

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

ORDER

Under Sections 11, 11(4), 11A and 11B of the Securities and Exchange Board of India Act, 1992, against the past Director of Bharat Krishi Samridhi Industries Limited, viz. Shri Basir Uddin Khan (PAN: BOSPK3303R; DIN: 03529405).

1. Securities and Exchange Board of India ("**SEBI**") vide an Order bearing no. WTM/PS/63/ERO/SEPTEMBER/2015 dated October 9, 2015 ("**Final Order**"), passed certain directions as mentioned at **paragraph 11.1** thereof, against Bharat Krishi Samridhi Industries Limited ("**BKSIL**") and its Directors, viz. Shri Prabir Kumar Chattopadhyay, Shri Pradip Kumar Das, Shri Gulzar Ahmed and Shri Firoz Hossain, for violating the provisions of Section 56, Section 60 read with Section 2(36), Section 73 read with Section 27(2) of the SEBI Act, 1992 ("**SEBI Act**"), Sections 117B–C of the Companies Act, 1956 and the SEBI (Issue and Listing of Debt Securities) Regulations, 2008 ("**Debt Securities Regulations**"), by engaging in fund mobilising activity from the public, through the *issue of Secured Non-Convertible Redeemable Debentures ("Offer of NCDs")* and *issue of Redeemable Preference Shares ("Offer of RPS")*.
2. From the findings contained in the Final Order, it is observed that –
 - i. As per the brochure for the *Offer of NCDs*, which is also corroborated by the '*Allotment Letter cum Debenture Certificate*', –

BKSIL had offered NCDs for subscription for the value of ₹200 Crores. The said Offer was pursuant to resolution passed by the Board of Directors of the Company at its meeting held on March 10, 2012. The said NCDs has a face value of ₹100. In the said offer, an investor can make an application for a minimum of 10 Debentures amounting to ₹1000.
 - ii. As per the brochure for the *Offer of RPS*, which is also corroborated by the '*Allotment Letter cum Share Certificate*', –

BKSIL also offered redeemable preference shares worth ₹4.95 Crores (Issue Size). An investor can make an application for a minimum amount of ₹1000 and in multiples of ₹10. The said issuance of RPS opened on July 6, 2011.

- iii. The *Offer of NCDs* and the *Offer of RPS* have been held to be a public issue of securities in accordance with the *first proviso* to Section 67(3) of the Companies Act, 1956.

- 3.1 It has now come to SEBI's notice that the following person was earlier a Director of BKSIL during the *Offer of NCDs and Offer of Preference Shares* –

Sr. No.	Name	PAN	DIN	Date of Appointment	Date of Cessation
1.	<i>Basir Uddin Khan</i>	<i>BOSPK3303R</i>	<i>03529405</i>	<i>June 30, 2011</i>	<i>March 1, 2013</i>

- 3.2 In this context, it is noted that –

- i. Section 56(1) and 56(3) read with Section 56(4) of the Companies Act, 1956, imposes liability for compliance of the aforesaid provisions, on the company, every Director and other persons responsible for the issuance of the prospectus.
- ii. Section 60 of the Companies Act, 1956, imposes liability for compliance of the aforesaid provision, on the company and every person who is a party to the issue of the Prospectus.
- iii. Section 73(2) of Companies Act, 1956, imposes liability for compliance of Section 73, on the company and every Director of the company who is an *Officer in default*.
- iv. Section 27(2) of the SEBI Act provides SEBI with *inter alia* the power to proceed against Director(s) of companies who have illegally mobilized funds from the public through the issue of securities.
- v. As far as the Debt Securities Regulations is concerned, the company and its Directors are equally liable for any non-compliance with the provisions contained therein i.e. Regulations 4(2)(a)–(d), 4(4), 5(2)(b), 6–9, 12, 14, 15, 16(1), 17, 19 and 26.

- 3.3 Upon a consideration of the aforementioned paragraphs, I am of the view that Shri Basir Uddin Khan was also engaged in fund mobilising activity from the public, in his capacity as a Director of BKSIL, through the *Offer of NCDs* and *Offer of Preference Shares* and as a result of the aforesaid activity, has violated the aforementioned provisions of the Companies Act, 1956, the SEBI Act and the Debt Securities Regulations.
4. In view of the alleged violations by the abovementioned past Director, I, in exercise of the powers conferred upon me under Sections 11, 11(4), 11A and 11B of the SEBI Act, hereby issue the following directions –
- i. The past Director of BKSIL, viz. Shri Basir Uddin Khan (PAN: BOSPK3303R; DIN: 03529405), is prohibited from issuing prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, till further orders;
 - ii. The abovementioned past Director of BKSIL is restrained from accessing the securities market and further prohibited from buying, selling or otherwise dealing in the securities market, either directly or indirectly, till further directions;
 - iii. The abovementioned past Director of BKSIL shall provide a full inventory of all his assets and properties.
- 5.1 The abovementioned past Director of BKSIL is advised to show cause as to why suitable directions/prohibitions under Sections 11(1), 11(4), 11A and 11B of the SEBI Act, Section 73(2) of the Companies Act read with Section 27(2) of the SEBI Act and the Debt Securities Regulations including the following, should not be taken/imposed against him:
- i. Directing him jointly and severally to refund money collected through the *Offer of NCDs and Offer of Preference Shares* alongwith interest, if any, promised to investors therein;
 - ii. Directing him not to issue prospectus or any offer document or issue advertisement for soliciting money from the public for the issue of securities, in any manner whatsoever, either directly or indirectly, for an appropriate period;
 - iii. Directing him to refrain from accessing the securities market and prohibiting him from buying, selling or otherwise dealing in securities for an appropriate period.
- 5.2 The abovementioned past Director of BKSIL, may, within 21 days from the date of receipt of this Order, file his reply, if any, to this Order and may also indicate whether he desires to avail himself an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.

6. This Order is without prejudice to the right of SEBI to take any other action that may be initiated against the abovementioned past Director of BKSIL in accordance with law.
7. This Order shall be read with the Final Order, copy of which is enclosed with this Order.
8. A copy of this Order shall be served on all recognized stock exchanges and depositories for necessary action.

Place: Mumbai
Date: November 20, 2015

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