



General Manager
Corporation Finance Department
Division of Corporate Restructuring

भारतीय प्रतिभूति
और विनियम बोर्ड

Securities and Exchange
Board of India

CFD/DCR/SKM/TO/12448/2011
April 13, 2011

M/s. Surana Telecom and Power Limited
2nd Floor, Surya Towers,
Sardar Patel Road,
Secunderabad
Andhra Pradesh - 500003

Kind attention: Ms. Pavani Akilla

Dear Madam,

Sub.- Request for Informal Guidance under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 [The Scheme] in the matter of proposed acquisition of shares of M/s. Surana Telecom and Power Limited (Target Company)

This has reference to your letters dated 28.04.2009, 18.12.2010 and 04.02.2011 requesting for interpretive letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003.

- 1.0 You have represented , *inter-alia*, as under;
- 1.1 The equity shares of M/s. Surana Telecom and Power Limited (Target Company) are inter alia listed on BSE and NSE.
- 1.2 An application was made by the Promoter Group on 05.05.2008, for seeking exemption from the application of Regulation 11(1) of Takeover Code for increase in Promoter Group holding from 54.66% to 59.39% which is incidental to the buyback offer of M/s Surana Telecom and Power Limited. ("Target Company").
- 1.3 The application was considered by SEBI and accordingly an order dated 05.09.2008 was passed by WTM, SEBI granting exemption for the said increase in Promoter Group holding.
- 1.4 Subsequently, the offer for Buy back of equity shares commenced on 30.09.2008.
- 1.5 Regulation 11(2) of Securities Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations 1997 was amended on 30.10.2008.

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- 1.6 The offer of Buy-back was closed on 16.01.2009. During the Buy-back offer, the Target Company bought back 18, 00,000 equity shares.
- 1.7 Pursuant to the said buy-back the total shareholding of the promoter group in the company went up from 54.66% to 59.39% comprising 1, 23, 56,387 equity shares.
- 1.8 A request for clarification on further acquisition of shares under regulation 11(2) in order to increase the promoter shareholding by 5 % was made by the Target Company vide letter dated 28.04.2009 under Securities and Exchange Board of India (Informal guidance) Scheme, 2003.
- 1.9 In response, SEBI vide letter dated 25.09.2009 informed the Target Company that SEBI has issued a circular dated 06.08.2009 regarding applicability of provisions of amended regulation 11(2) of the SAST Regulations which would clarify the query of the Target Company.
- 1.10 However, being unable to interpret the aforesaid circular, you have once again made the instant application under the Scheme for seeking clarification.
- 1.11 You have further stated that the Promoter Group can acquire additional shares keeping in view the following.
 - a. The promoter group has earlier obtained a specific and special exemption from SEBI for the indirect increase in their shareholding due to the buy back offer of the company and the said exemption was obtained prior to the above referred amendment.
 - b. Promoters have not availed earlier the general relief provided to them under the amended regulations and hence the same can be availed now.
- 2.0 You have sought opinion by way of an interpretative letter on the following issue:
 - 2.1 Whether the promoter group of the Company whose current holding is 59.39% can further acquire additional shares or voting rights under amended regulation 11(2) of SAST regulations and interpretative circular dated 06.08.2009.
- 3.0 **Our Views:**
Without necessarily agreeing with your analysis, we offer our views in response to your clarifications as under.
 - 3.1 Proviso to regulation 11(2) which was notified on October 30, 2008 is reproduced hereunder for the facility of reference.



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"Provided further that such acquirer may, without making a public announcement under these Regulations, acquire, either by himself or through or with persons acting in concert with him, additional shares or voting right entitling him upto five per cent (5%) voting rights in the target company subject to the following:-

- (i) the acquisition is made through open market purchase in normal segment on the stock exchange but not through bulk deal/block deal/negotiated deal/preferential allotment; or the increase in the shareholding or voting rights of the acquirer is pursuant to a buy back of shares by the target company;
- (ii) the post acquisition shareholding of the acquirer together with persons acting in concert with him shall not increase beyond seventy five per cent (75%)."

3.2 Your attention is also drawn to paragraph 3 of our interpretative circular issued under regulation 5 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations 1997 bearing No. CFD/DCR/TO/Cir-01/2009/06/08 dated August 6, 2009 which *inter alia* states as under.

"a.

- b. The acquirer together with persons acting in concert with him, holding shares or voting rights as specified at (a) above, may acquire additional shares or voting rights upto a maximum of five per cent (5 %) voting rights in the target company in one or more tranches, without any restriction on the time-frame within which the same can be acquired;
- c. The aforesaid acquisition of five per cent (5 %) shall be calculated by aggregating all purchases, without netting the sales.
- d. Consequent to such acquisition, the percentage of shareholding / voting rights of the acquirer, together with persons acting in concert with him, in the target company, shall not increase beyond seventy five per cent (75 %). This limit is applicable irrespective of the level of minimum public shareholding required to be maintained by the target company in terms of clause 40A of the Listing Agreement".

3.3 As submitted by you, as on 31.12.2010, the Promoters hold 1, 23, 56,387 equity shares constituting 59.39% of the total shareholding of the Target Company pursuant to acquisition of shares incidental to a buy-back offer made by the Target Company. The Promoters have been granted exemption from open offer obligations under regulation 4 of the Takeover Regulations for the aforesaid acquisition incidental to the buy-back vide order dated 05.09.2008 of WTM, SEBI i.e. prior to the insertion of proviso to regulation 11(2) of the Takeover Regulations as mentioned above. It may be noted that even though the Promoters have consolidated their shareholding from 54.66% to 59.39% by way of acquiring shares incidental




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to the buy-back offer made by the Target Company, the same has been made pursuant to exemption granted by SEBI u/r 4 of the Takeover Regulations prior to the notification dated 30.10.2008 regarding amendment of regulation 11(2) of the Takeover Regulations and thus they have not availed the proviso to regulation 11(2) of the Takeover Regulations. Therefore, in view of the facts and circumstances of the instant case the provision allowing additional acquisition of 5% of the total share capital of the Target Company in terms of proviso to regulation 11(2) of the Takeover Regulations is available to the Promoters of the Target Company.

- 4.0 This position is based on the representation made to the Division in your letter. Different facts or conditions might require a different result. This letter does not express decision of the Board on the questions referred.
- 5.0 You may note that the above views are expressed by this Division only with respect to the clarifications sought on SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 and do not affect the applicability of any other law or requirements.

Yours faithfully,


Neelam Bhardwaj