

**SECURITIES AND EXCHANGE BOARD OF INDIA**

**ORDER**

**IN THE MATTER OF PROPOSED ACQUISITION BY PREFERENTIAL ALLOTMENT OF EQUITY SHARES OF NITIN SPINNERS LIMITED BY REDIAL TRADING & INVESTMENTS PRIVATE LIMITED AND OTHERS - EXEMPTION APPLICATION FILED UNDER REGULATION 4 (2) OF SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 1997**

**1.0 BACKGROUND**

1.1 Nitin Spinners Limited (hereinafter referred to as the target company) is a company incorporated under the Companies Act, 1956, having its registered office at J16-17 Km. Stone, Chittor Road, Hamirgarh, Bhilwara-311 025. The equity shares of the target company are listed on the Bombay Stock Exchange Limited (hereinafter referred to as BSE) and the National Stock Exchange of India Limited (hereinafter referred to as NSE).

**2.0 APPLICATION SEEKING EXEMPTION**

2.1 Redial Trading & Investments Private Limited, vide letter dated July 20, 2009 made an application to the Securities and Exchange Board of India (hereinafter referred to as SEBI) under Regulation 4(2) read with Regulation 3(1)(I) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the Takeover Regulations). The said application was filed on behalf of Redial

Trading & Investments Private Limited, Greenfield Securities Private Limited, Prasham Corporate Services (India) Private Limited, Dolphin Carriers Private Limited, Ratan Lal Nolkha HUF, Dinesh Nolkha HUF and Ranjeeta Nolkha HUF (hereinafter collectively referred to as the acquirers). It is stated in the application that the acquirers belong to the promoter group of the target company. The said application was with respect to the proposed preferential allotment of 50,00,000 equity shares of the target company against promoters' contribution as per the Corporate Debt Restructuring (hereinafter referred to as CDR) Scheme, which would increase the shareholding of the promoter group from the present level of 54.99 % of the paid up capital to 59.90 % of the increased share capital. Accordingly, the acquirers filed the present application seeking exemption from the provisions of Regulation 11 (1) of the Takeover Regulations, *inter alia*, on the following grounds:

- (a) As per CDR Cell's approval dated June 16, 2009, promoters of the target company are required to contribute minimum 15% of the present value of the 'sacrifice of interest by the Banks' or Rs. 5 Crores, whichever is higher, out of which at least 50% should be by way of equity share capital.
- (b) The Board of Directors of the target company were of the view that the promoters should bring total funds by way of equity shares through preferential allotment route since in other routes i.e. preference shares, unsecured loans, etc. there shall be further burden of dividend/interest on the target company. Rights issue is also not possible since the shares of the target company are quoted below par and it involves substantial statutory formalities and expenses.

- (c) The proposed preferential allotment shall be made in accordance with the provisions of the Companies Act, 1956 and other relevant guidelines.
- (d) The target company shall not cause any violation of the condition of continuous listing prescribed under Clause 40 A of the listing agreement.

2.2 The shareholding pattern of the target company before and after the proposed allotment, as per the aforesaid application, is as under:-

Category	No. of shareholders	Before the proposed acquisition		After the proposed acquisition	
		No. of shares	%	No. of shares	%
Promoter Group (including Acquirers)	16	2,24,56,404	54.99	2,74,56,404	59.90
FIs / Banks	1	5,18,029	1.27	5,18,029	1.13
FIIIs / NRIs / OCBs	79	1,79,519	0.44	1,79,519	0.39
Public	18,250	1,76,79,993	43.30	1,76,79,993	38.58
TOTAL	18,616	4,08,33,945	100	4,58,33,945	100

### 3.0 FURTHER SUBMISSIONS BY THE ACQUIRERS

3.1 Upon receipt of the aforesaid application, SEBI advised the acquirers to submit a copy of the shareholder's resolution approving the proposed preferential allotment. Redial Trading & Investments Private Limited, vide letter dated August 11, 2009 (received on August 24, 2009) informed SEBI that the shareholders approval would be obtained in the Annual General Meeting scheduled on September 29, 2009 and requested that the matter may be kept pending till that time. Thereafter, Redial Trading & Investments Private Limited forwarded the certified true copy of shareholders' resolution, vide letter dated

October 6, 2009 (received by SEBI on October 15, 2009). Thereafter, SEBI advised the acquirers to inform the current status of implementation of the CDR scheme. In response, Redial Trading & Investments Private Limited, vide letter dated November 16, 2009, furnished a letter from the monitoring institution of the CDR Cell, viz. Oriental Bank of Commerce, specifying the present status of implementation of the various conditions stipulated in the CDR package.

#### **4.0 RECOMMENDATION OF THE TAKEOVER PANEL**

4.1 The aforesaid application was forwarded by SEBI to the Takeover Panel in terms of Regulation 4 (4) of the Takeover Regulations and the Takeover Panel, vide report dated December 21, 2009 has recommended as under:

*“The proposed allotment of equity shares is pursuant to the recommendations of CDR Cell. Further, the proposal of Preferential Allotment has been approved by the shareholders of the Company at its Annual General Meeting held on September 29, 2009. The Panel also noted that the Right Issue is not possible as the Target Company’s shares are being quoted below par. Giving due weightage to all these factors, the Panel found the proposal to be in the interest of the public shareholders whose shareholding even after proposed Preferential Allotment would be 40.10%. The Panel therefore recommended exemption to the Applicant subject to compliance of other relevant provisions in the Companies Act, 1956, SEBI Regulations and Listing Agreement.”*

#### **5.0 FINDINGS**

5.1 I have carefully considered the application dated July 20, 2009, further submissions made on behalf of the acquirers, recommendation of the Takeover Panel, and other relevant materials available on record.

5.2 I note that the preferential allotment of 50,00,000 shares is proposed to be made to the acquirers by the target company pursuant to the CDR scheme. I further note from the application that the acquirers form part of the promoter

group of the target company and are currently holding 54.99 % in the target company. Pursuant to the proposed acquisition, their shareholding would increase to 59.90 % of the enhanced equity capital of the target company. This would trigger Regulations 11(1) and 11(2) of the Takeover Regulations. It is also informed by the acquirers that there would not be any change in control pursuant to the proposed preferential allotment as the acquirers together with others in the promoter group are already having control over the target company. I also note that even after the proposed acquisition, the public shareholding in the target company is at a level more than what is required for meeting the conditions for continuous listing. Further, I note that the proposed allotment of shares has already been approved by the shareholders of the target company at their Annual General Meeting held on September 29, 2009 and that the same has been passed after making all requisite disclosures to the shareholders in the notice of Annual General Meeting and explanatory statement thereto. It is submitted by the acquirers that the proposed preferential allotment shall be in accordance with the applicable laws.

5.3 In view of the above, I agree with the recommendations of the Takeover Panel and consider the present case a fit one for granting exemption from the provisions of Regulation 11(1) and (2) of the Takeover Regulations.

## **6.0 ORDER**

6.1 In view of the above findings, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with Regulation 4(6) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, hereby grant exemption to the acquirers, Redial Trading & Investments Private Limited, Greenfield Securities Private Limited, Prasham Corporate Services (India) Private Limited, Dolphin Carriers Private Limited, Ratan Lal Nolkha HUF,

Dinesh Nolkha HUF and Ranjeeta Nolkha HUF from complying with the provisions of Regulation 11(1) and (2) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, with regard to the proposed preferential allotment of 50,00,000 shares of the target company, Nitin Spinners Limited, at a price of Rs. 10/- per share.

6.2 The exemption is granted subject to the following conditions:

(a) The statements/averments made/facts or figures given in the application are true and correct to the best knowledge of the acquirers.

(b) Acquirers shall ensure compliance with the statements, disclosures and undertakings made in the application and the subsequent letters.

(c) The proposed preferential allotment shall be in accordance with the Companies Act, 1956, the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, the Listing Agreement and other applicable laws.

(d) There shall be no reduction in the minimum level of public shareholding pursuant to the proposed preferential allotment and that the target company shall maintain the minimum level of public shareholding, as required in terms of the listing agreement.

6.3 This exemption shall not be construed as exemption from the requirements of other provisions of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (e.g. disclosure requirements under Chapter II), the Listing Agreement or any other law.

6.4 The acquirers shall complete the proposed transaction within thirty days from the date of this Order and file a report with Securities and Exchange Board of India in the manner specified in Regulation 3(4) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 read with Regulation 3(5) thereof, confirming compliance including conditions specified in this order.

**DR. K. M. ABRAHAM  
WHOLE TIME MEMBER  
SECURITIES AND EXCHANGE BOARD OF INDIA**

**PLACE: MUMBAI  
DATE: JANUARY 25, 2010**