



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

GENERAL MANAGER
CORPORATION FINANCE DEPARTMENT

SEBI/HO/CFD/DCR1/OW/P/2019/14501/1
Jun 11, 2019

Goldcrest Corporation Ltd.
3rd Floor, Devidas Mansion,
Mereweather Road, Colaba,
Mumbai – 400 039
Maharashtra
manish@goldcrestgoup.com

Kind attention: Mr. /Ms. Anupa Tanna Shah (Managing Director)

Dear Sir,

Sub: Request for informal guidance by way of "Interpretive Letter" under the SEBI (Informal Guidance) Scheme, 2003 in relation to SEBI (Delisting of Equity Shares) Regulations, 2009 in the matter of Bhor Industries Ltd & Goldcrest Corporation Ltd.

1. This has reference to your letter dated Apr 15, 2019 on the captioned subject.
2. In your letter under reference, you have, *inter alia*, represented as under:
 - a. *Gold crest Corporation Ltd.(GCL)" (formerly known as Goldcrest Finance (India) Ltd.) was incorporated on February 25, 1983 under the provisions of The Companies Act, 1956. The company is engaged in the business of maintaining and operating a tech park and other ancillary businesses. GCL is a listed entity and equity shares of GCL are listed BSE Limited (BSE).*
 - b. *Bhor Industries Ltd. (BIL) is a company that was erstwhile listed on National Stock Exchange of India Limited ("NSE") and BSE Limited ("BSE"). Pursuant to circular no. NSE/CML/34323 dated March 06, 2017 of NSE and notice no. 2017/0821-27 dated August 21, 2017 of BSE, the promoters of BIL were required to undertake an exit offer to the public shareholders of BIL under the compulsory delisting route. Subsequently the promoters of BIL undertook the open offer in consultation with NSE and merchant bankers and have provided an exit opportunity to the public shareholders. Accordingly, the equity shares of BIL was compulsorily delisted from the respective stock exchanges.*
 - c. *In accordance with regulation 24 of delisting regulations, BIL its whole time directors its promoters and the companies which are promoted by any of them were prohibited from accessing the securities market or seeking listing for any equity shares for a period of ten years from the date of such delisting. BiL was a jointly promoted entity by three family groups and Mr. Tushar Tanna as one of the directors of BIL represented the interest of one of the family groups. Due to various business reasons, the business of BIL was discontinued and BIL was*

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सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बान्द्रा कुर्ला कॉम्प्लेक्स, बान्द्रा (पूर्व), मुंबई - 400 051.
दूरभाष : 2644 9950 / 4045 9950 (आई.बी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in

SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051
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also in the past referred to Board of Industrial and Financial Reconstruction. Mr. Tushare Tanna is also a promoter of GCL, which is an independent listed entity without the involvement of other two family groups.

- d. It is further pertinent to note that shareholding ownership of Mr. Tushar Tanna in GCL has significantly reduced over past years and Mr. Tushar Tanna currently owns only 0.01% representing 418 shares in GCL. Prior to July 2007, Mr. Tushar Tanna owned 14.60% representing 8,86,400 shares in GCL. Mr. Tushar Tanna is also no longer director on the board of GCL, but due to his earlier capacity as a promoter of GCL, the restrictions under regulation 24 of the delisting regulations were also applicable to GCL. In addition, it is pertinent to note that the directors in BIL and the composition of the BOD is completely unrelated to that of GCL.
- e. GCL is a listed entity in its own right and has 25.11% public shareholding. GCL is a well-managed company being in compliance with securities and other laws.
- f. GCL has various real estate assets that have been leased out to lessees on a long-term basis. As a part of business requirement, GCL is exploring the divestiture of whole or part of its real-estate assets to potential buyers. Accordingly, the following alternatives are being considered by you:
- i. **Scenario 1: Sale of entire business by way of transfer of shareholding of GCL to the buyer group:**
Under this alternative, GCL's existing promoter and promoter group may sell their entire controlling stake and management control to a potential buyer entity, who shall acquire such controlling stake and the management control, subject to compliance of applicable law, including compliance of open offer process under SEBI (SAST) Regulations, 2011. Further, since the entire existing promoter group will divest its shareholding, post the consummation of contemplated transaction and the open offer, the existing promoter and promoter group of the GCL shall no longer be associated with GCL.
- ii. **Scenario 2: Sale of part of business of GCL by way of a demerger through a NCLT scheme**
Under this alternative, GCL is exploring a de-merger of its specified business into a new entity in accordance with section 2(19AA) of Income-tax Act, 1961 and other applicable law, if any. The resulting entity would have mirror shareholding patten as that of GCL.

Queries:-

3. In view of the above, you have sought guidance from SEBI on the following:
- a. Scenario 1: Considering the provisions of regulation 24 of Delisting Regulations read with SEBI circular no. SEBI/HO/CFD/DCR/CIR/P/2016/81 dated September 07, 2016 ("SEBI Circular), if the existing promoter and promoter group sell their entire shareholding and cease management control in favor of an independent third party, whether the restrictions mentioned in regulation 24 will continue on GCL, under its new management (inducted after compliance of open offer requirements under SAST), considering that Mr. Tushar Tanna and the existing promoters and promoter group, will have no direct or indirect shareholding, management participation and any involvement in GCL?
- b. Scenario 2: Considering the provisions of regulation 24 of Delisting Regulations read with SEBI circular no. SEBI/HO/CFD/DCR/CIR/P/2016/81 dated September



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07, 2016 ("SEBI Circular), if GCL undertakes a demerger under a scheme as approved by the Stock Exchanges and NCLT under section 230-240 of the Companies Act, 2013, whether the restrictions mentioned in regulation 24 will be imposed on the new entity, considering that the demerger is through a scheme approved by NCLT with all the compliances under applicable law and further, and the existing GCL continues to operate with the applicable restrictions under regulations 24?

4. With respect to Scenario 1, you have stated that post the open offer by the acquirer under SAST, the entire shareholding of the promoter and promoter group of GCL (including that of Mr. Tushar Tanna, being the debarred individual) shall be acquired by the new acquirer. As per your understanding, as the restrictions are applicable on GCL solely on account of the debarred individual being the promoter of GCL, the restriction, if imposed on GCL having new promoters would be detrimental to the interests of general public shareholders and new promoters of GCL.
5. With respect to Scenario 2, you have stated that GCL will be demerged through NCLT driven process. Post the demerger, the shareholding of the debarred individuals would be at a fraction of 0.01% of the overall share capital and therefore, the resultant new entity will not be promoted by the debarred individuals nor has any meaningful shareholding of the debarred individual. In this situation, you have raised the query as to whether in this case, the resultant new entity should also be exposed to the restrictions under regulation 24 of the Delisting Regulations? You have further stated that GCL, being the demerged company will continue to operate under the restrictions of regulation 24 of the Delisting Regulations.

Our Comments

6. We have considered the submissions made by you and without necessarily agreeing with your analysis, our views on the queries are as follows:
 - (a) Regulation 24 of Delisting Regulations, 2009 reads as under:
"Consequences of compulsory delisting.
24. Where a company has been compulsorily delisted under this Chapter, the company, its whole time directors, its promoters and the companies which are promoted by any of them shall not directly or indirectly access the securities market or seek listing for any equity shares for a period of ten years from the date of such delisting."
 - (b) Regulation 24 clearly provides that where a company is compulsorily delisted under this chapter, the company, its whole time directors, its promoters and the companies which are promoted by any of them shall not, directly and indirectly, access the securities market or seek listing for any equity shares for a period of ten years from the date of such delisting.
 - (c) In the instant case, as BIL was compulsorily delisted from the both stock exchanges having nationwide terminals viz. BSE & NSE and thus, the consequences of regulation 24 would be applicable on the company, its whole time directors, its promoters and the companies which are promoted by any of them thereby restricted



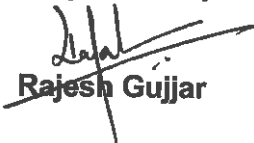
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them either directly and indirectly to access the securities market or seek listing for any equity shares for a period of ten years from the date of such delisting.

- (d) Further, as Mr. Tushar Tanna was a promoter of BIL (which was compulsorily delisted from both BSE & NSE) and in addition, happened to be a promoter of GCL, the consequences of Regulation 24 of the Delisting Regulations were applicable on GCL also.
- (e) Thus, with respect to the query at 3(a) above, under scenario 1, it may be noted that in terms of Regulation 24 of the Delisting Regulations the said transaction would not absolve the said entity, i.e. Mr. Tushar Tanna from the intended compliance of Regulation 24 of the Delisting Regulations and the restriction on 'accessing the securities market' would continue on him, till expiration of 10 years from the date of delisting of BIL.
- (f) With regard to GCL, as Mr. Tushar Tanna would no longer be associated with GCL as a promoter or as shareholder or in management, the restriction under the said regulation would not continue on GCL as it would then be functioning under a new management/shareholders.
- (g) With respect to query at 3(b) above, Regulation 24 of the Delisting Regulations bars the company which is compulsorily delisted, its whole time directors, its promoters and the companies which are promoted by any of them from accessing the capital market for a period of ten years. In the instant case, it is understood that upon de-merger, the newly formed company would have mirror shareholding pattern as that of GCL. In view of the same, the restriction under the said regulation would be applicable on the newly formed entity also.
7. Vide your aforesaid letter, you have requested for confidentiality in respect of your application. Accordingly, it has been decided that the no-action letter issued to you in this matter will not be made public for a period of 90 days from the date of issuance of this letter.
8. The above position is based on the information furnished in your letter under reference. Different facts or conditions might lead to a different result. Further, this letter does not express a decision of the Board on the questions referred.
9. You may also note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009 and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,


Rajesh Gujjar