

भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

Deputy General Manager
Investment Management Department
Division of Collective Investment Schemes

IMD/CIS/MR/OW/1274/2014
May 5, 2014

Puravankara Projects Limited,
130/1 Ulsoor Road,
Bangalore - 560042

Dear Sir,

Sub:- Request informal guidance by way of interpretative letter under SEBI (Informal Guidance Scheme), 2003, in connection with the clarification under the SEBI - (Collective Investment Scheme) Regulations, 1999.

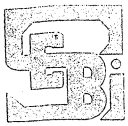
1. This has reference to your letter dated November 19th, 2013 seeking an interpretive letter under the SEBI (Informal Guidance) Scheme, 2003 and another letter dated January 7th, 2014 wherein certain submissions were made as regards to the aforementioned subject.
2. In the aforesaid letters under reference, it is *inter alia* represented as follows:-
 - a. Puravankara Projects Limited (hereafter referred to as "The company") is a company listed on BSE and NSE, undertaking the business of real estate development and marketing thereof. The company develops residential and commercial buildings and sells to prospective customers.
 - b. The company seeks clarifications and confirmation on their commercial office space project that is intended to be sold by way of specific share (units) of the built up area in a floor to multiple customers. Thereafter, the company intends to identify a tenant for the whole floor and upon getting a confirmed tenant, the "Saleable Units" would be taken on lease from all individual owners with a right to sub-lease. Then, the sub-lease would be executed in the name of the tenant who would be taking either the full or half of a floor basis.
 - c. The proposed transaction would *inter alia* involve the following:
 - i. The company's offer is to sell "Saleable Units" to prospective multiple purchasers in a given floor of the building.

Page 1 of 5

सेबी भवन, प्लॉट नं. सी 4-ए, "सी" ब्लॉक, बान्द्रा कुरुम कॉम्प्लेक्स, बान्द्रा (पूर्व), मुंबई - 400 051. • दूरभाष: 2644 9000 • फैक्स: 2644 9019 to 2644 9022

वेब: www.sebi.gov.in

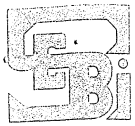
SEBI Bhawan, Plot No. C4-A, "C" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051. • Tel.: 2644 9000 • Fax: 2644 9019 to 2644 9022
Web: www.sebi.gov.in



अनुवर्ती:
Continuation :

भारतीय प्रतिभूति
और विनियम बोर्ड
*Securities and Exchange
Board of India*

- ii. Agreement to sell and thereafter execute sale deed in favor of the buyers of such Saleable Units.
 - iii. Offer to identify prospective tenants for the floor so sold, as a whole or a substantive part of the whole floor.
 - iv. On finding a prospective tenant(s), the company would be taking the saleable units on lease basis with the power to sub-lease from the owners, if the ownership is already transferred or through appropriate document and thereafter enter into a sub-lease agreement with the prospective tenant.
 - v. As the lessor of the property so sub-leased, collection of rent in the company's name for the entire floor or part there-of from the tenant(s).
 - vi. As a lessee to property originally taken on lease from the saleable unit owners, payment of lease rent to all saleable unit owners will be as per the company(s) sub-lease deeds, the commercial terms and conditions of which would be based on the terms of the lease which the company would take from Saleable Block owners.
- d. The condition attached regarding the usage of these saleable units into consolidated larger floor areas for the purpose of leasing is to enable efficient usage of these areas. The company represents that it is in the interest of purchasers/ owners that the saleable units in a given floor are consolidated into larger areas with other owners for the purpose of leasing, so as when an entire floor or a larger part of a floor is rented out, even common passages and utility areas would fetch rent, there-by benefitting the owners of these saleable units.
- e. The rent payable to the owners would be the same rent as the tenants would pay to the company and thus, there is full transparency in terms of the whole transactions.
- f. The owners would continue to hold certain rights on the renting of the property as the leasing right given to the company is subject to certain terms and conditions being imposed by the owners which include restrictions on the commercial terms of the lease, usage of property, type of tenant to whom the property is sub-leased etc. The company, states that the owners of the saleable units will continue to have operational control on how their property is sub-leased.

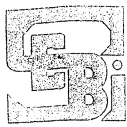


अनुवर्ती :
Continuation :

भारतीय प्रतिभूति
और विनियम बोर्ड
Securities and Exchange
Board of India

- g. The company states that it has the expertise to manage the tenant(s) occupying the premises and that it would be separately charging a lease management fee from saleable block owners for its services rendered as a Lease Manager. In the submissions made by the company (Information Brochure for "Purva Gainz"), it is stated that the company may however receive on advance Rental Deposit from the prospective tenant/ occupier to whom it sub-leases the space, which shall be maximum amount equivalent to 12 months lease rent. This advance rental deposit shall be retained by the company and be repaid back to the tenant / occupier directly at the time of their vacating the property, with or without any deductions as may be applicable to the lease agreement that the company signs with the tenant/occupier.
- h. The purchaser of the saleable unit would be required to pay the sale consideration under the agreement to sale/ sale deed and the property would be registered in their name as the absolute owner/s. Those saleable block owners desirous of taking mortgage financing to purchase such blocks can also do so from banks that have already come forward to finance the purchase. Also, the owner/s of such blocks would create security by way of mortgage their block to any financial institutions/ banks also.
- i. In the submissions made by the company (Information Brochure for "Purva Gainz"), the company has listed two leasing options for the saleable blocks. "Leasing Option 1 - Association of Owners" states that each floor and the saleable block owners can form an Association of Owners and lease the premises to large corporate tenant/ occupier by themselves. The company has stated that the Association of Owners will be responsible to remitting statutory levies like Taxes, filing returns, payments for services etc. In addition, the Association of Owners will be responsible for Building/ Floor plate maintenance and other related charges arising out of managing a Grade-A building. The information brochure also contains "Leasing Option 2 - Appointing Puravankara Projects Ltd (Puravankara) to manage the leasing of saleable blocks".
- j. Further, the company has stated that the registration would be done only on completion of construction and when the purchaser pays the full amount. The Lease Management Fees would be linked to the rental earnings of the purchasers and it would be based on the prevailing market rates to be ascertained after conducting an internal market survey.
3. In view of the above submissions, you have sought interpretive letter under SEBI (informal Guidance) Scheme, 2003 from SEBI with respect to whether the proposed

[Handwritten signature]

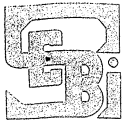


अनुवर्ती:
Continuation :

भारतीय प्रतिभूति
और विनियम बोर्ड
*Securities and Exchange
Board of India*

scheme for sale of your commercial project would be treated as Collective Investment Scheme (CIS) as per Section 11AA of SEBI Act, 1992.

4. The submissions made in the aforesaid letters have been considered and without necessarily agreeing with your analysis, our views on the issues raised in your letters under reference are as under:-
- i. It is seen that the proposed transaction(s) will be executed in two stages i.e. firstly, developing and conveying the title of an identified saleable unit (as mentioned in Schedule C to Agreement for Construction) to the purchaser and secondly, primary leasing of identified saleable unit from each purchaser to Puravankara and further sub-leasing of the said units collectively along with co-owners to prospective tenants through Puravankara as the lease manager. Subsequently, rental income received from the units leased collectively to tenants shall be transferred proportionately to each purchaser.
 - ii. The first stage of the transaction(s) appears to be a typical real estate transaction between separate individuals on the one hand and the developer on the other and the individual contributions by each purchaser are relatable to separate saleable units allocated to such purchaser. In view of the covenants contained in the proposed Agreement to Sell, we find that there is no pooling of funds till the stage of conveyance of title to the purchaser.
 - iii. Albeit, it is relevant to state that sale of immoveable property can be made only by a registered instrument and an agreement of sale would not create any interest or charge on its subject matter. Hence, in case absolute ownership of the saleable units is duly conveyed to the purchasers through a registered sale deed as per requirements of law, the proposed transaction would not attract Section 11AA of SEBI Act.
 - iv. Further, we find that the second stage of the transaction does not fall within Section 11AA and the aggregation of units for the purpose of joint leasing does not amount to 'pooling', for the following reasons:
 - a) It appears that post the conveyance of saleable unit to each purchaser, the company would be acting as an agent (lease manager) of the unit owners and the absolute title and ownership of the units continue to remain with the owners.
 - b) The contribution of each purchaser has culminated into conveyance of immovable property prior to the leasing arrangement and the rental



अनुवर्ती:
Continuation :

भारतीय प्रतिभूति
और विनियम बोर्ड
*Securities and Exchange
Board of India*

income is derived out of such saleable unit after the conveyance. The said lease cum sub-lease arrangement proposed to be entered between the purchasers and Puravankara is not preceded by any contributions collected by Puravankara except the fee for such services. It therefore appears that there is no pooling at this stage.

- c) Rent received from the occupants is being passed on to the owners and there is no further scheme involved. It is also observed that the company does not promise any fixed/assured return under the proposed transaction. In other words, there would not be any rent payable to the purchasers for the period when the property is not leased out.
5. Therefore, we note that as per the submissions made by you, the proposed business activity does not appear to fall within the purview of Section 11AA of the SEBI Act, 1992
6. This position is based on the representation made to the Board in your letters under reference. Different facts or conditions might require a different result. In case the facts and circumstances as stated by you are found to be incorrect, SEBI may initiate appropriate action. This letter does not express decision of the Board on questions referred.
7. The above views do not affect the applicability of any of the Acts, Rules or Regulations, Guidelines and Circulars administered by SEBI or any other authority. You may ensure compliance of other statute as may be applicable on the proposed activity.

Yours faithfully,


Rajesh Kumar D