



भारतीय प्रतिभूति
और विनियम बोर्ड

Securities and Exchange
Board of India

General Manager
Corporation Finance Department
Division of Corporate Restructuring

CFD/DCR/SKM/TO/16852/2011
May 25, 2011

Disa India Limited
5th Floor, Kushal Garden Arcade
1A Peenya Industrial Area
Peenya 2nd Phase
Bangalore - 560 058

Kind attention: Mr. Viraj Naidu

Dear Sir,

Sub.:- Request for No-Action Letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 [The Scheme] in the matter of acquisition of shares of M/s. Disa India Limited [Target Company/Applicant] under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 [Takeover Regulations]

This has reference to your letters dated February 10, 2011 requesting for No-Action Letter on the captioned subject.

1.0 You have represented, *inter-alia*, as under:

1.1 Aggrieved by the direction from SEBI to revise the offer price for the open offer made by Hamlet Holding II ApS, DISA Holding II A/S, DISA Holding A/S and DISA Holding AG (collectively the "Acquirers") to the shareholders of the Target Company, Acquirers filed an appeal before Hon'ble Securities Appellate Tribunal (SAT) challenging the direction of SEBI. Subsequently, Hon'ble SAT vide order dated August 05, 2009 allowed the appeal of the Acquirers and set aside the direction of SEBI to revise the offer price, after which the Offer process was resumed. The Offer opened on September 16, 2009 and closed on October 05, 2009.

1.2 Subsequently, SEBI filed an appeal before Hon'ble Supreme Court challenging the order of Hon'ble SAT on October 05, 2009 which is pending as on date for a final decision.

1.3 All obligations of the Acquires *inter-alia* making payment of consideration (including interest) to the public shareholders, payment of appropriate taxes to the government, etc. related to the open offer have been completed. The post-Offer public announcement has also been issued.

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- 1.4 Due to non-receipt of a completion certificate from Ambit Corporate Finance Private Limited, the Merchant Banker to the open offer, the shares of DISA India acquired by the Acquirers could not be transferred in the name of the Acquirers till date and the balance amount lying in the escrow account for the Offer has not yet been released to the Acquirers.
- 1.5 An application was moved by the Acquirers before the Hon'ble Supreme Court for necessary directions/clarifications in relation to issuance of the completion certificate. The Supreme Court, in response, passed an interim order dated August 02, 2010, wherein the Hon'ble Court has *inter-alia* held that, "pendency of this appeal will not prevent the Merchant Banker from issuing the Completion Certificate. It is, however, made clear that if such certificate is issued, it would be subject to the result of such appeal".
- 1.6 Merchant Banker, subsequently, issued a Completion Certificate on August 12, 2010 stating *inter-alia* that "the Acquirer and the PACs [Acquirers] have complied with their obligations under the SEBI Takeover Code [Takeover Regulations] in respect of the Offer as on the date of this certificate". The Merchant Banker also stated in the Completion Certificate that the certificate is 'conditional' and that appropriate legal advice may be taken before acting on the Completion Certificate.
- 1.7 Upon further request from the Board of the Target Company, the Merchant Banker *vide* its letter dated September 29, 2010 expressed its inability to respond to queries of the Board of Target Company as to whether the aforesaid letter dated August 12, 2010 of the Merchant Banker could be treated to be a completion certificate in terms of regulation 23(6) of the Takeover Regulations.
- 1.8 Further, in response to a similar request of the Board of Target Company, SEBI, *vide* letter dated January 11, 2011 said that the Target Company may be guided by the relevant provisions of applicable Laws, Rules and Regulations and the order/direction of the Hon'ble Supreme Court in the matter.

2.0 Issues under consideration:

In view of the facts as enumerated above, you have requested us by way of a No-Action letter for the following.

- 2.1 To confirm that SEBI will not take or recommend any action against DISA India and/or its Board of Directors should the Board take no action for the time being with respect to effecting transfer of the shares acquired by the Acquirers in the Offer in the name of the Acquirers?



अनुवर्ती:
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3.0 Our Views:

Without necessarily agreeing with your analysis, we offer our views as under.

3.1 Considering the facts as submitted by you in the instant case, it is noted that your application prima-facie is seeking a No-Action letter from SEBI on an issue arising out of the letter dated August 12, 2010 of Ambit Corporate Finance Private Limited, the Merchant Banker to the open offer which prima-facie does not fall under the purview of the Scheme.

3.2 Further, considering the facts as submitted by you in the instant case, it is quite clear that the matter related to the open offer is pending before Hon'ble Supreme Court for a final judgment and therefore the same is subjudice. In this regard, reference is drawn to the para 8(vii) of the Scheme which states that SEBI may not respond to the requests where connected issues are pending before any Tribunal or Court and on issues which are sub judice. Thus, the query/request made by you is falling under the ambit of para 8(vii) of the Scheme and therefore we are not responding to the same.

4.0 In view of the above, we are attaching herewith a cheque with no 001092 dated May 24, 2011 amounting Rs. 20,000/- towards refund of fees paid by you after deducting therefrom a sum of Rs. 5,000 towards processing fee in terms of para 9 of the Scheme. You are advised to acknowledge receipt of the same.

Yours faithfully,

Neelam Bhardwaj

Encl: as above

24-MAY-2011

DISA INDIA LTD

PAY

Twenty Thousand Only

OR ORDER

Rs. *****20,000.00

FOR SECURITIES AND EXCHANGE BOARD OF INDIA

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LF

LF

LF

DISA INDIA LTD

Not over Rs. 20,000.00

DISA INDIA LTD
BANDRA KURLA COMPLEX
BANDRA (EAST), MUMBAI - 400 051
Branch Registration Code: 0122

BANDRA KURLA COMPLEX
BANDRA (EAST), MUMBAI - 400 051
Branch Registration Code: 0122

[Signature]
Authorised Signatories

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