

SECURITIES AND EXCHANGE BOARD OF INDIA

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 Swaraj Automotives Ltd.

1. Securities and Exchange Board of India ("**SEBI**") had passed an interim order on July 19, 2017 (hereinafter referred to as "**the interim order**") against Swaraj Automotives Ltd. (hereinafter referred to as "**SAL**" / "**the Company**") and its promoters and directors on account of SAL's failure to 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**"). The facts leading to the interim order, in brief, are as follows:
 - (i) B4S Solutions (hereinafter referred to as "**the Promoter**") entered into a Share Purchase Agreement on October 16, 2015 with Mahindra and Mahindra Limited (erstwhile promoter of the company) for acquisition of 71.19% of equity shares of the company. This triggered an open offer pursuant to which the promoter acquired 14.10% of equity shares of the company. The promoter further acquired 2.99% from other erstwhile promoters of the company. These transactions made it the sole promoter of the company with 88.28% of shareholding.
 - (ii) Since the completion of the open offer process on February 01, 2016, the Company and the promoter were required to comply with the MPS norms within twelve months of the breach i.e. by February 01, 2017 according to Rule 19A of SCRR read with Regulation 38 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and

Regulation 7(4) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

- (iii) The promoter shareholding was sought to be reduced by resorting to Offer for Sale Mechanism in three different tranches, as follows:

TABLE 1

OFS Issue	Pre OFS Promoter holding in %	OFS in %	Actual shares sold(%) in OFS	Post OFS Promoter holding in %	Period of OFS
I	88.28	13.28	3.69	84.59	15.12.2016-16.12.2016
II	84.59	9.59	2.13	82.46	05.01.2017-06.01.2017
III	82.46	9.59	0.78	81.68	30.01.2017-31.01.2017

- (iv) The last date for complying with the MPS requirement was February 01, 2017, however Swaraj Automotives could not meet the said deadline.
- (v) On April 24, 2017, a request was made to SEBI for extension of time to comply with MPS norms. SEBI replied to the said request vide an email dated May 04, 2017 stating that Rule 19A of the SCRR does not empower SEBI to grant extension of time for compliance with minimum public shareholding norms.

2. Consequently, vide SEBI order dated July 19, 2017, directions were passed against the promoters and directors of the Company directing freezing of their voting rights and corporate benefits in the Company (*with respect to the excess proportionate promoter shareholding*), prohibiting them from dealing in the securities of the Company and restraining them from holding position as director in any listed company, till the Company complied with minimum public shareholding norms.
3. Subsequently, the Company made four further attempts to reduce promoter shareholding again resorting to the Offer for Sale mechanism, details of which are as follows:

TABLE 2

OFS Issue	Promoter Shareholding (Pre) in %	Offer for sale made for in %	Actual shares sold in OFS in %	Promoter Shareholding (Post) in %	Period of OFS
IV	81.68	6.68	1.37	80.31	24.07.2017-25.07.2017
V	80.31	5.31	1.42	78.89	22.08.2017-23.08.2017
VI	78.89	3.83	3.46	75.43	26.06.2017-27.09.2017
VII	75.43	0.43	0.43	75.00	21.11.2017-22.11.2017

4. As can be seen from Table 2 above, as of November 22, 2017, the Company is in compliance with the MPS norms. This has also been confirmed by BSE vide its email dated December 14, 2017.
5. The Company and the Promoter in their letters dated August 08, 2017 and December 05, 2017 *inter alia* made the following submissions with respect to the delay in complying with MPS norms:
- (i) Three attempts to reduce promoter shareholding via OFS mechanism were made prior to the interim order having been passed.
 - (ii) The Promoter and the Company had, by way of letter dated April 24, 2017, sought extension of time to comply with MPS norms, which was however denied.
 - (iii) Processes laid down by the extant regulatory framework contributed to the delay in compliance with MPS norms.
6. SEBI Circular dated November 30, 2015 issued in pursuance of Regulation 38 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 stated the following methods that can be used to comply with the requirements of Rule 19(2)(b) /Rule 19A of the Securities Contracts (Regulation) Rules, 1957:
- i. Issuance of shares to public through prospectus;*
 - ii. Offer for sale of shares held by promoters to public through prospectus;*

iii. *Sale of shares held by promoters through the secondary market in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 1, 2012;*

iv. *Institutional Placement Programme (IPP) in terms of Chapter VIIIA of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009;*

v. *Rights Issue to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue;*

vi. *Bonus Issues to public shareholders, with promoter/promoter group shareholders forgoing their entitlement to equity shares, that may arise from such issue;*

vii. *Any other method as may be approved by SEBI on a case to case basis. For this purpose, the listed entities may approach SEBI with appropriate details... "*

7. In the instant case, it appears that the Promoter had resorted to the Offer for Sale mechanism in terms of SEBI circular CIR/MRD/DP/05/2012 dated February 1, 2012 (*subsequently superseded by SEBI Circular CIR/MRD/DP/18/2012 dated July 18, 2012*) to reduce promoter shareholding. The Shareholding pattern enclosed in the Company's letter dated December 05, 2017 reveals that public shareholding as of November 22, 2017 stands at 25% of the total number of shares of the company. This is therefore in compliance with the public shareholding requirement of twenty five percent mandated in Rule 19A of the SCRR as a continuous listing requirement for listed companies. The mode of compliance has also been adhered to since the Offer for Sale Mechanism is one of the modes specified by SEBI Regulations for complying with the minimum public shareholding requirement. BSE has also confirmed in its email to SEBI dated December 14, 2017 that Swaraj Automotives Ltd. is now in compliance with the minimum public shareholding requirement with effect from November 22, 2017.

8. In view of the above, in exercise of the powers conferred on me under Sections 11(1), 11(2)(j), 11(4) and 11B of the Securities and Exchange Board of India Act, 1992 and Section 12A of the Securities Contracts (Regulation) Act, 1956, I hereby revoke the directions issued vide the interim order dated July 19, 2017 against the

company, Swaraj Automtives Ltd., its directors, promoters and promoter group, with immediate effect.

9. The mandate to maintain minimum public shareholding was introduced through amendments made in the year 2010 to the SCRR, subsequent to which several circulars also had been issued by SEBI to ensure that listed companies comply with the said requirement. I note that the default in compliance with MPS norms arose on account of a public offer made by the Promoter pursuant to its acquisition of equity shares of the Company from the erstwhile promoter. After completion of the open offer process, though the company had twelve months to comply with MPS norms (as per Rule 19A of the SCRR), there was a delay of approximately 10 months in complying with the same. I note that the Company/Promoter had made consistent efforts to rectify the default, both before and after the interim order was passed. I also do not find the delay in compliance to be very substantial. The delay is reasonably mitigated by the fact that the Company and its Promoters have been able to demonstrate active efforts on their part to remedy the default. In view of the aforesaid facts and circumstances, I do not find the violation on the part of the Company/Promoter considerable enough to warrant any other enforcement action against the Company or its directors/promoters. Therefore I find it appropriate to dispose the matter off without any further enforcement action.

10. Copy of this Order shall also be served on recognised stock exchanges and depositories for their information and necessary action.

DATE: February 14, 2018
PLACE: Mumbai

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