

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1) AND 11B OF THE SEBI ACT READ WITH REGULATION 25A OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (DELISTING OF EQUITY SHARES) REGULATIONS, 2009.

In the matter of Universal Properties Limited

BACKGROUND –

1. Universal Properties Limited ("UPL/Applicant") was incorporated under the Companies Act, 1956, on 24th October, 1960 having its Registered Office at 238A, A.J.C. Bose road, 4th Floor, Kolkata 700020. The shares of the Applicant were listed on the Calcutta Stock Exchange Limited ("CSE").
2. Securities and Exchange Board of India ("SEBI") received an application dated June 25, 2018 ("Application") from UPL under Regulation 25A of the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009 ("Delisting Regulations"), seeking exemption from the provisions of Regulation 27 of the Delisting Regulations, 2009. The Applicant also provided further submissions/clarifications vide letter dated October 22, 2018 and emails dated November 20, 2018, November 22, 2018, January 03, 2019, February 14, 2019, March 12, 2019, May06, 2019, June 11, 2019, June 13, 2019, June 21, 2019 and July 11, 2019, December 23, 2019, January 13, 2020, January 20, 2020, February 15, 2020 and February 18, 2020.
3. The Gist of the submissions made in the Application and the subsequent clarifications were as under,-
 - a) The equity shares of the company were listed on CSE on July 07, 1982.

- b) The company's paid up share capital comprises of 2,40,000 equity shares. Out of these, 1,79,200 equity shares representing 74.67% is held by the promoters and the balance 60,800 shares representing 25.33% are held by 119 public shareholders as of March 31, 2019.
- c) The Applicant has not dematerialized its shares and all the shares are held in the physical form.
- d) The Applicant's equity shares have not been traded on CSE since 1997.
- e) The Applicant seeking to voluntarily delist its shares from CSE, sent notices to all the shareholders in compliance with Regulation 8 (1) (b) of the Delisting Regulations, on January 28, 2014, seeking their approval by way of a special resolution. The notice returned undelivered from 87 out of total 119 public shareholders; even out of the 32 notices that were delivered, there was no communication from 30 of them.
- f) The result of the Special Resolution was declared on March 04, 2014. The company had received consent for delisting from 11 shareholders, which included 9 promoters representing 74.67% and 2 public shareholders representing 2.08%, totaling 76.75% shareholding of the Company. The result of the Postal Ballot was published in Kolkata editions of certain newspapers on March 08, 2014 and was forwarded to CSE vide letter dated March 08, 2014.
- g) Vide Directors' Report in the Company's Annual Report dated 20th August 2015, 22nd August 2016, 30th August 2017, 19th June 2018 and 27th July 2019, the Applicant has been intimating the shareholders of its intention to delist its equity shares from CSE. However, aforesaid letters had also been returning undelivered year after year from the said 87 shareholders. These 87 public shareholders have been untraceable for almost two decades now.

- h) The Applicant had also sent the 'Know Your Investors form' to the shareholders to update their details on August 22, 2016. However, these were also returned undelivered from these 87 shareholders.
- i) Further, on February 11, 2020, Company put out a newspaper notice to the shareholders regarding updation of their contact details. However, no communication has been received from any of the said 87 shareholders in this respect.
- j) The company is an inoperative company with no public or bank dues. Over the last 5 years, no business has been transacted by the Applicant and there has been an almost complete erosion of net worth of the company.
- k) The Applicant's accumulated loss is about 60% of its paid up capital and it is financially not viable for the Applicant to comply with the various provisions of the Companies Act, 2013 like appointment of independent director, appointment of internal auditor, appointment of CFO, paying their remuneration etc.
- l) With the meagre resources, the Company is just managing to clear the filing fees of MCA and Stock Exchange listing fee and is not in a position to even incur day to day establishment costs.
- m) Further, the turnover of the company for the last three financial years is NIL and the Applicant has been reporting losses for the said three financial years. No dividend was declared by the Applicant in that period.
- n) The Applicant had filed a delisting application dated 16th September, 2014 before SEBI seeking exemption from Regulation 27(3)(d) of SEBI(Delisting of Equity Shares) Regulations, 2009. However, since SEBI did not have the power to relax strict

enforcement under SEBI (Delisting of Equity Shares) Regulations, 2009, at that point in time, the exemption was not granted.

- o) However, upon insertion of Regulation 25A by the SEBI (Delisting of Equity Shares) (Amendment) Regulations 2015, the Applicant is once again applying for exemption from the said provision.
- p) In view of the above, the Applicant is seeking relaxation from requirements under Regulation 27(3)(d) of SEBI (Delisting of Equity Shares) Regulations, 2009.

Consideration

- 4. Before I proceed with my consideration, I find it appropriate to quote the regulatory provisions relevant in the matter:

“Delisting from only some of the recognised stock exchanges

6. A company may delist its equity shares from one or more recognised stock exchanges where they are listed and continue their listing on one or more other recognised stock exchanges, subject to the provisions of these regulations and subject to the following –

(a),

(b) if after the proposed delisting, the equity shares do not remain listed on any recognised stock exchange having nationwide trading terminals, exit opportunity shall be given to all the public shareholders holding the equity shares sought to be delisted in accordance with Chapter IV.

Conditions and procedure for delisting where exit opportunity is required

8((1) Any company desirous of delisting its equity shares under the provisions of Chapter III shall, except in a case falling under clause (a) of regulation 6, -

(a) obtain the prior approval of the board of directors of the company in its meeting; (b) obtain the prior approval of shareholders of the company by special resolution passed through postal ballot, after disclosure of all material facts in the explanatory statement sent to the shareholders in relation to such resolution:

Power to relax strict enforcement of the regulations.

25A. (1) The Board may for reasons recorded in writing, grant relaxation from strict enforcement of any of the requirements of these regulations, if the Board is satisfied that the relaxation is in the interests of investors in securities and the securities market.

(2) For seeking exemption under sub-regulation (1), the promoter or the acquirer or the company shall file an application with the Board, supported by a duly sworn affidavit, giving details for seeking such exemption and the grounds on which the exemption has been sought.

Special provisions in case of small companies

27. (1) Equity shares of a company may be delisted from all the recognised stock exchanges where they are listed, without following the procedure in Chapter IV, if,-

a) the company has a paid up capital not exceeding ten crore rupees and net worth not exceeding twenty five crore rupees as on the last date of preceding financial year;

b) the number of equity shares of the company traded on each such recognised stock exchange during the twelve calendar months immediately preceding the date of board meeting referred to in sub regulation (1B) of regulation 8 is less than ten per cent of the total number of shares of such company:

Provided that where the share capital of a particular class of shares of the company is not identical throughout such period, the weighted average of the shares of such class shall represent the total number of shares of such class of shares of the company; and

c) the company has not been suspended by any of the recognised stock exchanges having nation-wide trading terminals for any noncompliance in the preceding one year;

(2) [Deleted]

(3) A delisting of equity shares may be made under sub regulation (1) only if, in addition to fulfilment of the requirements of regulation 8, the following conditions are fulfilled:-

(a) the promoter appoints a merchant banker and decides an exit price in consultation with him;

(b) the exit price offered to the public shareholders shall not be less than the floor price determined in terms of sub-regulation (2) of regulation 15 of these regulations read with clause (e) of sub regulation (2) of regulation 8 of the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;

(c) the promoter writes individually to all public shareholders in the company informing them of his intention to get the equity shares delisted, indicating the exit price together with the justification therefore and seeking their consent for the proposal for delisting;

(d) the public shareholders, irrespective of their numbers, holding ninety percent or more of the public shareholding give their consent in writing to the proposal for delisting, and have consented either to sell their equity shares at the price offered by the promoter or to remain holders of the equity shares even if they are delisted;

(e) the promoter completes the process of inviting the positive consent and finalisation of the proposal for delisting of equity shares within seventy five working days of the first communication made under clause (c);

(f) the promoter makes payment of consideration in cash within fifteen working days from the date of expiry of seventy five working days stipulated in clause (e).

(4) The communication made to the public shareholders under clause (c) of sub-regulation (3) shall contain justification for the offer price with particular reference to the applicable parameters mentioned in

regulation 15 and specifically mention that consent or the proposal would include consent for dispensing with the exit price discovery through book building method.

(5) The concerned recognised stock exchange may delist such equity shares upon satisfying itself of compliance with this regulation.”

5. I note that the issue for consideration before me in the present matter is whether the requirement for receiving consent of the shareholders holding at least 90% of public shareholding of a company, as mandated under Regulation 27(3)(d) of the Delisting Regulations, can be relaxed, given the facts and circumstances, in order to enable UPL to seek voluntary delisting.
6. I have perused the material available on record and also examined the scope of the powers of the Board under Regulation 25A of the Delisting Regulations. I note that under Regulation 25A, the Board has the power to relax strict enforcement of any of the requirements under the Delisting Regulations, if it is satisfied that the relaxation is in the interests of the investors in securities and the securities market.
7. The Applicant has submitted that the Company is currently inoperative and given its rapidly deteriorating financial condition, the company is finding it difficult to ensure compliance with the requirements applicable to a listed entity. The promoter of the Company holds 74.67% of the total paid up equity share capital of the company and the remaining 25.33% is held by 119 public shareholders. Applicant is exclusively listed on CSE and I note that the Applicant has made efforts in the past to delist itself by providing exit opportunity to the existing public shareholders but was unable to garner consent of the requisite number of public shareholders, a vast majority of whom were untraceable. I observe that despite repeated attempts made by the Company, which is detailed in para 3(e)- (i) of this order, it has been unable to contact the vast majority of the public shareholders. I, therefore, note that the Applicant may not be in a position to comply with the requirement under Regulation 27 (3) (d) of Delisting Regulations. Further, the Company has been in a dormant mode with no operations for the last 5 years.

The Company's networth has been nearly wiped out and the Company does not have resources to comply with regulatory requirements.

8. In view of the above, being satisfied that despite repeated efforts the Applicant has not been able to contact a majority of the public shareholders, I deem this a fit case to relax the requirement under Regulation 27 (3) (d) of Delisting Regulations.
9. In view of the above, in the interest of investors in securities market and in exercise of powers under sections 11(1) and 11B of the SEBI Act, 1992 and regulation 25A of the SEBI (Delisting of Equity Shares) Regulations, 2009, I find it appropriate to grant the Applicant relaxation from the applicability of Regulation 27(3) (d) of the SEBI (Delisting of Equity Shares) Regulations, 2009, subject to the following conditions:
 - (i) The Applicant shall ensure compliance with regulation 27(3)(c). Additionally, the Applicant shall cause to publish newspaper advertisement in one national newspaper in English and in newspapers in local vernacular in each state where its public shareholders are residing, as per the address contained in its records, announcing its delisting proposal within 30 days of this Order, and at least 10 days before the letter is sent to the public shareholders seeking their consent for the delisting proposal.
 - (ii) The offer price shall be paid to tendering shareholders as provided in regulation 27(3)(f).
 - (iii) As undertaken by the Applicant, pursuant to delisting of its equity shares, the promoters shall continue to accept shares tendered by any remaining public shareholder holding such equity shares, for upto a period of two years from the date of delisting, at the same price at which the earlier acceptance of shares was made and in a manner that provides bank record of payment.
 - (iv) Subject to the above, the Applicant shall comply with all other conditions, including those pertaining to determination of the offer price, stipulated in Chapter VII of the SEBI (Delisting of Equity Shares) Regulations, 2009.

10. The Application dated June 25, 2018 along with related communications are accordingly disposed of.

DATE: October 19, 2020

PLACE: Mumbai

**G. MAHALINGAM
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA**