vs. UOI & Anr.* (MANU /SC/0247/2013) (hereinafter referred to as "PGFL Case"), while analyzing the scope of sub-section (2) of Section 11AA, held that: *"..sub-section (2) of Section 11 AA, which defines a collective investment scheme disclose that it is not restricted to any particular commercial activity such as in a shop or any other commercial establishment or even agricultural operation or transportation or shipping or entertainment industry etc. The definition only seeks to ascertain and identify any scheme or arrangement, irrespective of the nature of business, which attracts investors to invest their funds at the instance of someone else who comes forward to promote such scheme or arrangement in any field and such scheme or arrangement provides for the various consequences to result there from."*
10. In view of the aforementioned observations of the Hon'ble Supreme Court of India in the *PGFL Case*, and in view of the abovementioned analysis and examination, it is apparent that the activity of fund mobilization by Bhoomi Devcon under the scheme *"Advance property Booking plans"* with a resultant promise of profit/return / *"Estimated Real Value"* at the end of the *"scheme period"*, *prima facie* satisfies all four conditions of section 11AA(2) of the SEBI Act as discussed in the preceding paragraphs. Therefore, I find that the activity of fund mobilization by Bhoomi Devcon with a resultant promise of returns clearly falls within the ambit of *'collective investment schemes'* as defined in Section 11AA of the SEBI Act.
11. In terms of Section 12(1B) of the SEBI Act, *"no person shall sponsor or cause to be sponsored or cause to be carried on a 'collective investment scheme' unless he obtains a certificate of registration from the Board in accordance with the regulations"*. Regulation 3 of the SEBI (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "CIS Regulations") provides that no person other than a Collective Investment Management Company which has obtained a certificate under the said regulations shall carry on or sponsor or launch a *'collective investment scheme'*. Therefore, a person can launch or sponsor or cause to sponsor a *'collective investment scheme'* only if it is registered with SEBI as a Collective Investment Management Company. Therefore, the launching/ floating/ sponsoring/ causing to sponsor any *'collective investment scheme'* by any *'person'* without obtaining the certificate of registration in terms of the provisions of the CIS Regulations is in contravention of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations.

12. In the instant case, upon a consideration of the aforementioned paragraphs, I am of the view that Bhoomi Devcon is *prima facie* engaged in fund mobilizing activity from the public, by floating or sponsoring or launching '*collective investment scheme*' as defined in Section 11AA of the SEBI Act without obtaining a certificate of registration from SEBI as required under Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations. In view of this, Bhoomi Devcon and its Directors, *viz.* Mr. Lal Chand Vishvakarma, Ms. Radha Bai Vishvakarma and its additional Directors, *viz.* Mr. Ghasi Ram Vishwakarma and Mr. Sanjay Kumar Agrawal who are in charge and responsible to the company for the conduct of the business of the company have contravened provisions of Section 12(1B) of the SEBI Act and Regulation 3 of the CIS Regulations.
13. The activity of illegal mobilization of funds by sponsoring or causing to be sponsored or carrying on or causing to be carried on any collective investment scheme by any person is also in violation of Regulation 4(2)(t) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to securities Market), Regulations, 2003. Considering the fact that no prior registration was obtained by Bhoomi Devcon in respect of the aforesaid activities in the nature of '*collective investment scheme*', I am of the view that the fund mobilizing activity of Bhoomi Devcon and its Directors through the scheme, "*Advance property Booking plans*", *prima-facie* amounts to a fraudulent practice in terms of the aforesaid Regulation 4(2)(t) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practice Relating to Securities Market) Regulations, 2003, which reads as follows:
- "Dealing in securities shall be deemed to be a fraudulent or an unfair trade practice if it involves fraud and may include illegal mobilization of funds by sponsoring or causing to be sponsored or carrying on or causing to be carried on any collective investment scheme by any person".*
14. Protecting the interests of investors is the first and foremost mandate of SEBI. Under the circumstances, SEBI has to take immediate steps to prevent activities of companies or entities defrauding investors and damaging the orderly development of the securities market. In order to ensure that Bhoomi Devcon and its directors do not collect any further funds under its schemes and to safeguard the assets/property acquired by Bhoomi Devcon and its directors from the funds of the investing public until full facts and materials are brought about and a final

decision is taken in the matter, it becomes necessary for SEBI to take urgent preventive action by way of an interim measure. In the light of the same, I find no other alternative but to take recourse through an interim measure against Bhoomi Devcon and its directors.

15. In view of the above, I, in exercise of the powers conferred upon me under Section 11(1), 11(4) and 11B of the SEBI Act, 1992 and Regulation 65 of CIS Regulations, hereby direct M/s Bhoomi Devcon & Agritech Ltd. (PAN:AAECB4806G) and its Directors *viz.* Mr. Lal Chand Vishwakarma (PAN:AKLPV6427H), Ms. Radha Bai Vishwakarma (PAN:AKNPV1081D), Mr. Ghasi Ram Vishwakarma (PAN:AMZPV6270A) and Mr. Sanjay Kumar Agrawal (PAN:AHUPA0336L):

- a. not to collect any fresh money from investors from its existing scheme;*
- b. not to launch any new scheme/plan or float any new companies to raise fresh moneys;*
- c. not to dispose of any of the properties or alienate the assets of the existing scheme;*
- d. not to divert any funds raised from public at large, kept in bank account(s) and/or in the custody of the company;*
- e. to immediately submit the full inventory of the assets owned by Bhoomi Devcon out of the amounts collected from the "customers"/investors under its existing schemes,*
- f. to furnish the details of scheme wise list of investors and their contact numbers and addresses, including,*
 - the list of investors to which land has been allotted and got registered, and*
 - list of investors who have been refunded.*
- g. to furnish all the information sought by SEBI, vide letters dated April 2, 2014 and not yet submitted including, the copies of agreement letter/contract entered into with "customers"/ investors,*

16. The above directions shall take effect immediately and shall be in force until further orders.

17. This order is without prejudice to the right of SEBI to take any other action that may be initiated against Bhoomi Devcon and its Directors/promoters, in accordance with law.

18. This Order shall also be treated as a show cause notice. Bhoomi Devcon and its abovementioned Directors may show cause as to why appropriate directions/prohibitions under

Section 11 of the SEBI Act and in terms of Regulations 65 and 73 of the CIS Regulations including the following, should not be taken/imposed against them:

- i. Directing them jointly and severally to refund any moneys/assets collected from the investors under the scheme, along with the requisite interest,
- ii. Directing them to wind up such plans/schemes,
- iii. Directing them to refrain from accessing the securities market and prohibiting them from buying, selling or otherwise dealing in securities market for a particular period.

19. M/s Bhoomi Devcon and Agritech Ltd. and its abovementioned Directors shall, within 21 days from the date of receipt of this Order, file their reply, if any, to the prima facie observations made herein. The company and its Directors may also indicate, in such reply, whether they wish to avail an opportunity of personal hearing in the matter.

Place: Mumbai
Date: June 29, 2015

S. RAMAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA