



## SEBI Order Against DLF Limited

Regulator SEBI has barred realty major DLF, as also six top executives including Chairman K P Singh, from securities markets for three years, after finding the company guilty of "active and deliberate suppression" of material information at the time of its public offer in 2007.

### Background

DLF Limited (hereinafter referred to as "DLF") came out with an Initial Public Offer ("IPO") in 2007 for issuance of 17,50,00,000 equity shares aggregating to Rs. 187.5 cr. SEBI issued its observations on the second DRHP on May 7, 2007. Thereafter, DLF issued the RHP dated May 25, 2007. The issue opened on June 11, 2007 and closed on June 14, 2007. The Prospectus was filed with Registrar of Companies. After the completion of allotment in the IPO, the shares of DLF were listed on BSE & NSE.

Mr. Kimsuk Krishna Sinha ("Mr. Sinha") had filed two complaints with SEBI on June 4, 2007 and July 19, 2007. Mr. Sinha in his complaint dated June 4, 2007, inter alia, stated that Sudipti Estates Pvt Ltd ("Sudipti") and certain other persons had duped him of Rs. 34 cr in relation to a transaction between them for purchase of land, and he had registered an FIR dated April 26, 2007 at Police Station, against Sudipti, Mr. Praveen Kumar and others in that regard. He also stated that Sudipti had only two shareholders namely, DLF Home Developers Ltd. ("DHDL") and DLF Estate Developers Ltd. ("DEDL"). These two companies were wholly owned subsidiaries of DLF holding 5000 equity shares each. He further stated that Sudipti, DHDL and DEDL are sister concerns and are inextricably linked and these companies are a part of the DLF group. In view of the said allegations, Mr. Sinha requested that considering the imperative of safeguarding the interests of general public, the listing of DLF pursuant to the IPO be disallowed and immediate action be taken in this regard.

The aforesaid complaints of Mr. Sinha were forwarded to DLF asking it to address the grievances raised therein. DLF denied the allegations leveled in the said complaints. Not being satisfied with the response provided by DLF, Mr. Sinha filed a Writ Petition No. 7976/2007 before the Hon'ble Delhi High Court. The said petition was disposed by the Hon'ble High Court vide order dated April 9, 2010 wherein the Hon'ble High Court ordered SEBI to undertake an investigation into the matter.

### Facts of the case

- On the instruction of Delhi HC, SEBI issued a Show Cause Notice dated June 25, 2013 to DLF, Mr. K. P. Singh (Executive Chairman of DLF), Mr. Rajiv Singh (Vice Chairman), Mr. T.C. Goyal (MD), Ms. Pia Singh (Whole Time Director), Mr. Kameshwar Swarup (Executive Director-Legal), Mr. G. S. Talwar (Director) and Mr. Ramesh Sanka (CFO).
- In the said Show cause notice it was alleged that the RHP submitted to the SEBI was violative of the provisions of DIP Guidelines which required the Company to make true and fair disclosure w.r.t Issuer Company, Promoter/Principal shareholder, financial statements, outstanding litigations and other material developments and declarations, since the same was not complied by the issuer company. SEBI had issued a show cause notice as why the SEBI should not pass the suitable direction under the provisions of SEBI Act, 1992, Clause 17.1 of SEBI (DIP) Guidelines and SEBI (Prohibition of fraudulent and unfair trade practices related to Securities Market), which is reproduced as :

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1. Prohibition of manipulative and deceptive devices, insider trading and substantial acquisition of securities or control.
2. Prohibition of certain dealings in securities.
3. Prohibition of manipulative, fraudulent and unfair trade practices.
4. DIP Guidelines, 2000 about the Issuer Company, Promoters/ Principal Shareholders, Financial Statements, Outstanding Litigations, Related Party and other material developments, Declaration.
5. ICDR Regulations, 2009: Repeal and Savings.

#### **DLF's Defence**

The Counsel for the DLF & notices contended that 1) Since the Company was unlisted at the time of filing of RHP /DRHP the therefore the provisions of SEBI Takeover Code & Insider Trading Regulations were not applicable. 2) The entity "Sudipti" was not connected to it any manner at the time of filing of the Offer document with SEBI and the same had been disassociated from the Company in November, 2006. Therefore the allegation that the Company had not disclosed the facts in its offer document was not tenable. The allegation of fraud against notices while dealing with the securities required higher standard of proof and were based on mere surmises and conjectures and the issuer had no control over the affairs or financials of "Sudipti".

#### **SEBI Order**

- ❖ Clause 6.2 of the DIP Guidelines, requires the company to disclose 'all material information' which shall be true and adequate so as to enable the investors to make informed decision on the investments in the issue. SEBI Wholetime Member contended that the information which was not disclosed as found hereinabove, were material information and therefore non-disclosure of material information in the Prospectus and actively concealing them from the prospective investors, was violative of clause 6.2 of SEBI (DIP) Guidelines.
- ❖ Further, clause 6.15.2 of the DIP Guidelines requires the directors/CEO/CFO to certify truthfulness and correctness of the disclosures made in the Prospectus. In view of the above non-disclosures and active concealments, the certification of directors/CEO/CFO in the RHP/Prospectus of DLF was not correct and thus the Noticees violated the provisions of clause 6.15.2 of the DIP Guidelines, and therefore the RHP/ Prospectus of DLF contained misleading disclosures with regard to the material information.
- ❖ As regards the third issue, SEBI Whole time Member contended that the charge of misleading and defrauding the investors in securities market in connection with the issue of shares of DLF has been levelled against the Noticees on the basis that they actively and knowingly suppressed several material facts and information in the RHP/Prospectus.
- ❖ Therefore, SEBI Whole Time Member passed an order restraining the Noticees (except Mr. Talwar) from accessing the securities market and also prohibited them from buying, selling or dealing in securities, directly or indirectly, in any manner, for the period of 3 years, under Sections 11, 11A and 11B and Regulation 11 of SEBI (Prohibition of fraudulent and unfair trade practices related to Securities Market), Clause 17.1 of DIP Guidelines and Regulation 111 of ICDR Regulations.