IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.12310 of 2015
& M.P.Nos.1, 2 & 3 of 2015

M/s Agri Gold Farm Estates India Private Limited, Having its Registered Office at
Agri Gold Towers,
6-3-680/A/B, Thakur Mansion Lane,
Near Somajiguda Circle, Hyderabad,
Andhra Pradhesh, India.
And Having Branch office at
No.11, 82nd Street, 16th Avenue,
Ashok Nagar, Chennai-600 083.
Represented by its Chairman
Mr.Avva Venkata Rama Rao .. Petitioner

Vs.

1.The Securities and Exchange Board of India,
(South Zone), Southern Regional Office,
Overseas Towe, 7th Floor,
756, Anna Salai, Chennai-600 002.

2.The Securities and Exchange Board of India,
SEBI Bhavan, Plot No.C4-A 'G' Block,
Bandra Kurla Complex, Bandra(East),
Mumbai-400 051.

3.The Government of Andhra Pradesh,
Rep. By Principal Secretary,
Home (Arms & SPF) Department,
A.P. Secretariat,
Hyderabad-500 004, A.P. .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records relatin to the order dated 05.022015 bearing No.WTM/SR/CIS/SRO/HLO/19/02/2015 of the 2nd respondent and the order dated 26.03.2015 of the 1st respondent in SEBI/SRO/SMR/OW/8938/2015 and quash the same.

For Petitioner .. Mr.AR.L.Sundaresan, S.C., for Mrs.AL.Ganthimathi

For Respondents .. Mr.R.Muthukumaraswamy, S.C., for Mr.Shivakumar for R1 & R2

No appearance for R3

ORDER

By the impugned order dated 05.02.2015, the first respondent in exercise of the power conferred under Sections 11(1), 11(B) and 11 (4) of the Securities and Exchange Board of India(SEBI) Act, 1992 read with Collective Investment Schemes(CIS) Regulations, 1999 and PFUTP Regulations held as follows:

". 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 money;
. 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 AFGEIPL;
. to furnish all the information/details sought by SEBI vide letters dated May 16, 2013 and Agugust 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 AFGEIPL 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. "

2. The learned Senior Counsel appearing for the petitioner submitted that what the petitioner is doing is a simple real estate business. There is no other activities involved. The past complaints given were found to be false. There is no jurisdiction lies with the respondents to pass the order impugned. The third respondent is also proceeding as if, there is violation of Andhra Pradesh Protection of Depositors Scheme. Therefore, both the parties are proceeding in different direction. Hence the learned Senior Counsel submits that appropriate orders will have to be passed.

3. The learned Senior Counsel appearing for the first respondent submitted that the order is only a passive observation. The petitioner has subjected itself to the jurisdiction of the respondents today by giving its explanation. A letter has been given seeking further time of one week to submit a written submissions in which appropriate Order would be passed within the span of time. The learned Senior Counsel has submitted that several complaints have been raised involving few thousand crores, which is required to be looked into.

4. By way of reply, the learned Senior Counsel appearing for the petitioner submitted that while deciding the issue based upon reply, the question of jurisdiction may also be considered by the first respondent.

5. A perusal of the order impugned would show that it is prima facie in nature. The enquiry is almost completed except filing written submissions. In a matter of this nature, touching upon Revenue and technical aspects involving economy, this Court is expected to adopt a dignified reluctance to leave the issues open to be decided by the statutory authority. Thus without going into the merits of the Case, this Court directs the first respondent to pass appropriate final orders after considering the reply given already and to be given in the form of written submission within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to give the written submissions to the first respondent within a period of one week from the date of receipt of a copy of this Order.

6. Accordingly, the writ petition stands disposed of by directing the first respondent to pass final order on merits after considering the relevant materials. While considering the same, the first respondent shall consider the question of jurisdiction raised before it.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The Securities and Exchange Board of India,
(South Zone), Southern Regional Office,
Overseas Towe, 7th Floor,
756, Anna Salai, Chennai-600 002.

2.The Securities and Exchange Board of India,
SEBI Bhavan, Plot No.C4-A 'G' Block,
Bandra Kurla Complex, Bandra(East),
Mumbai-400 051.

3.The Principal Secretary,
Government of Andhra Pradesh,
Home (Arms & SPF) Department,
A.P. Secretariat,
Hyderabad-500 004, A.P.

+1 cc to M/s.Shivakumar & Suresh, Advocates, sr.43796
+1 cc to M/s.AL.Ganthimathi, Advocate, 43306

W.P.No.12310 of 2015

ak(co)
kra(3/9)