

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

SETTLEMENT ORDER

On Application No.3325/2017 and 3740/2018
filed by **KEI Industries Ltd. (PAN AAACK0251C)**
in the matter of GDR issue by KEI Industries Ltd.

1. KEI Industries Ltd. (hereinafter referred to as 'applicant') filed settlement applications in terms of the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 which is repealed and replaced with SEBI (Settlement Proceedings) Regulations, 2018 with effect from January 01, 2019 (hereinafter referred to as 'Settlement Regulations'). The applicant, in its applications, without admitting or denying the findings of fact and conclusions of law, proposed to settle, through a settlement order, the proceedings under Section 11B of the SEBI Act, 1992 which were initiated vide Show Cause Notice dated June 09, 2017 and adjudication proceedings which were initiated however, show cause notice is yet to be issued. The proceedings under Section 11B of the SEBI Act, 1992 were initiated for the alleged violation of Section 12A (a), (b) and (c) of SEBI Act, 1992 read with regulations 3(a), (b), (c), (d), 4(1), 4(2) (f), (k) and (r) of SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 and the adjudication proceedings were initiated for the alleged violation of Section 21 of the Securities Contracts Regulation Act, 1956.
2. SEBI conducted an investigation into the GDR issue by the applicant. The investigation noted that the applicant issued 2.173 million GDRs (amounting to US \$10 million) on September 16, 2005. It is alleged that the applicant and its Board attempted to mislead the investors in India by deliberately making false/misleading statements and misrepresenting that the said GDR issue had been subscribed by several investors when in fact the said issue was subscribed by only one entity, Fusion Investments Ltd. The subscription amount was paid by Fusion by obtaining loan (i.e. through credit agreement) from Banco Efisa, Portugal (Banco). The applicant and its Board further concealed and suppressed the material facts that the applicant had provided financial assistance to Fusion by means of pledge of entire GDR subscription proceeds without receiving any consideration at the time of GDR issue. Mr. Rajeev Gupta, GM (Finance) of the applicant signed an account charge agreement with Banco (i.e. KEI provided security to Banco for loan availed by Fusion from Banco for subscription of GDRs of KEI). The aforesaid account charge agreement was an integral part of Credit agreement. Based on these findings of investigation, proceedings under Section 11B of the SEBI Act, 1992 and adjudication proceedings were initiated

against the applicant.

3. Pursuant to the applications, the authorized representatives of the applicant had a meeting with the Internal Committee of SEBI on January 25, 2019 wherein the settlement terms were deliberated. Thereafter, the applicant, vide letter dated January 30, 2019, proposed the revised settlement terms to settle the defaults mentioned above.
4. The High Powered Advisory Committee ('HPAC') in its meeting held on March 04, 2019 considered the settlement terms proposed and recommended the applications for settlement upon payment of ₹ 1,78,50,000/- (Rupees One Crore Seventy Eight Lakh Fifty Thousand only) as settlement amount along with an undertaking from the applicant for the compliance of non-monetary terms mentioned at Regulations 9(2)(g), (h) and (i) of the SEBI (Settlement Proceedings) Regulations, 2018. The Panel of Whole Time Members of SEBI accepted the said recommendation of the HPAC on March 29, 2019 and the same was communicated to the applicant.
5. The applicant vide Demand Draft Nos. 131628 and 131629 both dated May 02, 2019 drawn on Dena Bank has remitted an amount of ₹ 1,78,50,000/- (Rupees One Crore Seventy Eight Lakh Fifty Thousand only) towards settlement charges. The applicant has also submitted an undertaking stating that it will comply with the non-monetary terms mentioned at Regulations 9(2)(g), (h) and (i) of the SEBI (Settlement Proceedings) Regulations, 2018 which are as follows:.

“9(2)

(a)....

(b)....

(c)....

(d)....

(e)....

(f)....

(g) *implementation of enhanced policies and procedures to prevent future securities laws violations as well as agreeing to appoint or engage an independent consultant to review internal policies, processes and procedures;*

(h) *Provide enhanced training and education to employees of intermediaries and securities market infrastructure institutions;*

(i) *Submit to enhanced internal audit and reporting requirements.”*

6. In view of the above, in exercise of the powers conferred under Section 15JB of the Securities and Exchange Board of India Act, 1992 and in terms of Regulations 23 and 28 read with Regulation 34 of the Settlement Regulations, it is hereby ordered that:

- i. the proceedings under Sections 11B of the SEBI Act, 1992 as well as the adjudication proceedings for the alleged default as discussed in paragraph 1 above, are settled *qua* the applicant as per the above terms,
 - ii. SEBI shall not initiate any enforcement action against the applicant for the said default,
 - iii. this order disposes of the said the proceedings under Sections 11B of the SEBI Act, 1992 as well as adjudication in respect of the applicant as mentioned above and;
 - iv. passing of this order is without prejudice to the right of SEBI to take enforcement actions including commencing proceedings against the applicant, if SEBI finds that:
 - a. any representation made by the applicant in the present settlement proceedings is subsequently discovered to be untrue;
 - b. the applicant has breached any of the clauses/ conditions of undertakings/ waivers filed during the present settlement proceedings.
7. This settlement order is passed on this 16th day of May 2019 and shall come into force with immediate effect.
8. In terms of Regulation 25 of the Settlement Regulations, a copy of this order shall be sent to the applicant and shall also be published on the website of SEBI.

-Sd-

S.K. MOHANTY

WHOLE TIME MEMBER

-Sd-

ANANTA BARUA

WHOLE TIME MEMBER