

**BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA
CORAM: DR. K.M. ABRAHAM, WHOLE TIME MEMBER**

ORDER

**DIRECTIONS UNDER REGULATIONS 44 AND 45(6) OF THE SECURITIES
AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF
SHARES AND TAKEOVERS) REGULATIONS, 1997 IN THE MATTER OF
ACQUISITION OF SHARES OF SURANA INDUSTRIES LIMITED**

1. The Securities and Exchange Board of India (hereinafter referred to as SEBI) had issued a notice dated April 28, 2010 to Mr. G. R. Surana, Mr. Shantilal Surana, Mr. Vijayraj Surana, Mr. Dineshchand Surana, Mrs. Chandanbala Surana, Mrs. Saraladevi Surana, Mrs. Alka Surana and Mrs. Vasantha Surana (hereinafter collectively referred to as the acquirers) to show cause as to why one or more or all the actions in terms of Regulations 44 and 45(6) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the Takeovers Regulations) should not be taken against them in respect of the alleged violations committed by them, as stated therein. A brief background of the matter which lead to the issuance the said show cause notice are as follows. It was observed that the acquirers [promoters of Surana Industries Limited (hereinafter referred to as the target company)] were collectively allotted 70,00,000 shares (8,75,000 shares each) of the target company on February 8, 2010 upon conversion of warrants (allotted on August 29, 2008). Pursuant to the said conversion, though, the shareholding of the acquirers had increased from 64.85% to 71.28% of the total equity capital of the target company, they had not made a public announcement, as required in terms of Regulation 11(2)

of the Takeover Regulations. SEBI had also noted that there was a delay in the public announcement of the offer made (on March 29, 2009) by the very same acquirers in respect of their acquisition of 30,00,000 equity shares of the target company on September 1, 2008, by way of conversion of 30,00,000 warrants.

2. Mr. Dineshchand Surana (one of the acquirers and the Managing Director of the target company), as authorized by the other acquirers filed the reply to the show cause notice, vide letter dated May 10, 2010. Thereafter, an opportunity of hearing was granted to the acquirers on June 2, 2010 which was adjourned to June 23, 2010, on the request of the acquirers. On the said date, Mr. Dineshchand Surana appeared and made submissions on behalf of the acquirers. He *inter alia* submitted that the acquirers had already made a public announcement in respect of their acquisition of 70,00,000 shares of the target company as mentioned in the show cause notice. According to him, there was a delay in making the said public announcement as the open offer formalities in respect of their previous acquisition of 30,00,000 shares (as stated in the show cause notice) were concluded only on February 11, 2010.

3. I have considered the show cause notice, the reply as well as the oral submissions made on behalf of the acquirers and other material available on record. The show cause notice was necessitated in view of the failure of the acquirers in making a public announcement in respect of their acquisition of 70,00,000 shares of the target company upon conversion of warrants. However, during the course of hearing, it was submitted that the acquirers had already made the public announcement on June 16, 2010. Though, the acquirers were required to make the public announcement on February 23, 2010, the same was actually made on June 16, 2010. The fact that the acquirers had failed to make the public announcement within the stipulated time, as required under

Regulation 14(2) of the Takeover Regulations is admitted. These factual details are not in dispute. As there was a delay in making the said public announcement, the acquirers have to pay to the shareholders whose shares have been accepted in public offer, the consideration amount along with interest, in terms of the provisions of the Takeover Regulations. The acquirers contended that the said delay was due to the delay in completing the earlier public announcement that they had made in respect of the acquisition of 30,00,000 shares (on September 1, 2008) of Rs.10/- each at a premium of Rs.140/- per share, aggregating to Rs.45 crores. The acquirers further stated that the public announcement for the said open offer was made on March 25, 2009 and after various submissions and clarifications to SEBI, the letter of offer could be dispatched to the shareholders only on December 24, 2009. According to the acquirers, it had taken them some time for arranging funds for the said public announcement and that the said open offer formalities were concluded only on February 11, 2010. As far as the second acquisition was concerned, the acquirers stated that they had applied to the Bankers for a Bank Guarantee for Rs. 11.25 crores each on behalf of Mr. G.R. Surana, Mr. Shantilal Surana, Mr. Vijayraj Surana and Mr. Dineshchand Surana. The said submissions would not come to their defence for not making the public announcement within the stipulated time. The requirement of making the public announcement is a statutory duty which cannot be ignored whatever be the ostensible reasons. A failure in this regard would have to naturally result in appropriate regulatory action. The warrants were allotted to the acquirers on August 29, 2008 and were aware that the same were to be converted on February 28, 2010 which would require them to make a public announcement in terms of the provisions of the Takeover Regulations. The acquirers should have anticipated the said compliance well in advance. Therefore, I do not have any hesitation in finding that the acquirers had not made the public announcement in respect of the acquisition of 70,00,000 shares of the target company on February 28, 2010

upon conversion of 70,00,000 warrants allotted to them on September 29, 2008, as required in terms of Regulation 11(2) read with Regulation 14(2) of the Takeover Regulations. The show cause notice was issued against the acquirers contemplating any one or more or all the actions specified in Regulations 44 and 45(6) of the Takeover Regulations. As the acquirers had since made the public announcement and considering the case in its totality, according to me, the appropriate action against the acquirers is to initiate adjudication proceedings for not making the public announcement within the stipulated time. Therefore, I am of the view that the ends of justice would be met if adjudication proceedings are initiated against the acquirers, in respect of the said violations, as ordered hereinbelow.

4. In view of the foregoing, I, in exercise of powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 and Sections 11 and 11B thereof, and read with Regulations 44 and 45 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, hereby, direct the initiation of adjudication proceedings under the provisions of the Securities and Exchange Board of India Act, 1992 and the Securities and Exchange Board of India (Procedure for Holding Inquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 against the acquirers, namely Mr. G.R. Surana, Mr. Shantilal Surana, Mr. Vijayraj Surana, Mr. Dineshchand Surana, Mrs. Chandanbala Surana, Mrs. Saraladevi Surana, Mrs. Alka Surana and Mrs. Vasantha Surana for not making the public announcement as required under Regulations 11(2) read with 14(2) of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, in respect of their acquisition of 70,00,000 shares of the target company Surana Industries Limited.

5. Further, the aforesaid acquirers are directed to comply with the instructions/directions issued by the Securities and Exchange Board of India in respect of their public announcement dated June 16, 2010.

6. A separate Order would be issued appointing the Adjudicating Officer in the matter. The aforesaid acquirers may appear and make their submissions before the Adjudicating Officer, who shall consider the same on merits without being prejudiced by the observations made in this Order and pass an appropriate Order in accordance with law.

7. With the above directions, the show cause notice dated April 28, 2010 issued by the Securities and Exchange Board of India to the aforesaid acquirers shall stand disposed of.

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

**PLACE: MUMBAI
DATE: JULY 22, 2010**