

NATIONAL LAW UNIVERSITY, DELHI

B.A.LLB.(Hons.): IV-YEAR, VIII-SEMESTER (2012 Batch) Special Repeat Examinations, July-2017

Paper 8.1: Corporate Law--II

Time: 3 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer.
2. No clarification shall be sought on the question paper.
3. Do not write anything on the question paper except your Roll No.

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- Q.1) In 2012, promoters of ABC Ltd. in order to have mandatory 25% public shareholding made an offer for sale. 94% of this offer was subscribed by six foreign institutional investors which were related entities of E Group. Offer price for such shares was less than the trading price. The parent company of ABC Ltd. had 75% shareholding in the company. ABC Ltd. later on wanted to give delisting offer and for this purpose, a resolution was passed in the shareholders meeting. Related entities of E group voted in favour of delisting out of public shareholding. Offer price was fixed through reverse book building process. Few minority shareholders appealed to SEBI that the discovered price was not a fair exit price as there was collaboration between E Group and the parent company.
- a. Referring to the relevant regulations, suggest the price discovery mechanism and also give your opinion on whether price in the case was a fair price? **(Marks 10)**
 - b. Discuss the rights of the shareholders in the delisting offer. **(Marks 9)**
- Q.2) XYZ Ltd is a company registered with SEBI. SEBI received a complaint of insider trading that there has been a sale of 10% shares of XYZ Ltd. by PQR Ltd. The sale was made to ABC Ltd. and just before the sale happened, PQR Ltd. had increased its stake in XYZ Ltd to 15%. Earlier its shareholding was only 8%. When shares were purchased by PQR Ltd, price was Rs. 120/- per share. However, when shares were sold by it, selling price was Rs. 500/- per share. The promoters of PQR Ltd. were reasonably expected to have access to this deal as they were directors on the board of XYZ Ltd. PQR Ltd. is deemed to be connected person with XYZ Ltd.
- i) On the basis of the above mentioned facts, comment whether it is a case of insider trading under the relevant SEBI regulations?
 - ii) Differences between provisions of Companies Act 2013 and SEBI on Prohibition of Insider Trading in India. **(Marks 6*2=12)**
- Q.3) Write notes on the following citing relevant examples: **(Marks 5*2=10)**
- i) Combinations
 - ii) Anti-competitive agreements likely to have adverse effect on competition
- Q.4) Write short notes on the following: **(Marks 4*2=8)**
- i) Prohibition of Manipulative, Fraudulent and Unfair Trade Practices
 - ii) Collective Investment Schemes
- Q.5) Please go through the draft letter of offer filed by Clear Wealth Consultancy Services LLP and explain the following concepts: **(Marks 3*7=21)**
- i) Substantial acquisition of shares, voting rights and control
 - ii) Conditional offer
 - iii) Competing offer
 - iv) The obligation of the acquirer company
 - v) The Obligation of the target company
 - vi) Whether the open offer is a valid offer? Give reasons.
 - vii) Whether Clear Wealth Consultancy Services LLP can withdraw this open offer once made? Give reasons.

P.T.O.

DRAFT LETTER OF OFFER

THIS DOCUMENT IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION

This Letter of Offer is sent to you as an equity shareholder of Gokaldas Exports Limited (Target Company). If you require any clarifications about the action to be taken, you may consult your stock broker or investment consultant or Manager to the Offer / Registrar to the Offer (as defined below). In case you have recently sold your equity shares in the Target Company, please hand over the Letter of Offer, the accompanying Form of Acceptance-cum-Acknowledgement and Transfer Form (Form SH-4) to the member of stock exchange through whom the said sale was effected.

Open Offer by Clear Wealth Consultancy Services LLP (Acquirer)

Registered Office: 305, Enterprise Centre, Nehru Road, Vile Parle (East), Mumbai 400 099; Tel. No.: +91- 22-6127 5425; LLPIN:AAI-7916.

together with Mathew Cyriac (PAC I)

Residing at: 1908, 19th Floor, B. B. Nakashe Marg, Imperial North Tower, Tardeo, Mumbai 400 034;

Gazania Advisory LLP (PAC II)

Registered Office: 305, Enterprise Center, Nehru Road, Vile Parle (East), Mumbai 400 099; LLPIN:AAI-6744.

Westex Infotech Private Limited (PAC III)

Registered Office: 305, Enterprise Centre, Near Orchid Hotel, Nehru Road, Vile Parle (East), Mumbai 400 099; CIN: U51100MH2005PTC150970.

Gautham Madhavan (PAC IV)

Residing at: B-405, Manju Mahal, 35, Nargis Dutt Road, Pali Hill, Bandra (West), Mumbai 400 050;

(PAC I, PAC II, PAC III and PAC IV, are collectively referred to as PACs in their capacity as persons acting in concert with the Acquirer) to acquire 91,79,993 (Ninety One Lakhs Seventy Nine Thousand Nine Hundred Ninety Three) fully paid-up equity shares of Rs. 5/- each representing 26% of Expanded Voting Share Capital of Gokaldas Exports Limited (Target Company)

Registered Office: No. 16/2, Residency Road, Bengaluru - 560 025; CIN: L18101KA2004PLC033475.

at a price of Rs. 63.25 (Rupees Sixty Three and Twenty Five Paise Only) per fully paid-up equity share payable in cash pursuant to Regulations 3(1) and 4 of Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and subsequent amendments thereto (SEBI (SAST) Regulations, 2011)

1. This Open Offer is being made by the Acquirer along with PACs pursuant to Regulations 3(1) and 4 of the SEBI (SAST) Regulations, 2011 for substantial acquisition of Equity Shares and voting rights accompanied by change in control over the management of the Target Company.

2. This Open Offer is not conditional upon any minimum level of acceptance in terms of SEBI (SAST) Regulations, 2011.

3. This Open Offer is not a competing offer in terms of Regulation 20 of the SEBI (SAST) Regulations, 2011.

4. To the best of the knowledge and belief of the Acquirer and PACs, as on the date of this DLOF, there are no statutory or other approvals required to implement the Offer. If any statutory approvals are required or become applicable prior to completion of the Offer, the Offer would be subject to the receipt of such statutory approvals. The Acquirer and PACs will not proceed with the Offer in the event that such statutory approvals becoming applicable prior to completion of the Offer are refused, in terms of Regulation 23 of SEBI (SAST) Regulations, 2011.

5. The Acquirer and PACs shall complete all procedures relating to this Offer within 20 (Twenty) working days from the date of closure of the Tendering Period, including payment of consideration to those Public Shareholders whose share certificates and/or other documents are found valid and in order and are accepted for acquisition by the Acquirer.

6. In case of delay in receipt of any statutory approval(s) becoming applicable prior to completion of the Offer, SEBI has the power to grant extension of time to the Acquirer and PACs for payment of consideration to the Public Shareholders of the Target Company who have accepted the Offer within such period, subject to the Acquirer or PACs agreeing to pay interest for the delayed period if directed by SEBI in terms of Regulation 18(11) of the SEBI (SAST) Regulations, 2011. Further, if delay occurs on account of wilful default by the Acquirer and PACs in obtaining the requisite approvals, Regulation 17(9) of the SEBI (SAST) Regulations, 2011 will also become applicable and the amount lying in the escrow account shall become liable to forfeiture. Provided where the statutory approvals extend to some but not all Public Shareholders, the Acquirer will have the option to make payment to such Public Shareholders in respect of whom no statutory approvals are required in order to complete this Offer.

7. If there is any upward revision in the Offer Price/Offer Size at any time up to three (3) working days prior to commencement of the Tendering Period i.e. any time up to May 22, 2017 in terms of Regulation 18 (4) of SEBI (SAST) Regulations, 2011, the same would be informed by way of an announcement in the same newspapers where the Detailed Public Statement was published. The revised price payable pursuant to such revision of the Offer Price would be payable for all the Equity Shares validly tendered at any time during the Tendering Period and accepted under the Offer. If the Offer is withdrawn pursuant to Regulation 23 of SEBI (SAST) Regulations, 2011, the same would be communicated within five (5) working days by an announcement in the same newspapers in which the Detailed Public Statement was published.

8. There is no competing offer as on the date of this Draft Letter of Offer.

9. If there is a competing offer, the offers under all subsisting bids will open and close on the same date.

10. A copy of Public Announcement (‘PA’), Detailed Public Statement (‘DPS’), Draft Letter of Offer and Letter of Offer (including Form of Acceptance-cum-Acknowledgement) will be available on the website of Securities and Exchange Board of India (‘SEBI’) at [http:// www.sebi.gov.in](http://www.sebi.gov.in).