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Takeover Panorama



Insight

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Recent Update

M/s Daikaffil Chemicals India Limited UNDER REGULATION 4(2) OF THE SEBI (SAST) REGULATIONS, 1997

(Preferential allotment of 25.10% to acquirer- Acquirer wants to improve the financial health of the company - exemption sought was refused on the ground that the reasons were not convincing)

Facts

- ✓ **G.E. Chemical Company S.A., the acquirer** is presently not holding any shares in the target company. The acquirer proposes to acquire 25.10% shares in **M/s Daikaffil Chemicals India Limited (the target company)** by way of preferential allotment on private placement basis. The proposed preferential allotment on private placement basis would increase the shareholding of the acquirer from nil to 25.10% of the voting capital of the target company and therefore would trigger regulation 10 of SEBI (SAST) Regulations, 1997.
- ✓ **Application by Acquirer:** In view of the above, the acquirer filed an application with SEBI under regulation 4(2) read with regulation 3(1) (l) of the Takeover Regulations. Since, the post acquisition shareholding of acquirer shall increase to a level beyond 15%, the exemption is sought from the applicability of regulation 10 of the Takeover Regulations
- ✓ **Grounds of Application:** The ground of application, inter-alia, is that the target company has been passing through bad times over the last several years resulting in carried forward losses, and are not in a position to undertake any expansion, which is being achieved by the acquirer ready to subscribe to Equity Shares of DCIL with clear understanding that the funds would promptly be utilised for expanding Capacity. Further the acquirer itself has financial constraints to invest beyond 25.10% of the Equity Share Capital of DCIL.

Observation & Order

- ✓ **Takeover Panel Observations:** The Takeover Panel vide its report dated October 26, 2006 has recommended as under-

“The proposed issue of preferential allotment will result in 25.10% total paid up capital/ voting rights of the target company. The purpose is to achieve expansion programme in high priority industry and enhance Target Company’s market share and volume in Global Market. The aforesaid grounds were considered and the fact that the exemption is going to benefit stakeholders of DCIL on long term and short term basis was also considered. The company in pursuance of further queries made has informed by letter dt 25/09/2006 that there is a special resolution duly approved by the members of DCIL in the 14th AGM granting approval, subject to the approval of SEBI and other authorities and certified copy of the resolution is also forwarded. In view of this the panel does not find any difficulty in granting exemption as prayed for.”



Order: On careful consideration of the application filed by the acquirer, the aforesaid recommendations of the Takeover Panel, the submissions made by Shri Dinesh Deora and Shri Balveer Choudhary of DSU & Associates on behalf of the acquirer, SEBI was prima facie of the view that the application filed by the acquirer for the grant of exemption could not be allowed. The grounds specified in the application made by the acquirer are not convincing enough to grant exemption as sought by it and the said application is not in the interest of shareholders of the target company. In view of the above facts and circumstances, SEBI ordered that the case is not fit for grant of exemption from complying with the provisions of the Takeover Regulations.

M/s Victory Papers and Boards (India) Ltd. **UNDER REGULATION 4(2) OF THE SEBI (SAST) REGULATIONS, 1997**

Preferential allotment to promoter of approximately 26%- Banker's stipulation to improve financial health - exemption granted.

Facts

- ✓ **Victory Press Private Ltd. 'the acquirer'** belongs to the promoter group of **M/s Victory Papers and Boards (India) Ltd. 'the target company'** and holds 8.29% in the total voting up capital of the target company. The holding of the promoter group (including the acquirer) in the target company is 54.29% in its total voting capital. The target company proposes to issue 40 lacs equity shares of face value of Rs. 10 each @ Rs. 10 per share to the acquirer by way of preferential allotment. Pursuant to the proposed allotment, the shareholding of the acquirer in the target company would increase from 8.29% to 36.37% and that of the promoter group (including the acquirer) would increase from 54.29% to 68.28% in the total voting capital.
- ✓ **Application by Acquirer:** The acquirer filed an application dated September 22, 2005 with the SEBI under regulation 4(2) read with regulation 3(1) (l) of the SEBI (SAST) Regulations, 1997, seeking exemption from the applicability of regulation 11(1) of the Takeover Regulations with respect to the aforesaid proposed allotment of 40,00,000 equity shares.
- ✓ **Grounds of Application:** The ground of application, inter-alia, is that the accumulated losses of the target company are almost 50% of its paid up share capital. When applied for additional credit facilities for the target company, the bankers of the target company had insisted on improving the net worth of the target company by infusing additional capital by the group companies. The acquirer being one of the promoters and sole selling agents for the products of the target company, had been providing, from time to time, trade advances to the target company, which was accumulated upto Rs. 4 crores as on March 31, 2005.

Observation & Order

- ✓ **Takeover Panel Observations:** The Takeover Panel vide its report dated February 2, 2006 has recommended as under -
"On the facts stated in the application, it appears that the proposed conversion of trade advances of the Acquirer to the target Company into Equity Share Capital of the target Company is to meet the stipulations of the Banks for sanction/enhancement of its working



capital limits and the proposed acquisition would not result in a change in control. The grant of exemption as sought is recommended subject, however, to following of SEBI (Disclosure and Investor Protections) Guidelines 2000 for preferential issue.”

- ✓ **Order:** On careful consideration of the application filed by the acquirer, the aforesaid SEBI noted that the allotment will assist in recovering the company’s financial losses and offer an opportunity for its viability and the same was pursuant to the terms and conditions imposed by the Federal Bank Ltd. The case was granted exemption complying with regulation 11(1) of the Takeover Regulations

M/s Ganesh Polytex Ltd.

UNDER REGULATION 4(2) OF THE SEBI (SAST) REGULATIONS, 1997

Preferential allotment to promoter - Bankers’ condition, requiring the promoters to bring in their contribution by way of equity - exemption refused on the ground that it is beneficial to shareholders.

Facts

- ✓ **Shri. Shyam S. Sharma, ‘the acquirer’** is one of the promoters and is the Chairman cum Managing Director of **M/s Ganesh Polytex Ltd. ‘the target company’**. Shri Shyam S. Sharma together with some of the other promoters of the target company collectively holds 22.95% of the voting capital of the target company. The entire promoter group together with the acquirers holds 35.23% of the voting capital of the target company. The target company proposes to allot 34 lakh equity share of Rs.10/- each at a premium of Rs.5/- per share to the acquirers. After the said proposed allotment the holding of the acquirers would increase to 43.47% and that of the promoter group would increase to 52.48%.
- ✓ **Application by Acquirer** Shri Shyam S Sharma (on behalf of all the acquirers) filed an application dated December 28, 2005 under regulation 4(2) read with regulation 3(1) (l) of SEBI (SAST) Regulations, 1997 and requested SEBI to exempt them from making of an open offer under the provisions of the Takeover Regulations.
- ✓ **Grounds of Application:** The ground of application, inter-alia, are as follows:
 - a. The Target Company is in the process of setting up a plant to improve the margins, The term loan provider Bank is stipulating the condition, requiring the promoters to bring in their contribution by way of equity to the tune of Rs.510.00 lacs in the target company. Therefore, with a view to meeting the condition being stipulated by the financial institution, the target company proposes to make a preferential allotment to the promoters.
 - b. The Proposed allotment would not result in change of control and management as the acquirers are already in control of the target company.
 - c. A special resolution has been passed at the last Annual General Meeting of the target company held on September 17, 2005 for the above purpose.



Observation & Order

- ✓ **Takeover Panel Observations:** The Takeover Panel vide its report dated August 28, 2006 has recommended as under-

“The committee in its meeting dated 28.08.2006 had prolonged discussion on the mater in which all the pros and cons were discussed threadbare. The committee did consider that the preferential allotment would be as per SEBI Guidelines. However, the Committee is of the view that this is not a case for recommending exemption, by passing the normal mode envisaged by the Company Law.”

The Takeover Panel vide letter dated October 6, 2006 withdrew its aforesaid report and further submitted a fresh report in respect of the application filed by the acquirers. It was inter alia recommended in the said report that:

“The committee in its meeting dated 28.08.2006 had prolonged discussion on the mater in which all the pros and cons were discussed threadbare. The committee did consider that the preferential allotment would be as per SEBI Guidelines. However, the Committee is of the view that this is not a case for recommending exemption, bypassing the normal mode envisaged by the SEBI guidelines and regulations.”

Order: On careful consideration of the application filed by the acquirer, the aforesaid recommendations of the Takeover Panel, the submissions made by Dr. S.D Israni on behalf of the acquirer and the target company and relevant material available on record SEBI noted that the grounds specified in the aforesaid application filed by the acquirers are not convincing enough to grant exemption as sought by them and the said application is not in the interest of shareholders of the target company. In view of the above facts and circumstances, SEBI did not find this as a fit case for the grant of exemption from complying with the provisions of the Takeover Regulations. Therefore, SEBI agreed with the recommendations made by the Takeover Panel.



RDB Industries Limited

Violation of Regulation 11(1)

Letter of Offer filed with SEBI pursuant to preferential allotment- SEBI pointed out previous acquisitions on three dates-penalize the acquirers by levying penalty of Rs 20,00,000.

Facts

Mr. Vinod Dugar and Mrs. Sheetal Dugar 'the acquirers' belonging to the promoter group of RDB 'target company' acquired more than 26% of the issued and paid up share capital in Ankur Constructions Pvt Limited and Loka Properties Pvt Limited. On April 28, 2006, the said companies held 3, 75,000(5.91%) and 3,77,100 (5.94%) equity shares respectively of Target Company. Subsequent to such acquisition, their shareholding in the Target Company rose from 17,10,353 (26%) to 24,62,453 equity shares representing 38.78% of the paid up equity share capital of RDB .

On July 24, 2006, the Target Company issued and allotted, on preferential basis 36,50,000 equity shares to promoters of RDB and other entities. Out of 36, 50,000 equity shares, acquirers, belonging to the promoter group of RDB were allotted 20, 00,000 and 10,00,000 equity shares respectively.

Accordingly in compliance with the provisions of Regulation 11(1), the acquirers made the Public Announcement to acquire 20, 00,000 shares, representing 20% of the expanded paid up equity share capital of RDB.

In the draft letter of offer submitted to SEBI, SEBI pointed out some defaults pertaining to disclosure of shareholding pattern. On a further examination it was noted that promoters and PAC with them have acquired shares on previous dates above the threshold limits without making any open offer thereby violating the takeover code.

In the above circumstances the undersigned was of the opinion that an inquiry should be held in the matter and accordingly notice of inquiry dated January 15, 2007 was issued noticee, fixing the date for inquiry on February 2, 2007.

✓ **Contentions of acquirer:** The contentions of acquirer were as follows:

- a. That the alleged violations were not intentional and have not caused any adverse consequences to anybody.
- b. The alleged violations pertained to earlier period, for which old records were not readily available
- c. That all the acquirers are promoters of RDB and have always been in control of the Target Company by virtue of our shareholding and also by virtue of our representation on the Board of the Target Company.
- d. That the Target Company made losses in the year 1997 onwards right upto financial year ended 31 March, 2002. Shareholders were panicked and desperately wanted to off load the shares of the Target Company. In order to provide exit option to the shareholders who wanted to dispose of their shares, the promoters purchased shares as and when the shareholders intended.
- e. That the acquirers have made an open offer on their instant acquisition beyond the threshold limits.



Order

On careful consideration of the submissions made by promoters and relevant material available on record SEBI was of the view that making of the instant open offer does not absolve the promoters from their obligation of making a PA on the earlier dates of violations which triggered the provisions of Regulation 11(1) of SAST. Therefore, their plea that the interests of public shareholders have already been taken care of by providing them an opportunity to exit has no merit as the instant adjudication proceedings against the promoters are directed towards previous violations of the promoters and the present open offer does not have any bearing on the past year violations committed by the promoters.

Thus on the consideration of all the above facts SEBI computed the amount involved as a result of defaults to be Rs. 29514800. Having regard to all the facts and circumstances, a **consolidated penalty of Rs. 20, 00,000 was finally imposed.**

RDB Industries Limited Violation of Regulation 6(3) & 8(2)

Letter of Offer filed with SEBI pursuant to preferential allotment- SEBI pointed out delayed filing of disclosures under 6(3) & 8(2) -Penalty of Rs 3,00,000 was imposed.

Facts

In the case of RDB Industries Limited pertaining to the violation of Regulation 11(1), one another violation pertaining to the Regulation 6(3) & 8(2) was also found for which a separate inquiry was initiated. In this case, the MB to the aforementioned offer vide letter dated June 1, 2006 filed with SEBI the compliance status of Chapter II under SAST Regulations which included the compliance status of the promoters of RDB under Regulations 6 (3) and 8 (2) of SAST Regulations. From the perusal of the said status it was observed that there were delays in complying with the provisions of Regulations 6 (3) and 8 (2) of SAST Regulations.

Contentions of acquirer: The contentions of acquirer, inter-alia, was that on becoming aware of the alleged violations , all the requisite disclosures were made by the Target Company under Regulation 6(2) and Regulation 8(3), albeit belatedly, on March 31, 2003 under the SEBI Regularization Scheme, 2002 and the Target Company paid a penalty of Rs. 80000/- . Therefore, it would not be fair in any case to impose a further penalty on us and the notice be discharged.



Order

Penalty of Rs 3, 00,000 was imposed on the acquirers.

Sri Kannapiran Mills Ltd.

Violation of Regulation 11(2)

Preferential allotment in the year 2000 - exemption allowed s.t compliance- the conditions of Regulation 3(1) (c) was complied with - Penalty imposed - Rs 5, 00,000.

Facts

As per the report under Regulation 3(4) of SAST or submitted on behalf of acquirers who are the promoters of the Target Company vide their letter dated 06.07.2005, the promoters holding stood at 83.03%. On 27.12.2000 the Target Company made a preferential allotment of five lakh equity shares each to M/s K.G Fabriks Ltd. and M/s Crocodile (India) Pvt Ltd 'the acquirer'. Pursuant to the said allotment, promoter's shareholding had gone up by 4.61% viz, from 83.03% to 87.64%. In terms of Regulation 3(1)(c)(i) of the said regulations the Board resolution dated 21.11.2000 was not sent to CSE and MSE. The disclosures in terms of Regulation 3(1)(c)(ii) were also not mentioned in the notice of EGM dated 21.11.2000. In view of the non compliances of Regulation 3(1)(c)(i) and Regulation 3(1)(c)(ii), the acquirers are not eligible for exemption under 3(1)(c) from the applicability of Regulation 11(2) of the said Regulations.

Allegations on acquirers: The allegation on acquirers was as under:

- a. Promoters' existing shareholding was 83.03%, they cannot acquire any single share without making a public announcement.
- b. It is also alleged that the acquirers did not complied with Regulation 3(1)(c) of the said Regulations , thereby rendering them ineligible from getting exemption from the applicability of Regulation 11(2) of the said Regulation.



Contentions of acquirers: The contentions of acquirer were as follows:

- a. That the Target Company was on the verge of closure at the time of subject acquisition as its financial position and operations were totally collapsed. The promoters have infused the funds to make the net worth positive.;
- b. That the non-compliance of Regulation 11(2) of SAST was merely technical in the circumstances.
- c. Global Trust Bank Ltd had agreed to release term loan to settle IDBI overdue term loan subject to company increasing its paid up capital by atleast Rs. 100 lakhs.

Order: On careful consideration of the submissions made by promoters and relevant material available on record SEBI was of the view that the contentions made by acquirers are not satisfactory. The acquirers did not comply with Regulation 3(1)(c) of the said Regulations , thereby rendering them ineligible from getting exemption from regulation 11(1) of said regulations the applicability of Regulation 11(2) of the said Regulation. Therefore the acquirers triggered Regulation 11(2) of the said Regulation, which prohibits the acquirer from acquiring any further shares , unless the acquirers makes a public announcement to acquire further shares from the shareholder of SKML. Thus having regard to all the facts and circumstances SEBI imposed a consolidated penalty of Rs. 5,00,000/- on the promoters/acquirers.



Hint of the month

Shares acquired in the acquirer company as a consideration for the shares offered in the open offer is exempted from Takeover Regulations as stipulated in Regulation 3(1) (ff).



Latest Open Offer

S.no	Target Company	Acquirer	Details of offer (No. & %)	Reason for offer	Intermediary
1.	<p>Adani Enterprise Ltd</p> <ul style="list-style-type: none"> ➤ Regd office: Gujarat ➤ Paid up Equity Capital: <p>Rs. 24.65 crores divided into 246,486,975 equity shares</p> <ul style="list-style-type: none"> ➤ Listing Status: BSE, NSE & ASE 	<p>Adani Infrastructure Services Private Limited</p>	<p>19,718,958 fully paid-up equity shares face value of Re.1 each, representing 8% of the total paid-up equity share capital voting rights</p>	<p><u>Triggerred Regulation</u></p> <p><i>Regulation 11(2A) read with 21(3)</i></p> <p>Voluntary offer after the acquirer forming part of promoter group which holds 66.90% of the share capital entered into a partnership with other persons to form M/s Advance investments</p>	<p>Manager</p> <p>ICICI Securities Limited</p> <p>Registrar</p> <p>Pinnacle Shares Registry Private Limited</p>
2.	<p>Arnit Infotech Limited</p> <ul style="list-style-type: none"> ➤ Regd office: Andhra Pradesh ➤ Paid up Equity Capital: <p>Rs. 3,50,00,000 divided into 35,00,000 Equity shares</p> <p>Listing Status: BSE, NSE & ASE</p>	<p>Mrs. Aruna R Ajjarapu & Mr. Kuchimanchi Shridhar</p>	<p>6,00,000 Equity Shares of Rs.10/- each representing 20 % of the voting capital of AIL</p>	<p><u>Triggerred Regulation</u></p> <p><i>Regulation 10 & 12</i></p> <p>SPA to acquire 18,53,000 equity shares of Rs.10/- each, being 61.77% of the issued and paid up equity share capital and voting rights of AIL</p>	<p>Manager</p> <p>SOBHAGYA CAPITAL OPTIONS LIMITED,</p> <p>Registrar</p> <p>M/S. AARTHI CONSULTANTS (P) LIMITED</p>



<p>3.</p>	<p>ALLIANZ CAPITAL & MANAGEMENT SERVICES LIMITED</p> <ul style="list-style-type: none"> ➤ Regd Office: Delhi ➤ Paid up Equity Capital: <p>Rs 687.08 Lakhs divided into 66,85,000 Equity Shares</p> <ul style="list-style-type: none"> ➤ Listing Status: BSE & DSE 	<p>Navjeet Singh Sobti, Mrs. Gurpreet N. Sobti and Innovative Money Matters Private Limited</p>	<p>19,02,000 Equity Shares at a price of Rs. 37.30 (20% of the post-preferential paid up equity capital)</p>	<p><u>Triggerred Regulation</u></p> <p>Regulation 11(1)</p> <p>Issue and allotment on a preferential basis of 28,25,000 Equity shares fully paid up of Rs. 10/- each for cash at a price of Rs. 37.28 per equity share.</p>	<p>Manager</p> <p>Canara Bank</p> <p>Registrar</p> <p>Alankit Assignments Limited</p>
<p>4.</p>	<p>Godavari Fertilisers and Chemicals Limited</p> <ul style="list-style-type: none"> ➤ Regd office: New Delhi ➤ Paid up Equity Capital: <p>Rs 32.00 cr constituting of 3,20,00,000 equity shares of Rs.10/- each</p> <ul style="list-style-type: none"> ➤ Listing Status: NSE & HSE 	<p>Coromandel Fertilisers Limited</p>	<p>64,00,000 Shares of GFCL representing 20.00% of the Share Capital</p>	<p><u>Triggerred Regulation</u></p> <p>Regulation 11(1) & 12</p> <p>Acquisition of 80,01,000 fully paid-up equity shares of Rs. 10/- each (“Shares”) being 25.00% of the paid-up equity share capital and voting rights of GFCL from IFFCO</p>	<p>Manager</p> <p>Kotak Mahindra Capital Company Limited</p> <p>Registrar</p> <p>Cameo Corporate Services Limited</p>



5.	<p>Dunlop India Limited & Falcon Tyres Limited</p> <p>➤ Regd office: Dunlop: Kolkata Falcon: Bangalore</p> <p>➤ Paid up Equity Capital:</p> <p>Dunlop: 4,49,89,297 Equity shares Falcon: Rs. 5.68 crores consisting of 56,80,922 Equity shares of Rs. 10/- each</p> <p>➤ Listing Status:</p> <p>Dunlop: BSE, CSE, CSEL, ASE & DSE Falcon: BSE, CSE & Bangalore Stock Exchange</p>	Wealth Sea Pte. Ltd	<p>89,97,859 Equity Shares of Dunlop at an Offer Price of Rs. 10/- per fully paid-up (20% of the voting equity capital)</p> <p>&</p> <p>11,36,184 Equity Shares of Falcon at an Offer Price of Rs. 151/- per fully paid-up Equity Share of Rs 10/- each *representing up to 20% of the voting equity share capital of Falcon</p>	<p><u>Triggerred Regulation</u></p> <p>Regulation 44 & 45 (6)</p> <p>Indirect acquisition Acquisition of 100% share capital of DRW, from Jumbo. which then owned entire share capital of DRW, DRW held 74.50% of the equity shares of Dunlop India Limited & 68.98% of the equity shares of Falcon Tyres Limited.</p>	<p>Manager</p> <p>Microsec Capital Limited</p> <p>Registrar</p> <p>C.B. Management Services (P) Limited, (For Dunlop) & Alpha Systems Private Limited (For Falcon)</p>
6.	<p>Mediaone Global Entertainment Limited</p> <p>➤ Regd office: Hyderabad</p> <p>➤ Paid up Equity Capital:</p> <p>Rs. 24.00 Lakhs comprising of 2,40,000 Equity Shares of Rs.10/- each</p> <p>➤ Listing Status: BSE</p>	Shri Pathee Investments Private Limited	94,000 equity shares of Rs. 10/- each of MGEL representing 20% of the post issue equity and voting capital.	<p><u>Triggerred Regulation</u></p> <p>Regulation 10 & 12</p> <p>Issue of 2,30,000 equity shares of Rs. 10/- each on a preferential basis</p>	<p>Manager</p> <p>ASHIKA CAPITAL LIMITED</p> <p>Registrar</p> <p>Cameo Corporate Services Limited</p>



7.	<p>PI Drugs & Pharmaceuticals Limited</p> <ul style="list-style-type: none"> ➤ Regd office: Maharashtra ➤ Paid up Equity Capital: <p>Rs. 15,00,00,000/-) comprising of 1,50,00,000 equity shares of Rs. 10/- each.</p> <ul style="list-style-type: none"> ➤ Listing Status: BSE 	Fraxis Life Sciences Private Limited	2,60,001 equity shares of Rs 10/- each fully paid up representing 20% of the paid up equity share capital/ Voting Right	<p><u>Triggerred Regulation</u></p> <p>Regulation 10 & 12</p> <p>Acquistion of control pursuant to acquisition of shares and convertible warrants</p>	<p>Manager</p> <p>UTI Bank Limited</p> <p>Registrar</p> <p>Bigshare Services Private Limited</p>
8.	<p>Vinay Cements Limited</p> <ul style="list-style-type: none"> ➤ Regd office: Asom ➤ Paid up Equity Capital: <p>1,00,00,000 fully paid-up equity shares of Rs.10/- each aggregating to Rs.1000.00 lacs.</p> <ul style="list-style-type: none"> ➤ Listing Status: BSE, CSE, GSE, DSE, MSE & ASE 	Mr. Ritesh Bawri, Mr. Vinay Bawri , Ms. Mala Bawri & Ms. Nisha Bawri Singh	37,79,974 fully paid up equity shares of Rs.10/- each representing 20% of the post preferential voting equity share capital of the Target Company at a price of Rs.35/- per share	<p><u>Triggerred Regulation</u></p> <p>Regulation 11(1)</p> <p>Issue & allotment on a preferential basis of 88,99,870 Equity Shares constituting 47.09 % of post preferential voting equity share capital of the target company at a price of Rs. 35/- per share.</p>	<p>Manager</p> <p>VC Corporate Advisors Private Limited</p> <p>Registrar</p> <p>M/s. Maheshwari Datamatics Private Limited</p>



9.	<p>RayBan Sun Optics India Limited</p> <ul style="list-style-type: none"> ➤ Regd office: Rajasthan ➤ Paid up Equity Capital: <p>24,479,187 equity shares of Rs. 10/- each</p> <ul style="list-style-type: none"> ➤ Listing Status: BSE 	<p>Luxottica Group S.P.A. and Ray Ban Indian Holdings Inc.</p>	<p>4,895,900 equity shares of Rs. 10 each representing 20.00% of the equity share capital</p>	<p><u>Triggerred Regulation</u></p> <p>Regulation 10 & 12</p> <p>Global Purchase agreement to acquire 44.152% of the Equity shares of Target company held by Bausch & Lomb Group through Bausch & Lomb South Asia Inc</p>	<p>Manager</p> <p>JM Morgan Stanley Private Limited</p> <p>Registrar</p> <p>Karvy Computershare Private Limited</p>
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REGULAR SECTION

Regulation 11 - Consolidation of Holdings

1. This regulation is meant for allowable acquisitions (both direct & indirect) only for those who already hold more than 15% shares or voting rights but less than 55% shares or voting rights in a company. This regulation allows the persons either by themselves or through persons acting in concert with them who are holding more than 15% but less than 55% shares or voting rights in the company to acquire further upto 5% shares or voting rights in the financial year ending 31st March. The allowable acquisition of 5% is popularly known as 'Creeping acquisition'. Thus, the acquirer is permitted to acquire additional shares and consolidate his holdings within the aforesaid limits.



The regulation further requires that the persons who already holds more than 15% shares or voting rights and less than 55% shares or voting rights if want to go beyond 5% of the voting rights have to make public offer as per the provisions of the regulations.

2. Regulation further provides that the person who holds more than 55% shares or voting rights but less than 75% shares or voting rights in a company, cannot, either himself or through persons acting in concert with him acquire a single shares & also cannot exercise voting power beyond 55% unless a public offer is given as per the provisions of regulations.
3. Regulation 2A: Where an acquirer who (together with persons acting in concert with him) holds fifty five per cent. (55%) or more but less than seventy five per cent. (75%) of the shares or voting rights in a target company, is desirous of consolidating his holding while ensuring that the public shareholding in the target company does not fall below the minimum level permitted by the Listing Agreement, he may do so only by making a public announcement in accordance with these regulations. The purpose of this regulation is to provide an opportunity to a person who already holds more than 55% but less than 75%, to consolidate his holding by making a voluntary open offer to acquire such percentage of shares of Target Company so as not to exceed his post-acquisition shareholding beyond 75%.

Whether the creeping acquisition is in addition to the exempted acquisition?

The creeping acquisition is in addition to the exempted acquisitions. It means that a person may acquire through exemption also and in addition can acquire under creeping acquisition also.



Whether promoter can also be acquirer?

There is no differentiation between the Promoters & Acquirers. Also, It was decided in Modi Spg & Wvg Mills Co Ltd, it was held that there is no hard & fast rule that a promoter could never be an acquirer or persons acting in concert and if the promoter acquires or agrees to acquire shares or voting rights or gain control over target company he can safely considered as an acquirer who in turn would be subject to provisions of Regulation 11.

DIFFERENCE BETWEEN REGULATION 10 & 11

Differential Point	Regulation 10	Regulation 11
Title	Acquisition of fifteen per cent or more of the shares or voting rights of any company.	Consolidation of holdings
Category of Persons covered	In this category, the categories of persons covered are those who are holding less than 15%. The category of persons are: a. Person holding 0%-14%	i. In this category, the categories of persons who are holding in the range of 15%- 55%. Those who are holding above 55%.
Restriction	A person cannot acquire more than 15% in one go without giving takeover offer.	a) A person cannot make any acquisition of greater than 5% in one financial year. b) For 2 category, restriction to acquire single share is there except without giving public offer.
Compliances	A person who is falling under regulation 10 will have to comply with the following: Regulation 7 - at the time when his holding crosses 5%, 10%, 14%	A person who is falling under regulation 10 will have to comply with the following: Regulation 7(1) - at the time when the holding touches 54% & 74%.

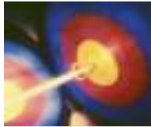


Budget Highlights: Good & Bad News

- ✓ ESOPs have been brought under Fringe Benefit Tax - Bad news.
- ✓ Technology biz incubators exempt from service tax - Good news
- ✓ Dividend distribution tax hiked to 15% - Bad news
- ✓ No change in corporate income tax - Good news
- ✓ No change in service tax rate - Good news
- ✓ Service tax extended to commercial rental - Bad news
- ✓ Scope of MAT widened to include IT companies - Bad news
- ✓ Pass-through status for VC investments are limited to only sectors such as research in biotechnology; IT relating to hardware and software development; nanotechnology; seed research and development; research and development of new chemical entities, dairy, poultry industry, and production of bio-fuels - Bad news to VCs in other sectors
- ✓ Pass through status to venture capital funds that invest in hotel-cum-convention centres of a certain description and size - Good news
- ✓ Surcharge on corporate income tax removed for companies earning less than Rs 1 crore (\$2,20,000)- Good news
- ✓ Concessions for VCs who invest in hotel/tourism projects in the National Capital Region for Commonwealth Games - Good news

Thought of the Month

Most of us never recognize opportunity until it goes to work in our competitor's business.



Case Study

Vodafone-Hutchison Essar Deal

Here is a snapshot of the deal between Vodafone and Hutchison Telecom International to buy the latter's 67 per cent stake in Hutchison Essar.

✚ Scene behind the matter

- ✓ Vodafone, the world's largest mobile phone group by revenue, put in a bid for Hutchison Essar that gave it an enterprise value of ~\$19 Billion. It made an indicative offer of \$16.5bn for Hutch around Christmas to Hutchison Telecommunications International, which owns 67 per cent of the Indian mobile operator.
- ✓ Vodafone has been competing with three Indian groups for control of Hutchison Essar - Reliance Communications, Essar and the **Hindujas**. Finally this UK based company defeated the Indian conglomerate Essar Group, which already controlled a third of Hutchison Essar, as well as the Indian cellphone operator Reliance Communications.

✚ The deal

- ✓ Vodafone acquires 67% interest in Hutch Essar from Hutchison Telecom International for a cash consideration of \$11.1 billion
- ✓ Vodafone will assume net debt of approximately \$2.0 billion
- ✓ The transaction implies an enterprise value of \$18.8 billion for Hutch Essar

✚ Compete And Collaborate

- ✓ While Hutch Essar and Bharti will continue to compete independently, Vodafone and Bharti have entered into a MOU relating to a comprehensive range of infrastructure sharing options in India between Hutch Essar and Bharti
- ✓ Infrastructure may reduce the total cost of delivering telecommunication services, especially in rural areas, expand network coverage more quickly.

✚ The Essar Factor

- ✓ Vodafone will make an offer to buy Essar's 33% in Hutch Essar stake at the equivalent price per share it has agreed with HTIL
- ✓ Vodafone's arrangements with the other existing minority partners (Asim Ghosh and Analjit Singh who hold 15% stake combined) will result in a shareholder structure post acquisition that meets the FDI requirements



✚ The Bharti Factor

- ✓ Vodafone will sell its 5.6% listed direct interest in Bharti \$1.6 billion to the Mittals
- ✓ It will retain 4.4% indirect stake in Bharti Airtel as a pure financial investment
- ✓ This 4.4% stake is held as 26% in unlisted Bharti Infotel
- ✓ Bharti originally acquired 10% in Bharti for \$1.5 billion in Oct 2005

✚ The Extras

- ✓ HTIL's existing partners (Asim Ghosh, CEO, Hutch, and Aniljit Singh of Max India), who between them hold a 15% interest in Hutch Essar, will retain their holdings and become partners with Vodafone.
- ✓ Vodafone's interest will be 52% following completion and Vodafone will exercise full operational control over the business
- ✓ If Essar decides to accept Vodafone's offer, these local minority partners between them will increase their combined interest in Hutch Essar to 26%
- ✓ In the event that the Bharti group buys Vodafone's 5.6% direct interest in Bharti, the consideration will be received up to 18 months after completion of the Hutch Essar acquisition
- ✓ UBS Investment Bank acted as financial adviser to Vodafone.

✚ Market Scenario

- ✓ Hutch has 23.3 million subscribers as of Dec 31, 2006
- ✓ Vodafone is targeting a 20-25 per cent market share by 2012
- ✓ The mobile market is expected to grow at 40% CAGR till 2012

✚ Scene Ahead

- ✓ It anticipates a plea by Essar, which holds the other 33 per cent in the venture, to exercise a right of first refusal
- ✓ Hutchison says this only applied if it sold to local firms.
- ✓ Hutchison Telecom shareholders are due to vote on the Vodafone deal on March 9.
- ✓ The transaction is expected to close in the second quarter of calendar year 2007



INTERMEDIARY SEARCH



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