

SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM: DR. K M ABRAHAM, WHOLE TIME MEMBER.

ORDER

IN THE MATTER OF PROPOSED ACQUISITION OF EQUITY SHARES OF SHILP GRAVURES LIMITED – 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 M/s Shilp Gravures Limited (hereinafter referred to as the target company) is a company incorporated under the Companies Act, 1956, and having its registered office at 780, Pramukh Industrial Estate, Rakanpur Village, Kalol Taluka, Gandhinagar District, Gujarat - 382721. The equity shares of the target company are listed on the Bombay Stock Exchange Ltd. (BSE)
- 1.2 Mr. Vithal Das Patel & family, Mr. Baldev Patel & family, Mr. Dashrath Patel & family, Mr. Vishnu Patel & family, Mr. Suman Patel & family, Mr. Ambar Patel & family, Mr. Roshan Shah & family, Mr. Gajanan V Bhavsar & family, Mr. Narendra Patil & Family, Mr. Atul Vinchhi & family (hereinafter collectively referred to as acquirers) are promoters and persons belonging to the promoter group of the target company. The acquirers are holding 25.32% shares in the target company and together with other promoters, they are collectively holding 52.44% equity shares in the target company. The target company proposes to

issue preferential allotment of 12,90,323 equity warrants (at a price of Rs. 62/- each), convertible into 12,90,323 equity shares of Rs. 10/- each at a price of Rs. 62/- per share aggregating to Rs. 800 lacs, to the acquirers. The target company also proposes to issue 80,645 equity warrants (at a price of Rs. 62/- each), convertible into 80,645 equity shares of Rs. 10/- each at a price of Rs. 62/- per share aggregating to Rs. 50 lacs to one Mr. Tarunkumar Raval and Ms. Punam Tarunkumar Raval. The aforesaid issue of equity warrants are on preferential basis.

2.0 APPLICATION FOR EXEMPTION

2.1 The aforesaid proposed preferential allotment of equity warrants would increase (on conversion), the shareholding of the acquirers in the target company from 25.32% to 37.86% and that of the promoter group (including acquirers) from 52.44% to 60.04%. The said proposed acquisition would trigger Regulations 11(1) and 11(2) of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the Takeover Regulations). In view of the above, the target company, vide letter dated June 12, 2008, filed an application with Securities and Exchange Board of India (hereinafter referred to as SEBI) under Regulation 4(2) read with Regulation 3(1) (I) of the Takeover Regulations. Since, the post acquisition shareholding of acquirer would increase to a level beyond 55%, the exemption is sought from the applicability of Regulations 11(1) and 11(2) of the Takeover Regulations, inter alia on the following grounds:-

- i) The target company is planning a major expansion programme both vertically and horizontally. The total funds (Rs 8.5 Crore)

required for the same, is proposed to be funded by the issue of equity warrants on a preferential basis for cash.

ii) The target company has exhausted all the credit limits that it currently enjoys with its Bankers. The target company is not very keen on obtaining further loans as it would affect the healthy Debt Equity ratio that it currently has.

iii) The expansion programme would add value, profitability and other financial conditions of the target company.

iv) If acquirers have to make an open offer, the target company might have to reconsider its plans, as they (acquirers) are not interested in further consolidation of their position or in acquiring shares from the existing shareholders of the target company.

v) The acquirers are also not interested in making a rights issue or a public issue of securities for raising the funds because of time and the expense involved.

2.2 The shareholding pattern of the target company before and after the proposed acquisition (as mentioned in the aforesaid application) is as under:

Shareholders' category	Number of registered shareholders as on the date of application	Before the proposed acquisition		After the proposed acquisition	
		Number of shares/ total voting rights held	Percentage of shares/ total voting capital held	Number of shares/ voting rights	Percentage of shares/ total voting rights
Promoter group/	50	15,57,277	25.32	28,47,600	37.86

Acquirers					
Foreign Promoters					
a) Individuals	23	16,67,863	27.12	16,67,863	22.18
Total (A)	73	32,25,140	52.44	45,15,463	60.14
B. Public shareholding					
1. Institutions					
a) Mutual Funds	1	200	0.00	200	0.00
b) Financial Institutions					
2. Non Institutions					
a. Bodies					
Corporate	113	1,88,958	3.07	1,88,958	2.51
b. Individuals	5060	27,25,291	44.33	28,05,936	37.31
c. Clearing Members	24	10,211	0.17	10,211	0.13
Total (B)	5198	29,24,660	47.56	30,05,305	39.96
Grand Total	5271	61,49,800	100	75,20,768	100

3.0 RECOMMENDATION OF THE TAKEOVER PANEL

- 3.1 The application filed by the target company was forwarded by SEBI to the Takeover Panel in terms of Regulation 4 (4) of the Takeover Regulations. The Takeover Panel, vide report dated July 12, 2008, inter alia observed that the proposal was not found to be in the interest of the public shareholders and accordingly, had not recommended the grant of exemption from the provisions of the Takeover Regulations in respect of the proposed acquisition of shares (on conversion of warrants).
- 3.2 The report of the Takeover Panel was forwarded to the target company by SEBI on July 30, 2008. Further, an opportunity of hearing was also granted to the acquirers on August 06, 2008 to make its submissions. Mr. Ambar Patel (Managing Director of the target company) along with Mr. Nipam Shah (Chartered Accountant) and Ms. Shailashri Bhaskar (Company Secretary) appeared before me and made submissions on

behalf of the acquirers / target company, on the said date. It was inter alia submitted before me that the acquirers belong to the promoter group of the target company and that, pursuant to the proposed acquisition of shares (on conversion of warrants), there would not be any change in control over the target company. According to them, ABN Amro Bank had sanctioned a term loan of Rs. 5 Crore and that the target company was contemplating to raise further term loan of Rs. 5 Crore. They also submitted that, the stipulations of ABN Amro Bank required the target company to raise its equity capital up to Rs. 8.5 Crore. The representatives further submitted that the present funding requirement is Rs. 5 Crore and then Rs. 3.5 Crore and that two rights issue, in the present stock market conditions would be very expensive and time consuming. They added that the said delay would ultimately delay the implementation of the capital projects by at least six months.

- 3.3 According to the representatives, the allotment of shares on preferential basis is not considered detrimental to the interest of the shareholders of the target company and instead, the said route is quicker and less expensive. In view of the above submissions, the acquirers requested to grant exemption. Thereafter, the target company, vide letter dated August 11, 2008 (received by SEBI on August 18, 2008) made written submissions inter alia on the above lines.

4.0 FINDINGS

- 4.1 I have considered the application filed by the target company, the aforesaid recommendations of the Takeover Panel, oral as well as written submissions made on behalf of the target company/acquirers and materials available on record.

4.2 It is an admitted fact the acquirers belong to the promoter group of the target company and that their proposed acquisition of equity shares (on conversion of warrants) would enhance the shareholding of the promoter group (including acquires) in the target company from 52.44% to 60.04%. The exemption is sought from the applicability of Regulations 11(1) and 11(2) of the Takeover Regulations. I note that the proposed acquisition of equity shares (on conversion of warrants), by the acquirers would not result in any change in control over the target company. It is the case of the acquirers/target company that latter is planning a major expansion programme both vertically and horizontally. According to the target company, ABN Amro Bank had sanctioned a term loan of Rs. 5 Crore and that it (target company) was contemplating to raise further term loan of Rs. 5 Crore. The target company also stated that the stipulations of ABN Amro Bank required it to raise its equity capital up to Rs. 8.5 Crore. However, according to the target company, other modes of raising equity (such as rights issue) would be expensive and time consuming. In my view, the said contention, by itself, is not sufficient enough to grant exemption from complying with the provisions of the Takeover Regulations, in respect of the proposed acquisition of equity shares (on conversion of warrants). In this regard, I also note the submission made in the application dated June 12, 2008 that the performance of the target company has been consistently good and that it has declared dividend, every year, since 1996-1997. The public shareholding in the target company (as per the application) is substantial and is about 40%, even after the proposed acquisition. The objective of the public announcement as contemplated in the Takeover Regulations is to provide the shareholders of the target company an exit opportunity, in case, an acquirer acquires substantial stake in the target company or

control over the target company. If the acquirers are exempted from complying with the provisions of the Takeover Regulations in respect of their proposed acquisition, the public shareholders of the target company would be denied of an opportunity provided under the provisions of the Takeover Regulations. Further, the proposed acquisition is not pursuant to any debt restructuring scheme, wherein such a request for exemption would have merited a different treatment. The Takeover Panel in its report has inter alia observed that that the proposal of the target company was not taken to the Annual General Meeting for shareholders approval. In the facts and circumstances of the present case, exempting the acquirers from complying with the provisions of Takeover Regulations would not be in the interest of shareholders of the target company.

- 4.3 The grounds specified in the application made by the target company or the subsequent submissions made on behalf of the target company/ acquirers are not convincing enough to grant exemption as sought by them. In the above facts and circumstances, I do not find this as a fit case for grant of exemption to the acquirers, from complying with the provisions of the Takeover Regulations, in respect of their proposed acquisition of 12,90,323 equity shares (on conversion of 12,90,323 equity warrants) of the target company. In view of the above, I agree with the recommendations of the Takeover Panel.

5.0 ORDER

- 5.1 In view of the above findings, I, in exercise of the powers conferred upon me by virtue of 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 dispose off the application dated June 12, 2008 filed by the target company, Shilp Gravures Limited in respect of the proposed acquisition of its 12,90,323 equity shares (on conversion of 12,90,323 equity warrants) by acquirers namely, Mr. Vithal Das Patel & family, Mr. Baldev Patel & family. Mr. Dashrath Patel & family, Mr. Vishnu Patel & family, Mr. Suman Patel & family, Mr. Ambar Patel & family, Mr. Roshan Shah & family, Mr. Gajanan V Bhavsar & family, Mr. Narendra Patil & Family, Mr. Atul Vinchhi & family.

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

Place: Mumbai

Date: September 08, 2008