

**DEPUTY GENERAL MANAGER
DIVISION OF CORPORATE RESTRUCTURING
CORPORATION FINANCE DEPARTMENT**

CFD/DCR/TO/AG/96367/07

June 11, 2007

ALMT Legal
4th Floor, Express Tower,
Nariman Point,
Mumbai – 400 021

Dear Sir,

Sub.: Request for Interpretive Letter/No action letter under the SEBI (Informal Guidance) Scheme, 2003- Acquisition of shares of Aurobindo Pharma Ltd. (KCL) - SEBI (Substantial Acquisition of Shares And Takeovers) Regulations, 1997 {Regulations}

Ref: Your letters dated November 25, 2006, December 29, 2006, April 2, 2007 and April 19, 2007 on the captioned subject

1.0 Please refer to your letters cited above, seeking Interpretive Letter under SEBI (Informal Guidance) Scheme, 2003 on behalf of your client PVR Investments.

2.0 It is, *inter-alia*, informed and represented by you that:-

2.1 Aurobindo Pharma Ltd. (hereinafter referred to as 'Target Company') is a public listed company whose shares are listed on the National Stock Exchange (NSE) and Bombay Stock Exchange (BSE) and the Hyderabad Stock Exchange (HSE).

2.2 The total promoter group shareholding in the Target company is as follows:

Name of the Promoters	Percentage
1. P V Ramaprasad Reddy	29.46%
2. P Suneela Rani	11.19%
3. Sarat Chandra Reddy	0.01%
4. P Rohit Reddy	0.71%
5. K. Nithyananda Reddy	7.04%
6. K. Rajeshwari	4.55%

2.3 Two of the above mentioned promoters i.e. Mr P V Ramaprasad Reddy and Mrs P Suneela Rani have constituted a Partnership firm, PVR

Investments (the Firm) with both of them as partners. The Firm has been registered on November 24, 2006. The Firm does not have any shareholding in the target company as on the date.

2.4 For the purpose of restructuring the shareholding in the Target Company, Mr P V Ramaprasad Reddy and Mrs P Suneela Rani propose to transfer about 53 lakhs equity shares amounting to approximately 10% of total paid up capital of the Target Company to the Firm out of their collective shareholding of 40.65% in the Target Company.

2.5 Out of the said 53 lakhs shares of the Target Company, Mr P V Ramaprasad Reddy and Mrs Suneela Rani would transfer 38 lakhs and 15 lakhs Shares, respectively to the Firm. These shares would be held for the Firm jointly in the name of the Partners in their capacity as Partners of the Firm.

2.6 The partnership deed does not stipulate any specific voting arrangement in absence of which the voting rights of the partners in the Target Company would be governed by its Articles of Association. The Articles of Association of the Target Company stipulate that in case of joint holders, the vote of first names of such joint holders who tender a vote, whether in person or by proxy, shall be accepted to the exclusion of votes of the other joint holders.

2.7 The Partners propose to require the Target Company to register Mr. P V Ramaprasad Reddy's name as the first name followed by that of Mrs Suneela Rani in the registers of the Target Company. Hence, Mr Ramaprasad Reddy would be entitled to vote on behalf of the Firm in the general meeting of the Target Company.

2.8 The intent of the family consisting of the Transferors is to commence new business both in India and abroad and set out the manner in which wealth generated from such businesses will be shared. For this purpose it is necessary to ensure that an appropriate vehicle is created with adequate net worth and with an ability to determine the distribution of wealth created from investment without dispute and offering them a flexibility required.

2.9 Since the partnership firm is not a distinct legal entity existing separately from its partners, the Firm is not an acquirer within the meaning of 2 (1) (b) of the Takeover Regulations.

3.0 You have sought interpretive letter on the following issue -

- a. Whether the Firm constituted by the promoters would fall within the definition of 'acquirer' under regulation 2(1)(b) of the Regulations, for the purpose of proposed transfer of 53 lakhs shares from the promoters to the Firm.
- b. If a view is taken that a transfer is taking place and the Firm is an acquirer and given that each partner of the Firm has been holding the shares in the company for over three years in their individual capacity, will the benefit of regulation 3(1)(e) (iii) of the Regulations, exempting a transfer *inter se* qualifying promoters from the applicability of regulations 10, 11 and 12 of the Regulations, be attracted in the instance of the transfer of the said shares from the promoter (i.e. A partner of the Firm) to the Firm?
- c. Whether the Firm and the Promoters would be person acting in concert for the purpose of regulation 10 of the Regulations?
- d. Whether the transfer of the said shares from the Promoters to the Firm would attract the provisions of regulation 10 of the Regulations?
- e. Whether the transfer of the said shares from the partners (Promoters) to the Firm would attract the provisions of regulation 11 of the Regulations?

4.0 Without necessarily agreeing with your analysis, our views on the issues raised by you are as follows:

- a. In terms of Regulation 2 (1) (b) of the Takeover Regulations, an "*acquirer*" means any person who, directly or indirectly, acquires or agrees to acquire shares or voting rights in the target company, or acquires or agrees to acquire control over the target company, either by himself or with any person acting in concert with the acquirer;
- b. A Firm is not a 'person' under regulation 2(1) (b) of the Regulations therefore, the firm will not be termed as *acquirer* for the purpose of transfer of said 10% shares.
- c. Regulation 10 and 11 of the Takeover Regulations are triggered when an acquirer acquires shares or voting rights which entitles such acquirer to exercise voting rights more than the benchmark specified in the respective regulation. 'Firm' means all partners taken together therefore constituent partners will be considered as acquirers. Therefore, if any restructuring involving acquisition of shares entitling voting rights results in increase in the voting rights of any person/partner beyond the threshold limits, the respective regulations would be attracted.
- d. As represented by you, as per Article of Association of the target company Mr. Ramaprasad Reddy will have the voting rights on

the shares transferred to the Firm. Thus, though the Firm will not be an acquirer within the definition of the term under regulation 2 (1) (b) there will consolidation of voting rights of Mr. Ramaprasad Reddy alongwith the PACs with him. Regulation 11 of the Takeover Regulations deals with consolidation of holding. The said regulation provides as under –

“ No acquirer who, together with persons acting in concert with him, has acquired, in accordance with the provisions of law, 15 per cent or more but less than 55 per cent of the shares or voting rights in a company, shall acquire, either by himself or through or with persons acting in concert with him, additional shares or voting rights entitling him to exercise more than 5% of the voting rights, in any financial year ending on 31st March unless such acquirer makes a public announcement to acquire shares in accordance with the Regulations.”

- f. In the proposed transaction as represented by you, the increase in the voting rights of Mr Ramaprasad Reddy would be to the extent of the voting rights on the shares of the other partner which are proposed to be transferred to the firm. The other partner i.e. Mrs. P. Suneela Rani will be transferring 15 lac shares to the firm. These shares amount to approximately 2.81% of the equity share capital of the target company.
- g. Since the consolidation of voting rights of Mr. P. Ramaprasad Reddy alongwith PACs with him is within creeping limit of 5%, regulation 11 (1) will not be triggered by the proposed acquisition.

5.0 This position is based on the representation made to the Division in your above referred letters and is dependent upon the composition of the Firm and exercise of voting rights on the shares proposed to be transferred as represented by you. Different facts or conditions might require a different result. This letter does not express decision of the Board on the questions referred.

6.0 Please note that this position is only with respect to applicability of the Regulations 10 and 11 of the Takeover Regulations and it does not affect applicability of any law and other SEBI Regulations, Guidelines and circulars administered by SEBI or any other authority.

Yours faithfully,

Santosh Sharma