



भारतीय प्रतिभूति
और विनियम बोर्ड

Securities and Exchange
Board of India

DEPUTY GENERAL MANAGER
CORPORATION FINANCE DEPARTMENT
DIVISION OF CORPORATE RESTRUCTURING
Tel. 022- 26441616, E-mail anindyakd@sebi.gov.in

CFD/PC/KJ/OW/5853/2013

March 14, 2013

Iqneet Kaur & Co.
Company Secretary,
B-6/152, 2nd Floor,
Secotr-8, Rohini,
New Delhi- 110085

Kind Attention- Ms.Iqneet Kaur.

Dear Sir/ Madam,

Sub:- Request for Informal Guidance under Securities and Exchange Board of India
(Informal Guidance) Scheme, 2003.

1. This has reference to your letters dated October 12, 2012 requesting for interpretive letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 and subsequent clarifications dated November 27, 2012, December 13, 2012 and January 07, 2013 in this regard.

Your submissions

2. M/s OCL Iron & Steel Limited, ("Target Company") a Public Limited Company listed at NSE and BSE, has total paid up capital of Rs 13,41,43,160/- comprising of 13,41,43,160 equity shares of Rs 1/- each.
3. The promoter of the Target Company is a body corporate i.e. Garima Buildprop Private Limited (unlisted Company) (hereinafter referred to as "GBPL") and holding 75% equity share capital of Target Company and balance shareholding is held by Indian Public. The promoters of GBPL is M/s Gateway Impex Private Limited ("GIPL") holding 90% shareholding of GBPL. The total shareholding of M/s GIPL is held by other three bodies corporate i.e. M/s Alconic Holdings Private Limited ("AHPL"), M/s Allianz International

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Private Limited ("AIPL") and M/s Dolphin Realtors Private Limited ("DRPL"). The individuals are holding majority shareholdings of all these three bodies corporate viz. AHPL, AIPL and DRPL. Mrs. Aarti Jain is holding 21.57%, 24.92% and 28.40% equity stakes in AHPL, AIPL and DRPL respectively. Mr. Anjali Malhotra is holding 23.53% 19.93% and 28.40% stakes in AHPL, AIPL and DRPL respectively.

4. Mrs. Anjali Malhotra and Mrs. Aarti Jain together with the Persons Acting in Concert, who are their relatives, are in control of AHPL, AIPL and DRPL.
5. As per Regulation 10(1) (a) (i) of Securities & Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, (hereinafter referred to as 'SEBI (SAST) Regulations, 2011') acquisition of shares pursuant to the inter se transfer of shares amongst qualifying persons being, immediate relative shall be exempt from the obligations to make an open offer under Regulations 3 and Regulations 4 of SEBI (SAST) Regulations, 2011.
6. As per Regulation 5 of SEBI (SAST) Regulation, 2011, for the purpose Regulation 3 and 4, acquisition of shares or voting rights in or control over any company or other entity that would enable any person and persons acting in concert with him to exercise or direct the exercise of such percentage of voting rights on or control over a target company, the acquisition of which would otherwise attract the obligation to make public announcement of open offer for acquiring shares under these Regulations, shall be considered as an indirect acquisition of shares or voting rights in control over the target company.

7. Clarification sought by you

In light of the above submissions, you have sought interpretive guidance as to:

- A. Whether the transfer of all the shares by the Mrs. Aarti Jain and Mrs. Anjali Malhotra in unlisted limited companies i.e. AHPL, AIPL and DRPL by way of gift to their immediate relative i.e. Brother (who is not directly or indirectly part of the promoter group of target company or share holder of any of the unlisted holding company) shall attract the provisions of Regulation 3, 4 and 5 of SEBI (SAST) Regulations, 2011.

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- B. Whether the above said transfer of shares by Mrs. Aarti Jain and Mrs Anjali Malhotra in unlisted private limited companies i.e. AHPL, AIPL and DRPL respectively by way of gift to their immediate relative i.e. Brother shall be exempt from the provision of Regulation 3, 4 and 5 of SEBI (SAST) Regulations, 2011 under Regulation 10(1)(a) (i) subject to complying with Regulation 10(5) and 10(7) and also provision of Regulation 10 (1)(a) of SEBI (SAST) Regulations, 2011.
- C. Whether for claiming exemption under Regulation 10(1)(a) (i) for the above said transfer, the individual promoters of AHPL, AIPL and DRPL i.e. Mrs Arti Jain and Mrs Anjali Malhotra and their immediate relative i.e. Brother will be deemed to be Qualifying Persons as stated in Regulations 10(1)(a) and further, we understand the aforesaid transfer of share does not require any disclosure/reporting to SEBI under any regulation of SEBI (SAST) Regulations, 2011.

Our Views

8. In this regard, your attention is drawn towards the following relevant regulations of SEBI (SAST) Regulations, 2011 which are reproduced for reference below:

3. (1) No acquirer shall acquire shares or voting rights in a target company which taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitle them to exercise twenty-five per cent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations."

4. "Irrespective of acquisition or holding of shares or voting rights in a target company, no acquirer shall acquire, directly or indirectly, control over such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such target company in accordance with these regulations."

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5 (1)" For the purposes of regulation 3 and regulation 4, acquisition of shares or voting rights in, or control over, any company or other entity, that would enable any person and persons acting in concert with him to exercise or direct the exercise of such percentage of voting rights in, or control over, a target company, the acquisition of which would otherwise attract the obligation to make a public announcement of an open offer for acquiring shares under these regulations, shall be considered as an indirect acquisition of shares or voting rights in, or control over the target company....."

10. (1) The following acquisitions shall be exempt from the obligation to make an open offer under regulation 3 and regulation 4 subject to fulfillment of the conditions stipulated therefor,—

(a) acquisition pursuant to inter se transfer of shares amongst qualifying persons, being,—

(i) immediate relatives;"

9. In the instant case, by virtue of proposed acquisition, the brother together with the persons acting in concerts, who are the relatives, would be acquiring indirect control - over the Target Company and would attract the provisions of regulations 3 and 4 of the SEBI (SAST) Regulations, 2011. The transferors and transferee, being immediate relatives, are qualified persons in terms of regulation 10(1)(a)(i) of SEBI (SAST) Regulations, 2011.

10. It is mentioned in the application that the proposed acquisition by way of inter-se transfer will be done by way of gift which does not involve the acquisition price.

11. In view of the above, the acquirer would be exempt from the obligation to make open offer subject to the following compliances:

- i. Compliance with Chapter V disclosures of SEBI (SAST) Regulations, 2011 and Chapter-II of SEBI (SAST) Regulations, 1997.
- ii. Compliance with Regulation 10(5) of SEBI (SAST) Regulations, 2011.
- iii. Compliance with Regulation 10(6) of SEBI (SAST) Regulations, 2011.
- iv. Compliance with Regulation 10(7) of SEBI (SAST) Regulations, 2011.

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v. Any other requirements in the facts and circumstances of the transaction.

12. 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.

13. 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, 2011 and do not affect the applicability of any other law or requirements.

Yours faithfully,

Anindya Kumar Das