

BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

CORAM : PRASHANT SARAN, WHOLE TIME MEMBER

ORDER

Under Section 11(1), 11(2)(j), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 read with Section 12A of the Securities Contracts (Regulation) Act, 1956 in the matter of non-compliance with the requirement of minimum public shareholding by listed companies

In respect of Hubtown Limited

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') passed an *interim order* dated June 04, 2013 (hereinafter referred to as '*the interim order*') with respect to 105 listed companies who did not comply with the Minimum Public Shareholding ('MPS') norms as stipulated under rules 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 (hereinafter referred to as 'SCRR') within the due date i.e., June 03, 2013. The *interim order* was passed without prejudice to the right of SEBI to take any other action, against the non-compliant companies, their promoters and/ or directors or issuing such directions in accordance with law. The *interim order* was to be treated as a show cause notice by those companies for action contemplated in paragraph 18 thereof.
2. Hubtown Limited (hereinafter referred to as 'the Company') is one such company against whom the *interim order* was passed. The public shareholding in the Company on the date of the *interim order* was 17.51%. The shares of the Company are listed on the Bombay Stock Exchange Limited ('BSE') and the National Stock Exchange of India Limited ('NSE').
3. The Company filed replies to the *interim order*, vide its letters dated June 11, 2013 and June 14, 2013 and June 12, 2014, wherein the following submissions were *inter alia* made:
 - a. It had taken various steps for complying with the MPS requirement. The first of these being a special resolution for the issue of shares through Institutional Placement Programme (IPP) route, passed in the Annual General Meeting of the Company held on November 07, 2012. However, due to tepid response from the prospective investors,

the Company did not pursue the IPP route. Further, for the last two years, the real estate sector has been in throes of cyclical fluctuations, which has put off discerning investors from entering the real estate sector.

- b. The Company then proposed to meet the requirements of MPS through transfer of excess promoter holding to a trust consisting of trustees not related to the promoters/ promoter group.
 - c. As there were pending adjudication proceedings by SEBI against it, the prospective investors were put off from investing in its scrip. This had blocked the promoters/ promoter group efforts to offload their excess shareholding through Offer for Sale (hereinafter referred to as 'OFS'). Later, the Company had preferred an application with SEBI for consent order in the said adjudication proceedings, which was accepted by SEBI. Accordingly, the adjudication proceedings against the Company was settled by a consent order. Thereafter, the discerning investors started evincing interest in the Company's scrip and this paved the way for the promoters/ promoters group to plan an OFS in right earnest.
 - d. The promoters' and the members of the promoter group of the Company successfully undertook an OFS on June 04, 2014 for sale of 54,48,097 equity shares of the Company. As a result, the shareholding of the promoters'/ promoter group of the Company, post OFS, stands at 74.98%. The public shareholding in the Company, has increased to 1,81,95,168 equity shares, constituting 25.02% of the paid-up equity capital of the Company.
4. Thereafter, an opportunity of personal hearing was afforded to the Company on July 04, 2014, when Mr. Vyomesh Shah, Managing Director, Mr. Bharat Mody, President, Mr. Chetan Mody, Company Secretary and Ms. Madhavi Degaonkar, the authorised official of the Company appeared along with Mr. Sumit Pachisia, authorised representative of ICICI Securities Limited and reiterated the submissions made in the reply. During the personal hearing, the representatives submitted that the Company is now compliant with the MPS norms and requested SEBI to withdraw the directions issued in paragraph 17 of the *interim order*.

5. I have considered the reply and the submissions made by the Company during the personal hearing. The Company has enclosed copies of the documents tendered to BSE and NSE with respect to the OFS. The Company has submitted that it had made efforts to comply with the MPS requirements within the stipulated period, however, the same could not be completed due to tepid response from the prospective investors and adjudication proceedings before SEBI which was later settled.
6. On consideration of the facts and circumstances of the case, I do not find the reasons offered by the Company for delaying in compliance of MPS requirements, as plausible. The amended provisions of Rules 19 and 19A of the SCRR came into force with effect from June 04, 2010, offering a time period of three years (i.e., on or before June 03, 2013) for a listed company to maintain public shareholding of atleast 25%. Pursuant to this amendment and even as per the submissions of the Company, a concrete step (the OFS) was taken towards the compliance was only during June 2014.
7. I note that the Company has now achieved the compliance with MPS norms through an OFS on June 04, 2014, the public shareholders now hold 25.02% in the Company and is compliant with the MPS requirements as stipulated under Rule 19A of the SCRR read with Clause 40A of the listing agreement. Therefore, it would be appropriate and reasonable to vacate the directions issued against the Company, its promoters and directors.
8. In respect of the non-compliance of the MPS requirements by the Company within the due date, I am of the considered view that the case be referred for adjudication. Accordingly, this case is being referred for adjudication under Section 23I of the Securities Contracts (Regulation) Act, 1956 read with the Securities Contracts (Regulation) (Procedure for Holding Inquiry and Imposing Penalties By Adjudicating Officer) Rules, 2005 for imposition of suitable penalty against the Company and its promoters under Section 23H of the Securities Contracts (Regulation) Act, 1956. For this purpose, an adjudicating officer shall be appointed by SEBI and he/she shall conduct the inquiry in accordance with the law.
9. With the above observations, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with sections 11(1), 11(2)(j), 11(4) and 11B thereof and Section 12A of the Securities Contracts

(Regulation) Act, 1956, hereby revoke the directions vide the *interim order* dated June 04, 2013 against the Company, Hubtown Limited, its directors, promoters and promoter group, with immediate effect.

10. Copy of this Order shall be served on the stock exchanges and depositories for their information and action that may deem fit and necessary in this case.

PLACE: Mumbai
DATE: July 22nd, 2014

PRASHANT SARAN
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA