

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 Agri Gold Farm Estates India Private Limited (CIN: U45309AP2001PLC38237) and its Directors viz., Mr. Venkata Rama Rao Avvas (DIN: 00099695), Mr. Avva Venkata Seshu Narayana Rao (DIN: 00101843), Mr. Avva Hema Sundara Vara Prasad (DIN: 00101889), Mr. Savadam Srinivas(DIN: 00316971), Mr. Moganti Bhanuji Rao (DIN: 00430884) and Mr. Emmadi Sada Siva Vara Prasad Rao (DIN: 00324611).

1. Securities and Exchange Board of India (hereinafter referred to as "SEBI") received several complaints alleging unauthorised collection of monies through activities in the nature of '*collective investment scheme*' by Agri Gold Farm Estates India Private Limited (hereinafter referred to as '**AGFEIPL**' or '**the company**'). Complaints received by SEBI largely alleged non-payment of amounts due on maturity.
2. As a matter of preliminary inquiry into whether or not AGFEIPL was carrying on activities of '*collective investment scheme*' in terms of Section 11 AA of the SEBI Act, 1992 ("**SEBI Act**"), SEBI vide letters dated January 24, 2012 and March 06, 2012 sought information about the schemes operated by AGFEIPL.
3. In response thereto, AGFEIPL vide letters dated February 11, 2012 and March 22, 2012 stated that "*We are engaged in the business of real estate which includes purchasing/ developing/ marketing/ selling of flats, Apartment complexes, Estate Lands and Farm Lands/Plots. The projects are mainly classified into three categories:*
 - i. **Construction and sale of apartments/housing complexes:***
In this segment we purchase lands and/ or enter into joint venture with the owner of the lands, and then start developing the housing apartments while taking orders from the interested persons to book/purchase the said apartments either on onetime payment or in instalments but all the

payment shall be done within the project period. We furnish all the information to our customers. On completion of the project, we hand over possession of the property to the owners. Thereafter, the owners, at their will, form into an association or society to manage the maintenance of the said apartment complex.

ii. Development of housing plot layouts:

In this segment, we purchase the lands and /or enters into joint venture with the owner of the lands, and then starts developing the housing plot layouts while taking orders from the interested persons to book/purchase the said housing plots. This is either on onetime payment basis or in instalments but all the payments are required to be paid within the project period. The development includes formation of internal roads, common facilities etc., which may vary from venture to venture. We furnish all the information to our customers. On completion of the project, we hand over possession of the property to the owners along with the layout plan. Thereafter, the owners, at their will, may form into an association to maintain the said layout or the houses that they may construct on their own.

iii. Development of agricultural land projects:

In this category, for sustained land management, we purchase the agricultural lands including cultivable lands which can be put into potential use by giving suitable treatment and/or enter into joint ventures with the owners of such lands, and then develop the same as cultural lands for sale to various customers and while development is going on we take orders from the interested persons either on instalments basis or on onetime payment, however, all the sale consideration shall be paid before completion of the development period, which may vary according to nature and location of the land..”

4. SEBI vide letters dated May 16, 2013 and August 14, 2013 once again sought information such as brochures of the schemes run by AGFEIPL, details of total number of investors, details of the amount collected and the amounts repaid/ land registered in the names of investors since the schemes are in operation. AGFEIPL vide its letters dated June 3, 2013 and September 3, 2013, reiterated the earlier submissions and submitted the brochures and publicity materials/ information of the ventures/projects to SEBI.
5. Thereafter, AGFEIPL vide letter dated September 18, 2014 furnished the following documents:
 - i. Audited balance sheets for the financial years 2010-11, 2011-12 and 2012-13;
 - ii. Memorandum and Articles of Association (“**MoA**”);

- iii. Brochures related to AGFEIPL's projects;
- iv. Business Plans.

6. In addition, AGFEIPL vide the aforesaid letter also submitted "*SEBI ...finally came to a conclusion in 2013, after an inquiry for more than a year, that our activities will not come within the jurisdiction of SEBI and sent a reference to Registrar of Companies, Hyderabad stating that our business activities are falling within the purview of State Laws.*

On that, the Registrar of Companies, Hyderabad collected huge information from us and after examining the same concluded that the business of our company does not fall under the collective Investment Scheme nor contravening the provisions of Prize Chit and Money circulation Scheme (Banning) Act, 1978 etc. , and sent a report to SEBI accordingly on 18th September 2013. The submission of information to RoC, etc., in response to the reference of SEBI to RoC, has also been informed to SEBI on 6th September, 2013 duly confirming that we not have any scheme or investors within the provisions of SEBI Act.

Business Plans:

- (1) We have not launched any business plans inviting the public to invest in any enterprise or scheme with a promise to manage on their behalf any such enterprise or schemes; the necessary corollary of which shall be to bind or make them liable for any loss.*
- (2) Our business also does not have any schemes or arrangements inviting the public to contribute or made payments for the purpose of any schemes or arrangements wherein the payments made by them are pooled and utilized solely for the purposes of such schemes or arrangements and managed on their behalf.*
- (3) In this connection, we submit herewith the available brochures of various real estate projects launched by us which shows the business activities of our company..."*

7. However, AGFEIPL failed to furnish to SEBI, relevant details such as details of total number of investors, details of the amount collected through different schemes and the amounts repaid/ land registered/transferred in the names of investors since the schemes are in operation, land purchased/transferred etc. despite reminders.

8. Before proceeding further in the matter, it is worth mentioning that SEBI received several complaints from various investors alleging illegal fund mobilization activity by AGFEIPL through its various schemes. In order to examine the possible violation of SEBI Act and SEBI (Collective Investment Schemes) Regulations, 1999 ("**CIS Regulations**") SEBI forwarded the complaints to AGFEIPL and sought information regarding their schemes. Meanwhile, SEBI also referred some of the complaints (which appeared to have certain characteristics of chit funds/Deposits, etc.) to Registrar of Companies, Hyderabad, Government of Andhra Pradesh, RBI and EOW for necessary

examination at their end for possible violations of relevant provisions of law. Similarly, RBI also forwarded several complaints against AGFEIPL as the *modus operandi* was akin to that of a 'collective investment scheme'. It is observed that there are several investor complaints pending against AGFEIPL as on date. Further, it is seen from a search on the internet that many investors are aggrieved by non receipt of their maturity amounts/ investments from AGFEIPL.

9. I have carefully considered the material available on record such as correspondence exchanged between SEBI and AGFEIPL along with the documents contained therein, submissions made by AGFEIPL and the complaints from investors and investors associations and the documents furnished by them, etc. In this context, the issue for determination is whether the mobilization of funds by AGFEIPL under its schemes fall under the ambit of "Collective Investment Scheme" provided in Section 11AA of the SEBI Act.
10. On an examination of the material available on record, it is *prima facie* observed that:
 - (a) AGFEIPL (CIN:U45309AP2001PLC38237) was incorporated on December 19, 2001 having its registered office at Agri Gold Towers, H.No. 6-3-680/A/B, Thakur Mansion Lane, Near Somajiguda Circle, Hyderabad- 500082, and administrative office at Agri Gold House, Plot no. 6, D. No. 40-6-3, Old Revenue Colony, Nimmagadda Soma Sankara Rao st., Labbipet, Vijayawada- 520010, Andhra Pradesh. Its Directors are Mr. Venkata Rama Rao Avva, Mr. Avva Venkata Seshu Narayana Rao, Mr. Avva Hema Sundara Vara Prasad, Mr. Savadam Srinivas, Mr. Moganti Bhanuji Rao and Mr. Emmadi Sada Siva Vara Prasad Rao.
 - (b) As per the main objects of the MoA, AGFEIPL is engaged in the "*business of real estate i.e., purchasing/ developing/ marketing/ selling of flats, apartment complexes, estate lands, farm lands/plots and agricultural operations etc.*"
 - (c) From the brochures/publicity materials submitted by AGFEIPL vide letter dated June 3, 2013, it is observed that AGFEIPL purchases large areas of land in different districts of Andhra Pradesh and develop such land as per the requirement of the customers and then sells such plots of land/flats to the customers. It is noted from the brochures submitted by one of the complainants that AGFEIPL has 162

branches in India out of which over 45 branches are in Karnataka and its land projects are operative across several districts in Andhra Pradesh/Telangana States.

- (d) From the brochures furnished by the complainants, it is noted that AGFEIPL has launched project “*owner’s pride*”, valid for different periods of time and with different payment structures which have been given different names viz., Gold Line Project (Daily, 30 months period, 28 months collection, 750 days), Green Shine Project (3 years), Top Line Project (3 years), Green Ways Project (5 years), Silver Line Project , etc. Details of Payment schedule of a few schemes are illustrated for reference:

OLD LINE PROJECT				
Project Code : GLP Swift Instalments (SID)				In ₹
Land/ Plot size	Consideration Value Cost of Land	Mode of payment Rs. x No. of days Development period 30 months	Estimated Commerical Value	Benefit Amount
400 sq.ft	7500	10 x 750 days	8400	900
800 sq.ft	15000	20 x 750 days	16800	1800
1200 sq.ft	22500	30 x 750 days	25200	2700
1600 sq.ft	30000	40 x 750 days	33600	3600
2000 sq.ft	37500	50 x 750 days	42000	4500
4000 sq.ft	75000	100 x 750 days	84000	9000
20000 sq.ft	375000	500 x 750 days	420000	45000
40000 sq.ft	750000	1000 x 750 days	840000	45000

SILVER LINE PROJECT							
Project Code : T.L.P Swift Instalments Monthly (SIM)							In ₹
Land/ Plot size	Consideration Value Cost of Land	Mode of payment Rs. x No. of days Development period 30 months					
		3 years SLP -1		6 1/2 years SLP -2		10 years SLP - 3	
		EVC	Benefit	EVC	Benefit	EVC	Benefit
432 sq.ft	1000	1350	350	2000	1000	3500	2500
2160 sq.ft	5000	6750	1750	10000	5000	17500	12500
4320 sq.ft	10000	13500	3500	20000	10000	35000	25000
8640 sq.ft	20000	27000	7000	40000	20000	70000	50000
12960 sq.ft	30000	40500	10500	60000	30000	105000	75000
21600 sq.ft.	50000	67500	17500	100000	50000	175000	125000
43200 sq.ft	100000	135000	35000	200000	100000	350000	250000

GREEN SHINE - GSD 36 (DAILY)				
Project Code : G. S. D 36 Swift Instalments Daily (SID)				In ₹
Land/ Plot size	Consideration Value Cost of Land	Mode of payment Rs. x No. of days Development period 30 months	Estimated Commercial Value	Benefit Amount
5 cents	10800	300 x 36 months	12200	1400
10 cents	21600	600 x 36 months	24400	2800
15 cents	32400	900 x 36 months	36600	4200
20 cents	43200	1200 x 36 months	48800	5600
25 cents	54000	1500 x 36 months	73200	7000
50 cents	108000	3000 x 36 months	146400	14000

TOP LINE PROJECT - TLP (MONTHLY)				
Project Code : T.L.P Swift Instalments Monthly (SIM)				In ₹
Land/ Plot size	Consideration Value Cost of Land	Mode of payment Rs. x No. of days Development period 30 months	Estimated Commercial Value	Benefit Amount
200 sq.ft	3600	100 x 750 days	4100	500
400 sq.ft	7200	200 x 750 days	8200	1000
600 sq.ft	10800	300 x 750 days	12300	1500
800 sq.ft	14400	400 x 750 days	16400	2000
1000 sq.ft	18000	500 x 750 days	20500	2500
2000 sq.ft	36000	1000 x 750 days	41000	5000

GREEN SHINE - GSD 36 (DAILY)				
Project Code : G. S. D 36 Swift Instalments Daily (SID)				In ₹
Land/ Plot size	Consideration Value Cost of Land	Mode of payment Rs. x No. of days Development period 30 months	Estimated Commercial Value	Benefit Amount
5 cents	10800	10 x 1080 days	12200	1400
10 cents	21600	20 x 1080 days	24400	2800
15 cents	32400	30 x 1080 days	36600	4200
20 cents	43200	40 x 1080 days	48800	5600
25 cents	54000	50 x 1080 days	61000	7000
50 cents	108000	100 x 1080 days	12000	14000
250 cents	5400000	500 x 1080 days	610000	70000
500 cents	1080000	1000 x 1080 days	1220000	140000

(e) The terms and conditions in the application form for plot of land and also the 'Customer Relations & Administrative Guidelines' of AGFEIPL, state that wherever the word 'principal' is used, it shall be understood that it represents either the company or the project promoter/developer of real estate/farm house land/farm plot venture whose ventures are being booked through the company and to whom the applicant has made his/her application through the company, as the case may be. The following are, *inter alia*, terms and conditions mentioned in the application form:

- (i) *"...This application will be forwarded to the principal concerned along with the advance money paid by the applicant. The acceptance of the application is entirely at the discretion of principal and principal has right to reject any application without assigning any reason thereof..."*
- (ii) *The principal, may on being satisfied that it is necessary to do so, modify any of the terms and conditions/project and such modified terms and conditions/project shall be binding on the purchasers.*
- (iii) *The plots will be allotted only on receipt of 100% advance/plot cost on first come first serve basis and the sale deed will be executed within the execution date mentioned in the receipt subject to the terms and conditions.*
- (iv) *The applicant cannot withdraw his/her application after allotment of the plot is made without the written approval of the principal. Once the sale deed is executed the applicant will be treated as a purchaser. All the instalment monies paid to the company towards booking advances/ further instalments against the order for purchase of plot property will be transferred to the principal.*
- (v) *In case, on receipt of full value of the plot as agreed and if the plots/flats are not available for whatever reasons in the existing offered project/layout/complex, principal will allot similar plot/flat in another project/venture having same cost and similar features as per the applied project/venture and offer the same within the stipulated date/agreed period of time. If the customer is not willing for such alternative offer, the principal will refund the total advance money to the customer along with some suitable/ reasonable and permissible compensation as liquidated damages but in any case the aggregate of both (advance plus compensation), shall not be more than the cost of the plot as indicated in the receipt issued*

where the discount is availed through offer price by the customer at the time of booking and in case of others the advance paid will be refunded along with a compensation calculated at 6% on the advance paid.

- (vi) All payments must be made directly to the administrative office of the company or the authorized branch offices of the company or through a crossed demand draft, payable at Vijayawada. The company/principal shall be responsible only for the payments remitted at the authorised offices and the receipts issued by such offices only are valid.*
- (vii) The entire instalment amounts paid up to the full cost of the plot/property will be considered as advance payment until the sale deed is executed or possession of the property has been handed over to the customer.*
- (viii) On default of payment of three consecutive monthly instalments, it will be treated as breach of commitment by the customer and monies paid by the customer will be refunded by the principal within one month from the expiry of stipulated execution date as noted on the receipt after deducting the documentation/incidental expenses etc, which are quantified at 12% of the cost of the plot.*
- (ix) The property for which the application is made and the sale consideration is received in full or paid in lump sum i.e., out right payment and sale deed is executed, except in the cases where the company/ principal declares any inconvenience/ legal issues involved in the title or process, it has always been deemed to be considered that the sale is completed and that the physical possession of the property has been handed over to the purchaser and the said purchaser shall make all efforts to get the registration completed within the stipulated execution date.*
- (x) If the purchaser does not come forward to make the registration completed within the project period as noted in the application, for whatever reasons, it will be considered, that the purchaser is not a purchaser but a prospective purchaser and committed breach of contract and therefore there was no such deemed handing over of the property to the purchaser and the principal may refund the said consideration total monies to the customer.*
- (xi) The estate/land/plot etc., will be allotted in a particular Estate/project/layout which the Principal may announce from time to time subject to allotment on first come first served*

basis or as decided by the Principal from time to time. However, the applicants shall have no claim or right whatsoever in any particular venture/project

- (xii) *In the event of the cost/ price originally fixed is found to be insufficient at a later date, an additional amount as decided by the principal shall have to be paid on or before registration of the property. However, if the purchaser is not agreeable, the amount paid will be refunded after deducting nominal charges, which deduction shall be not more than 5% of the total sale consideration.*
- (xiii) *The company/ principal will consider group bookings/ orders for specific model of projects/ layouts/farms from distributors/ associations/societies/ groups on certain terms and conditions subject to advance payments at company's discretion, on A-D-D model i.e., acquisition, development and delivery.*
- (xiv) *If the company/principal fails to deliver the same, the company will then act as the sole arbitrator in settling the disputes between the parties.*
- (xv) *The principal reserves its right to refund the amounts without any compensation whatsoever by terminating the agreement/contract, if it is satisfied that it is necessary or expedient to do so or if the circumstances so warranted at any time before the registration of the property.*
- (f) It is seen from the Audited Annual Reports for the financial years 2009-10 to 2012-13 that AGFEIPL had turnover of ₹146.59 crores (FY 2009-10), ₹187.63 crores (2010-11), ₹117.08 crores (2011-12) and 87.48 crores (2012-13) from sale of plots. It is also seen from the audited financial statements of AGFEIPL that an amount of ₹873,64,10,015 (2009-10), ₹542,74,51,302 (2010-11), ₹447,09,12,091/- (2011-12) and ₹349,59,03,352/- (2012-13) is mentioned as '*Advance from customers for plots*' under the head 'Current liabilities & provisions'. The fixed assets mentioned in the audited financial statements as on March 31, 2013 is ₹213,15,65,920/-.
- (g) It is observed from the brochures submitted by AGFEIPL that there are several developmental projects viz., *Fortune Tirumala- Tirupathi, Fortune Anantha- Anantapur, etc* in different places/districts of Andhra Pradesh, Telangana and other states. These

developmental projects/ventures have been given names as per the location of the property and widely advertised in media and website of AGFEIPL.

11. The details of the 'Schemes' towards the purchase/sale and development of plot/land offered by AGFEIPL have to be considered in light of Section 11AA of the SEBI Act. The aforesaid Section 11AA, which provides for the conditions to determine whether a scheme or arrangement is a 'collective investment scheme', reads as follows:

“(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.”

12. In the context of the abovementioned provision, the schemes offered by AGFEIPL are 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;***

AGFEIPL has launched various schemes such as, " Gold Line Project, Green Shine Project, Green Sander Project, Top Line Project, Green Ways Project, Silver Line Project, etc. by inviting investments from the general public. The contribution or investment made by a purchaser or investor is in accordance with the various payment schedules offered under the projects for different time periods in the form of

equal instalments or onetime payment towards purchase of plot of land of varying sizes. An equal monetary amount is collected from each purchaser depending on the size of the plot of land irrespective of its location. It is observed from AGFEIPL's '*instalments remittance remembrance card*' issued to an investor of '*Green Shine Project*', that details of the name of the investor, project name/code, offer price, cost of the plot, instalment amount, number of instalments, agent name, date of booking, etc are mentioned. However, the dimension of the plot or the precise details of the plot and details of the location/property are not specified anywhere in the said '*instalments remittance remembrance card*'. It is noted from the documents submitted by various complainants that AGFEIPL had not given any documents like sale agreements, brochures relating to the plot at the time of making the payment of sale consideration except a receipt. Furthermore, in all the complaints received by SEBI, there are only receipts issued by AGFEIPL but, no sale agreements indicating precise details of the plot, etc. Hence, these schemes do not appear to be pure real estate schemes as claimed by AGFEIPL. It is also seen from the audited financial statements of AGFEIPL that an amount of ₹873,64,10,015 (2009-10), ₹542,74,51,302 (2010-11), ₹447,09,12,091/- (2011-12) and ₹349,59,03,352/- (2012-13) is mentioned as '*Advance from customers for plots*' under the head 'Current liabilities & provisions'. Considering the fact that AGFEIPL through its various schemes/plans, allocate pieces of plot of land to the investors along with an '*estimated commercial value*' as returns, I find that the contribution made by investors in response to the various plans launched by AGFEIPL are pooled and utilized for development of properties. Hence, the instant '*schemes*' satisfy the first condition of "*pooling of contribution or payments*", stipulated in Section 11AA(2) of the SEBI Act.

- (ii) ***The contribution 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.***

From the schemes illustrated above, it can be seen that if an investor invested ₹7,500/- as consideration amount for a plot of 400 sq.ft. for development period of 30 months (AGFEIPL's Gold Line Project), at the end of the term, '*an*

estimated commercial value' for the plot indicated is ₹8,400/-. Thus the customer/investor is entitled to an amount of ₹900/-as profit/return. As per the terms and conditions in the application form, if the investor does not come forward to complete the registration or if the investor is not agreeable to any new terms and conditions being inserted, the amount paid will be refunded after deducting nominal charges, which deduction shall be not more than 5% of the total sale consideration. In view of the above, it is clear that the second condition, which stipulates that the contributions or payments are made to such scheme of arrangement by the investors with a view to receive profits, income, produce or property as stipulated in Section 11AA (2) of the SEBI Act is also fulfilled.

- (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.***

The following clauses mentioned in the terms and conditions of the Application form clearly indicate that the contribution or investment forming part of scheme or arrangement, whether identifiable or not, is managed by AGFEIPL, 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:

- " *The principal, may on being satisfied that it is necessary to do so, modify any of the terms and conditions/project and such modified terms and conditions/project shall be binding on the purchasers.*
- *In case, on receipt of full value of the plot as agreed and if the plots/flats are not available for whatever reasons in the existing offered project/layout/complex, principal will allot similar plot/flat in another project/venture having same cost and similar features as per the applied project/venture and offer the same within the stipulated date/agreed period of time".*
- *The estate/land/plot etc., will be allotted in a particular Estate/project/layout which the Principal may announce from time to time subject to allotment on first come first served basis or as decided by the Principal from time to time. However, the applicants shall have no claim or right whatsoever in any particular venture/project".*

Under these facts and circumstances, it is amply clear that the customers /investors do not have day-to-day control over the management and operation of the Schemes/ Plans. The customers /investors do not at any stage have any role in the management of the property, contribution or investment forming part of the Schemes/ Plans. The contribution or investment is managed and utilized solely by AGFEIPL. In view of the above, I find that the instant 'Schemes' satisfy the third and fourth conditions stipulated in section 11AA (2) of the SEBI Act.

13. In light of the above analysis and examination, it appears that the schemes offered by AGFEIPL inviting investments from public, when considered in the light of the peculiar characteristics and features of such scheme, as discussed in the preceding paragraphs, *prima facie* satisfies all four conditions specified in Section 11AA (2) of the SEBI Act.
14. In this context, it is relevant to refer to the observations made by the Hon'ble Supreme Court of India in the matter of PGF Limited & Ors. Vs. UoI & anr. (MANU/SC/0247/2013), it was observed that: “...*It is imperative that the transaction of the PGF Limited vis-à-vis its customers have necessarily to be examined as to its genuineness by subjecting itself to the statutory requirement of registration with the second respondent followed by its monitoring under the regulations framed by the second respondent. All the above factors disclose that the activity of sale and development of agricultural land propounded by the PGF Limited based on the terms contained in the application and the agreement signed by the customers is nothing but a scheme/ arrangement.....Such pooled funds and the units of land are part of such scheme/ arrangement under the guise of development of land.*”
15. It is clear that the collective investment scheme offered by AGFEIPL is camouflaged as a real estate scheme. It is pertinent to note that the most essential feature of a real estate transaction is a clearly distinguishable immovable property say, a flat or plot which is identifiable by its description, etc. is absent in the schemes offered by AGFEIPL or in any of the documents being executed in this connection. It is thus clear that the schemes do not really amount to real estate transactions as claimed by AGFEIPL. It is also noted from the investor complaints received by SEBI that AGFEIPL neither transferred any land nor repaid the invested amount to many of the investors.

16. AGFEIPL vide its reply dated September 18, 2014 had submitted "*SEBI ...finally came to a conclusion in 2013, after an inquiry for more than a year, that our activities will not come within the jurisdiction of SEBI and sent a reference to Registrar of Companies, Hyderabad...*" As per the material available on record, I find the said submission of AGFEIPL as incorrect. SEBI had never concluded that the schemes offered by AGFEIPL are not "*collective investment schemes*". In 2013, while examining the possible violations of SEBI Act and CIS Regulations by AGFEIPL, it was observed that certain complaints received by SEBI also had the characteristics of chit funds or deposits and the same were forwarded to other Regulators for necessary examination of possible violations of provisions of law coming under their jurisdictions. At no point of time, SEBI had come to a conclusion that the schemes offered by AGFEIPL are not "*collective investment schemes*".
17. It is pertinent to mention that as per the complaints received by SEBI, the schemes offered by AGFEIPL are *Gold Line Project, Green Shine project, Green Sander Project, Top Line Project, Green Ways Project, Silver Line Project, etc.* However, these schemes are neither mentioned in AGFEIPL's website nor in the Company's or advertisements in the media. Thus, there appears to be differences between the brochures submitted by AGFEIPL and the investors. It is noted from the brochures submitted by AGFEIPL vide its letters dated June 3, 2013, September 3, 2013 and September 18, 2013 that AGFEIPL are executing several real estate projects. All this notwithstanding, I find that the schemes operated by AGFEIPL such as *Gold Line Project, Green Shine project, Green Sander Project, Top Line Project, Green Ways Project, Silver Line Project, etc.* are in the nature of a '*collective investment scheme*' as defined in Section 11AA of the SEBI Act for reasons enumerated earlier in this Order.
18. I note that 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 ("**CIS Regulations**") also prohibits carrying on CIS activities without obtaining registration from SEBI. 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. It is noted that AGFEIPL has not obtained any certificate of

registration under the CIS Regulations for its fund mobilizing activity from the public, under the schemes offered by it. Considering the above, I am of the view that AGFEIPL is *prima facie* engaged in fund mobilizing activity from the public, by sponsoring or launching '*collective investment schemes*' 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 the CIS Regulations.

19. Further, the activity of illegal mobilization of funds by AGFEIPL through its schemes, *prima facie*, amounts to a fraudulent practice in terms of Regulation 4(2)(t) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market), 2003 ("PFUTP Regulations").
20. It is noted that AGFEIPL was advised to submit complete details regarding the schemes run by AGFEIPL, details of total number of investors, details of the amount collected and the amounts repaid/ and registered in the names of investors since the schemes came into operation. However, AGFEIPL has not furnished this information to SEBI till date despite being given several opportunities to do so. When considered in the context of the abovementioned *prima facie* finding, the inescapable conclusion is that non-submission of the information with respect to its schemes to SEBI is nothing but an attempt by AGFEIPL to conceal the true nature and operation of its fund mobilizing activity. As AGFEIPL has not furnished relevant information mentioned above, facts and circumstances of the case warrant urgent measures to protect the interests of the investors otherwise irreparable injury may be caused to the investors.
21. Protecting the interests of the investors is the first and foremost mandate of SEBI and therefore, SEBI has to take immediate steps to prevent activities of companies or persons defrauding the investors and damaging the orderly development of the securities market. In order to ensure that AGFEIPL and its Directors do not collect further funds under its scheme/Plans and to safeguard the assets/property acquired by AGFEIPL and its Directors from the funds of the investing public until full facts and materials are brought and final decision is taken in the matter, it becomes necessary for SEBI to take urgent preventive action by way of this interim measure. In the light of the large number of investor complaints against AGFEIPL received by SEBI, I find no other alternative but to take recourse to an urgent measure by way of an interim order against AGFEIPL and its Directors for preventing them from further carrying on with the fund mobilizing

activity by launching '*collective investment scheme*', without obtaining registration from SEBI in accordance with law.

22. In view of above, I, in exercise of powers conferred upon me under Sections 11(1), 11(4) and 11B of the SEBI Act read with CIS Regulations and PFUTP Regulations, hereby direct Agri Gold Farm Estates India Private Limited (CIN: U45309AP2001PLC38237) and its Directors viz., Mr. Venkata Rama Rao Avva (DIN: 00099695), Mr. Avva Venkata Seshu Narayana Rao (DIN: 00101843), Mr. Avva Hema Sundara Vara Prasad (DIN: 00101889), Mr. Savadam Srinivas(DIN: 00316971), Mr. Moganti Bhanuji Rao (DIN: 00430884) and Mr. Emmadi Sada Siva Vara Prasad Rao (DIN: 00324611):

- *not to collect any fresh money from investors under its existing schemes;*
- *not to launch any new schemes or plans or float any new companies to raise fresh moneys;*
- *to immediately submit the full inventory of the assets including land obtained through money raised by AGFEIPL;*
- *not to dispose of or alienate any of the properties/assets obtained directly or indirectly through money raised by AGFEIPL;*
- *not to divert any funds raised from public at large which are kept in bank account(s) and/or in the custody of AGFEIPL;*
- *to furnish all the information/details sought by SEBI vide letters dated May 16, 2013 and August 14, 2013 within 15 days from the date of receipt of this order, including,*
 - i. Details of amount mobilized and refunded till date,*
 - ii. Scheme wise list of investors and their contact numbers and addresses,*
 - iii. Details of commission paid on amounts mobilised above,*
 - iv. Details of agents along with their addresses, etc.,*
 - v. Audited Accounts for the last financial year and*
 - vi. PAN of AGFEIPL and aforementioned Directors.*

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

24. This Order is without prejudice to the right of SEBI to take any other action that is deemed fit to be initiated against AGFEIPL and its Directors in accordance with law.

25. The *prima facie* observations contained in this Order are based on the material available on record. In this context, AGFEIPL and its Directors may, within 21 days from the date of receipt of this Order, file their reply, if any, to this Order and may also indicate whether they desire to avail themselves an opportunity of personal hearing on a date and time to be fixed on a specific request made in that regard.

Place: Mumbai

Date: February 05, 2015

S. RAMAN

WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA