SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: G. ANANTHARAMAN, WHOLE TIME MEMBER

IN THE MATTER OF EXEMPTION APPLICATION FILED BY BALAJI TRADING ENTERPRISES PRIVATE LIMITED UNDER REGULATION 4(2) OF SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 1997

1.0 BACKGROUND

1.1 Jumbo Bag Ltd. (hereinafter referred to as the target company) is a public limited company incorporated under the Companies Act, 1956, having its registered office at 46, Halls Road, Kilpauk, Chennai - 600010. The equity shares of the target company are listed on the Bombay Stock Exchange Ltd. and Madras Stock Exchange Ltd.

1.2 Balaji Trading Enterprises Private Limited (hereinafter referred to as the acquirer) belonged to the promoter group of the target company and holding (individually) 12,72,200 equity shares which accounted for 18.67% of the total equity capital of the target company. The promoter group (including the acquirer) is holding 38.30% of the total equity capital of the target company.

2.0 APPLICATION FOR EXEMPTION

2.1 The acquirer, vide letter dated March 20, 2007 filed an application under Regulation 4(2) of Securities and Exchange Board of India

(Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the Takeover Regulations) with Securities and Exchange Board of India (hereinafter referred to as SEBI) inter alia stating the following:-

i) The target company required additional funds to meet its expansion activities over and above the credit facilities availed from Banks.

ii) The acquirer is a constituent of the promoter group of the target company which had offered to provide the additional financial assistance required by the target company, for its proposed future expansion.

iii) The target company had proposed to issue 20 lakh equity share warrants to the acquirer and 12 lakh equity share warrants to certain non promoters on a preferential allotment of convertible warrants into equity shares. The equity shares on conversion of warrants would have uniform voting rights.

iv) The acquirer proposes to acquire 20,00,000 equity share warrants (19.97% of the expanded capital) of the target company.

v) Pursuant to the said acquisition of warrants, the shareholding of the acquirer in the target company would increase from 18.67% to 32.68% of the total voting capital of the target company (considering the expanded capital taking into account the conversion of the warrants). Pursuant to the proposed acquisition, the shareholding of the promoter group of the target company would increase from 38.30% to 46.04%, of the total voting capital of the target company and such increase is more than the creeping limit of 5%.

vi) The shareholding pattern of the target company before and after the proposed acquisition is as under:

Shareholders' category	**Number of registered shareholders as on date of application**	**Before the proposed acquisition**		**After the proposed acquisition**	
		Number of shares	**% of shares**	**Number of shares**	**% of shares**
Promoters :					
a. Individuals	53	1261430	18.51	1261430	12.60
b. Acquirer	1	1272200	18.67	3272200	32.68
Foreign Promoters					
Individuals	1	76000	1.12	76000	0.76
Total – A	55	2609630	38.30	4609630	46.04
Public Shareholding					
1. Institutions					
a. Mutual Funds	2	16600	0.24	16600	0.16
b. Financials Institutions	1	100	0.00	100	0.00
2. Non Institutions					
a. Bodies Corporate	93	433534	6.36	433534	4.33
b. Individuals	7417	742447	54.93	4942447	49.36
c. Clearing Member	12	11389	0.17	11389	0.11
Total –B	7522	4204070	61.70	5404070	53.96
Grand Total A+B	7577	6813700	100.00	10013700	100.00

vii) There would not be any acquisition of control of the target company by the acquirer.

2.2 In the aforesaid application the acquirer has sought exemption from the applicability of the Regulations 10 & 11 (1) of the Takeover Regulations.

3.0 RECOMMENDATION OF THE TAKEOVER PANEL

3.1 The aforesaid application dated March 20, 2007 was forwarded to the Takeover Panel by SEBI in terms of Regulation 4(4) of the Takeover Regulations. The Takeover Panel, vide letter dated May 11, 2007 forwarded its report dated May 7, 2007. In the Report, the Takeover Panel has recommended as under –

> *"The target company requires additional funds to meet the expansion activities over and above the credit facilities availed. The acquirer is a constituent of the promoter group of the target company who has offered additional financial assistance required by the target company and the acquisition would not affect the control over the target company.*
>
> *M/s Jumbo Bag Limited is listed company. The acquirer is a private limited company and Boards' approval is already obtained as required under the Companies Act under section 292 and section 372A has no application as Balaji Trading Enterprises is private limited company.*
>
> *The Takeover Panel considered the application and the documents filed in support and is unanimously came to conclusion that there is no hitch in recommending exemption as sought for and the shareholders of the target company would not be affected in any manner by the acquisition."*

3.2 A copy of the aforesaid report was forwarded to the acquirer by SEBI vide letter dated July 2, 2007 and the acquirer was granted an opportunity of hearing before me on July 20, 2007.

3.3 The acquirer through its authorized representative, Mrs. Lakshmi Subramanian of M/s. Lakshmi Subramanian & Associates appeared before me on the said date and made submissions. The learned representative submitted that the target company is in urgent need of funds for its expansion projects. During the course of hearing, the learned representative submitted the copy of the write up of the Expansion Project of the target company.

4.0 FURTHER SUBMISSIONS:

4.1 The acquirer vide letter dated July 23, 2007 filed the written submissions, inter alia stating the following:

i. The target company is presently carrying on manufacturing activity in the product catering to bulk packaging industry and that it can no longer continue to do so without increasing the plant capacity. The target company decided to expand its manufacturing facility at West Bengal, where the competition is less and availability of employees at cheaper wages. It further stated that it would add value and good returns for the existing investors as well as open potentiality for future investment.

ii. If the target company is unable to implement the project during the year, it would affect the profitability and other financial condition and that it would have a major impact in the wealth of the present shareholders.

iii. With its available internal accruals and resources, the acquirer can invest only up to Rs.3.6 crores instead of the entire requirement of Rs.5.00 crores. The balance is arranged by making preferential allotment of warrants to non-promoters.

iv. If the acquirer is forced to make an open offer to extend the financial support by contributing to 20,00,000 warrants @ Rs.18, then it would be forced to reconsider its decision as it has no intention to acquire the shares form the existing shareholders or to consolidate its position.

v. The acquirer has no objection to cooperate with target company even if majority of the contribution is called upon by the Target company to be paid in advance if the situation contemplates.

4.2 The acquirer vide letter dated August 9, 2007 inter alia stated that it did not opt for other modes of issues because of the expenses and time involved.

4.3 SEBI granted a further opportunity of hearing to the acquirer on August 27, 2007 which was adjourned to September 04, 2007, as per its request. Shri. Vinay Chauhan, counsel as authorized by the acquirer appeared before me on September 04, 2007 and made submissions on its behalf. The Company Secretary of the target company was also present at the time of hearing. The learned counsel inter alia submitted that the proposed preferential allotment of shares of the target company to the acquirer would be subject to lock-in as specified under the provisions of Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 (DIP

Guidelines). Pursuant to the said hearing, the acquirer vide letter dated September 6, 2007 inter alia stated that the target company is in the process of acquiring land directly from the private parties for the purpose of its expansion project. The acquirer also forwarded copy of the following documents with the said letter.

i. Copy of the minutes of the Consortium Meeting of State Bank of India with the Target Company held on March 15, 2007.
ii. Copy of the letter dated May 25, 2007 of Ministry of Commerce & Industry, Government of India, New Delhi to set up new unit in West Bengal.
iii. Copy of Target Company's loan proposal letter dated July 15, 2007 addressed to the State Bank of India and State Bank of Hyderabad.
iv. Copy of letter dated August 23, 2007 of State Bank of Hyderabad informing the target company to arrange margin money towards the partial cost of the project by way of Equity Share Capital.
v. Copy of letter dated September 6, 2007 of State Bank of India informing the target company to infuse additional capital and margin money.
vi. Copy of the reply letter dated September 6, 2007 of the target company addressed to the State Bank of India giving reply for their letter dated September 6, 2007.
vii. Certificate by the Chartered Accountant on the total expenditure incurred by the target company from April 1, 2007 to August 31, 2007 for the expansion project.

5.0 CONSIDERATION OF ISSUES AND FINDINGS

5.1 I have carefully considered the application dated March 20, 2007 filed by the acquirer, the report of the Takeover Panel, the oral submissions made on behalf of the acquirer, the copies of various letters/documents forwarded by the acquirer as mentioned above and other relevant materials available on record.

5.2 I note that the acquirer is one of the promoters of the target company and holding 18.67% (individually) of the total equity capital of the target company and the promoter group (including the acquirer) holds 38.30% equity shares of the target company. Pursuant to the proposed acquisition, the shareholding of the acquirer in the target company would increase from 18.67% to 32.68% of the total voting capital of the target company (considering the expanded capital, assuming the conversion of the warrants) and that of the promoter group would increase from 38.30% to 46.04%, of the total voting capital of the target company.

5.3 The acquirer stated that, though the target company is making profits, it faces tough competition from the industry and therefore, it required additional funds for the purpose of its expansion. As per the acquirer, the total cost of the expansion project of the target company is Rs 17.86 crores and that Rs. 12.8 crores is stated to be financed by banks. It has been mentioned in the copy of the minutes of the consortium meeting of the target company held on March 15, 2007, that the target company is planning to put up a plant near Orissa / West Bengal border to cater to the needs of eastern and northern markets. The acquirer has also produced a copy of the letter dated August 23, 2007 of State Bank of Hyderabad, Industrial Finance Branch, Chennai (one of the consortium banks) addressed to the target company, in which it has been mentioned that the proposal for sanction of credit facilities (in respect of setting up a unit in Kharagpur in West Bengal) is under its consideration and the said bank has further advised the target company to bring the margin money towards the partial cost of the project by way of equity share capital.

5.4 I also note that the target company has filed a proposal letter to the State Bank of India, Commercial Branch, Chennai (the lead bank of the consortium) informing about its expansion project and the term loan required under the Technology Upgradation Fund. The said bank vide its letter dated September 6, 2007 informed the target company that the above proposal is under its consideration and it further requested the target company to explore the possibility to infuse additional capital so as to reduce the Debt – Equity ration to 2:1. The said bank also advised the target company to bring the margin money towards the partial cost of the project by way of equity capital. I note from the certificate dated September 6, 2007 issued by M. Srinivasan and Associates (Chartered Accountants) that the target company had already spent a sum of Rs.1,88,115/- from April 1, 2007 to August 31, 2007 towards its expansion project at Kharagpur.

5.5 I also note that the target company in its letter dated September 6, 2007 informed the Bank that once the issue of equity share warrants are over, the funds invested by the acquirer would be utilized towards the partial cost of the project. I also note that the acquirer belonged to the promoter group of the target company and that there would not be any change in control pursuant to the proposed acquisition.

5.6 I note that the proposed acquisition is in the interest of the target company. The target company is also advised by the banks to infuse margin money towards the partial cost of the project by way of equity capital. I have noted that the intention of the acquirer is to meet the expansion activities over and above the credit facilities availed and to meet the stipulations imposed by the banks, as stated above.

5.7 In view of the above facts and circumstances, I agree with the recommendations of the Takeover Panel and consider the present case as a fit case for granting exemption complying with regulation 11(1) of the Takeover Regulations.

6.0 ORDER

6.1 In view of the above findings, I , in exercise of the powers conferred by virtue of section 19 of the Securities and Exchange Board of India Act, 1992 read with sub - regulation (6) of regulation 4 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, hereby grant exemption to the acquirer, M/s Balaji Trading Enterprises Pvt. Ltd. from complying with the provisions of Regulation 11(1) of Securities ad Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 with regard to the proposed preferential allotment of 20 lacs equity share warrants (convertible into equity shares) of Jumbo Bag Ltd. subject to the condition that the target company and the acquirer shall comply with the relevant norms including the norms regarding the pricing specified in Securities and Exchange Board of India (Disclosure and Investor Protection) Guidelines, 2000 in respect of the proposed preferential allotment.

6.2 I further direct that the formalities in respect of proposed preferential allotment shall be completed within 90 days of receipt of this order and the acquirers shall file a report with Securities and Exchange Board of India in the manner specified in Regulation 3(3), 3(4) read with regulation 3(5) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.

G. ANANTHARAMAN
WHOLE TIME MEMBER

SECURITIES AND EXCHANGE BOARD OF INDIA

Place: Mumbai
Date: 14.09.2007