

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

SETTLEMENT ORDER

On the Application No. **2836 of 2014**

filed by

GAVIS Pharma LLC., USA

(PAN no. AAECG9973B)

Consent Order No: CFD/EAD-6/AO/AK/210/2014

1. An offer document (letter of offer) was filed by GAVIS Pharma LLC (hereinafter referred to as the '**Applicant**'), the acquirer of M/s. Wintac Limited (hereinafter referred to as the '**Company**') along with Kali Capital LP ('PAC') to acquire upto 26,06,303 equity shares of Rs. 10/- each representing 26% of the post preferential Issued, Subscribed, Paid up and Voting Equity shares capital of the company for cash at a price of Rs 101.07 per Equity Share. The public announcement for the same was made on January 28, 2013 and the shares of the company were listed on Bombay Stock Exchange (hereinafter referred to as '**BSE**') and Bangalore Stock Exchange Ltd. (hereinafter referred to as '**BgSE**').
2. On perusal of the letter of offer, Securities and Exchange Board of India (hereinafter referred to as '**SEBI**') observed that the acquirer had failed to comply with Regulation 74(3) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 (hereinafter referred to as '**ICDR Regulations**') read with Regulation 22(1) of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 (hereinafter referred to as '**Takeover Regulations, 2011**') during the year 2013, details of which are as given below:

Regulation	Due date within which acquisition should have been made [Within 15 days period specified in reg. 20(1)]	Actual date of acquisition
74(3) of SEBI (ICDR) Regulations, 2009 read along with 22(1) of Takeover Regulations, 2011	27.02.2013 to 13.03.2013	31.01.2013

3. It was observed that the open offer obligation triggered because of preferential issue of equity share of 40 lacs (39.90%) approved by shareholders at the EGM dated December 20, 2012. Under regulation 74(3), the period of 15 days for allotment of share shall be counted from the expiry of the period specified in regulation 20(1) or upon receipt of all the statutory approval required for the completion of an open offer. As per regulation 20(1) of Takeover Regulations, 2011 competing offer can be made within 15 working days of the date of Detail Public Statement made by first acquirer. Detail Public Statement in the present case was made by first acquirer on 04.02.2013 and therefore period specified under regulation 20(1) expires on 26.02.2013. Therefore, in term of regulation 74(3) of ICDR Regulations read with regulation 22(1) of Takeover Regulation 2011, the allotment should have been made within 15 days starting from 27.02.2013 and ending on 13.03.2013 which is the expiry of the period specified in regulation 20(1) of Takeover Regulations, 2011 or upon receipt of all statutory approvals required for the completion of an open offer. However, in the present case the allotment was made on 31.01.2013 which was in advance to the 15 days period specified in the Takeover Regulations 2011. From para 3.1.2 of letter of offer, SEBI observed that Foreign Investment Promotion Board vide an approval letter dated 23.01.2013 had approved the proposed investment by Acquirer as stated in para 7.4.3 of letter of offer that no other statutory approval was required to be obtained for the said Open Offer.
4. In view of the above, SEBI initiated adjudication proceedings in respect of Gavis Pharma LLC., USA (the Applicant) to inquire into and adjudge under section 15HB of the SEBI Act, for the alleged violation of the provisions of Regulation 74(3) of ICDR Regulations read with Regulation 22(1) of Takeover Regulations, 2011 during the year 2013 and the undersigned was appointed as Adjudicating Officer (AO) vide order dated 02.09.2013 under section 15-I of the SEBI Act. Consequently, Show Cause Notice dated 10.12.2013 was issued to the company under rule 4 of the SEBI (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995, to inquire into and adjudge under Section 15 HB of the SEBI Act, the alleged violations committed by the company.

5. Subsequent to the same, the applicant vide its application dated 19.05.2014 had filed an application with SEBI in terms of SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 proposing to settle, through a Settlement order, the aforementioned adjudication proceedings for the violation of the provisions of Regulation 74(3) of ICDR Regulations read with Regulation 22(1) of Takeover Regulations, 2011.
6. The representatives of the applicant had a meeting with the Internal Committee of SEBI where the terms of settlement was deliberated upon. Thereafter, the applicant vide its letter dated 06.08.2014 proposed the revised consent terms to settle the aforesaid adjudication proceedings for the violation of Regulation 74(3) of ICDR Regulations read with Regulation 22(1) of Takeover Regulations, 2011 by offering to pay a sum of Rs. 2,00,000/- (Rupees Two lacs only) towards settlement charges.
7. The High Powered Advisory Committee (hereinafter referred to as "**HPAC**") considered the settlement terms proposed by the applicant and recommended the case for settlement upon payment of Rs. 2,00,000/- (Rupees Two lacs only) towards settlement charges. The Panel of Whole Time Members of SEBI accepted the said recommendations of the HPAC and the same was communicated to the applicant vide an e-mail dated 31.10. 2014.
8. Accordingly, the applicant has vide demand draft No. '052925' dated November 05, 2014 drawn on 'State Bank of India' and payable at Mumbai remitted a sum of **Rs.2,00,000/- (Rupees Two lacs only)** towards the settlement charges.
9. In view of the above, in terms of Regulation 15(1) of SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014 it is hereby ordered that:
 - I. this Settlement Order disposes of the said Adjudication Proceedings pending in respect of the Applicant as mentioned above and;
 - II. passing of this Order is without prejudice to the right of SEBI to take enforcement actions including commencing/ reopening of the pending proceedings against the Applicant, if SEBI finds that:

- a. any representations made by the Applicant in the consent proceedings are subsequently discovered to be untrue;
- b. the Applicant has breached any of the clauses/ conditions of undertakings/ waivers filed during the current consent proceedings.

10. This Settlement Order is passed on this **Seventeenth day of November, 2014** and shall come into force with immediate effect.

11. In terms of Regulation 17 of SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014, copies of this order are being sent to the Applicant and also to Securities and Exchange Board of India, Mumbai.

Place: Mumbai

Anita Kenkare
Adjudicating Officer