

**SECURITIES AND EXCHANGE BOARD OF INDIA  
CORAM: PRASHANT SARAN, WHOLE TIME MEMBER**

**ORDER**

**IN THE MATTER OF PROPOSED INCREASE IN PROMOTER'S SHAREHOLDING OF EDUCOMP SOLUTIONS LIMITED – APPLICATION FILED UNDER REGULATION 11(1) OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (SUBSTANTIAL ACQUISITION OF SHARES AND TAKEOVERS) REGULATIONS, 2011**

1. Educomp Solutions Limited (hereinafter referred to as the 'Target Company') is a company incorporated under the Companies Act, 1956, having its registered office at 1211, Padma Tower – 1, 5, Rajendra Place, New Delhi – 110008. The equity shares of the Target Company are listed on the Bombay Stock Exchange Limited (hereinafter referred to as 'BSE') and the National Stock Exchange of India Limited (hereinafter referred to as the 'NSE').
2. Mr. Shantanu Prakash (hereinafter referred to as the 'Acquirer'), the Chairman and Managing Director and one of the promoters of the Target Company, filed an application dated March 19, 2013 with the Securities and Exchange Board of India (hereinafter referred to as 'SEBI') under Regulation 11(1) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (hereinafter referred to as 'Takeover Regulations'), seeking exemption from the applicability of the provisions of regulations 3(2) & (3) of the Takeover Regulations, with respect to his proposed acquisition of 91,80,000 equity shares (*constituting 7.50% of the total share capital/ voting rights of the Target Company*).
3. In terms of the application, the Acquirer had, on January 11, 2013, executed a Facility Agreement and a Pledge Agreement with a non-banking financial company, namely, Macquarie Finance (India) Private Limited (hereinafter referred to as 'Macquarie'), primarily for making investments in the Target Company. The Facility Agreement was entered into for a loan of ₹46 crores at interest rate of 14.65% p.a. payable quarterly for a tenure of two years. As against the loan facility, the Acquirer pledged 80,11,000 equity shares of the Target Company held by him with Macquarie on January 14, 2013.

The Acquirer has stated that the following *inter alia* were some important terms and events.

- As per the facility agreement, if at any time, the Collateral Cover would be less than the Liquidation Collateral Cover (*the value of the Collateral Cover is less than or equal to 1.55 times the total liabilities as at the relevant time of calculation*), it would result in mandatory prepayment event.
  - If on any calculation date after the initial cover date, a Collateral Event (*means at any time, the collateral cover is less than or equal to 1.8 times the total liabilities as at the relevant time of calculation*) occurred, the Acquirer was to procure that the Collateral Cover was restored to atleast the Initial Collateral Cover (*the value of the collateral cover would be atleast equal to 2.1 times the total liabilities on the Initial Cover Date*).
  - In order to restore the collateral cover to the initial collateral cover following the occurrence of a collateral event, the Acquirer was to pledge additional shares in favour of the lender. The Acquirer was entitled to restore the collateral cover by way of a share top-up only on the first two occurrence of a collateral event. Any restoration of the collateral cover after the first two occurrences of a collateral event shall only be permitted by way of a cash repayment.
  - If at any time, the aggregate number of shares pledged with the lender or held by any of its affiliates exceeded 7.5% of the total shares of the company, no restoration of collateral cover could be carried out by way of a top-up and the Acquirer has to restore the collateral cover by way of a cash repayment.
  - On the occurrence of an event of default, the lender was entitled to invoke the pledge on the collateral and/or transfer or register in its name or in the name of a delegate or in the name of the other person, as it shall deem fit, all or any of the collateral and/or to sell the collateral or any part thereof.
4. The Acquirer has stated that in view of fall in market price of the shares of the Target Company and consequent fall in the cover value of the collateral on February 25, 2013, the Acquirer pledged an additional 11,69,000 equity shares of the Target Company with Macquarie. Thereafter, on February 27, 2013, as the share price of the Target Company further fell, Macquarie served a notice on the Acquirer requiring mandatory prepayment of loan together with all other liabilities on or before February 28, 2013. As the prepayment amount was huge and had to be paid within a day, the Acquirer instantly

started to arrange for funds and made a part payment of ₹ 2 crore on February 28, 2013. Though the Acquirer arranged for funds to the tune of ₹ 20 crores by March 02, 2013, the same could not be made on account of curtailed banking business hours, the payment had to be arranged by a demand draft. However, Macquarie invoked the pledge on March 02, 2013 itself. The Acquirer has stated that the said loan has now been partly paid and that the lender, Macquarie has agreed to credit back the pledged shares (91,80,000 shares) to the Acquirer. The Acquirer (a promoter of the Target Company) presently holds 3,51,35,205 shares (28.70%) in the Target Company in his individual capacity and holds 4,56,58,245 equity shares (constituting 37.30%) together with other promoters. On receipt of shares (i.e. return of the pledged shares) from Macquarie, the shares/ voting rights of the Acquirer (individually) would increase from 28.70% to 36.20% and the shares/ voting rights of the promoter group would increase from 37.30% to 44.80%, thereby triggering regulations 3(2) and (3) of the Takeover Regulations. This application has been preferred seeking exemption from the applicability of the said provisions of the Takeover Regulations on the following grounds :

- a.** The proposed acquisition is not for the acquisition of the control of the Target Company since the Acquirer belongs to the promoter group of the Target Company and is already having control over it.
- b.** The proposed acquisition is with reference to acquiring back the invoked but unsold shares of the Acquirer held by Macquarie. The objective of invoking the pledge by Macquarie was only to enforce the prepayment of loan. The prepayment amount involved was a huge chunk and Macquarie has not provided reasonable time to the Acquirer for the arrangement of funds.
- c.** The loan availed from the lender was primarily utilised for investments in the Target Company.
- d.** Even after the invocation of the pledge, the lender has not sold off those shares. The objective of invoking the pledge was to enforce prepayment of loan. Since the loan has been partly paid, the lender has conveyed its willingness to credit back the shares to the Acquirer's Demat A/c.
- e.** The acquisition is not prejudicial to the interest of the public shareholders as even after the transfer of shares by Macquarie to the Acquirer, the shares held by public at large will remain intact and the public shareholding shall continue to be more than 25% as stipulated by the Listing Agreement.

- f. Even after the proposed acquisition, the Target Company would continue to comply with clause 40A of the listing agreement.
- g. There is no fresh acquisition of shares by the Acquirer since the shares proposed to be transferred to the Acquirer belongs to Acquirer only and for which no fresh consideration needed to be paid.
5. I have considered the application dated March 19, 2013 and other material available on record. In terms of the application, the Acquirer who is the Chairman & Managing Director and also one of the promoter of the Target Company had pledged an aggregate of 91,80,000 equity shares of the Target Company as security with Macquarie against its loan of ₹46 crores. It is stated that in view of the delay in prepayment of the loan in view of the reduction in the value of the collateral, Macquarie had invoked the pledge on the said 91,80,000 equity shares of Acquirer and transferred the same in its name. I note that though pledge was invoked, the lender has not sold the shares that were pledged. I note from the submissions made in the application that the Acquirer had paid ₹2 crore and ₹20 crore on February 28, 2013 and March 03, 2013 respectively to Macquarie. Further, vide an e-mail dated May 13, 2013, the Acquirer has stated that the loan due to the lender has been settled in full. The same has also been confirmed by the lender, which vide its letter dated May 13, 2013, *inter alia* stated as under:
- "we hereby confirm that we have received full payment of the entire loan amount, no amounts are outstanding under the facility and the loan stands fully discharged.
- ..... we have no right as Pledgee over the Pledged Shares, and upon receipt of requisite approvals by you from all relevant regulatory authorities and in compliance with all applicable laws and regulations, we will retransfer the 91,80,000 Pledged Shares ...."
6. The lender has also stated that it is willing to transfer the said shares. The shareholding pattern of the Target Company (before and after the proposed acquisition) is given as under:

<b>Shareholding pattern of the Target Company</b>				
Category	Before proposed acquisition		After proposed acquisition	
	No. of shares	%	No. of shares	%
<b>Promoters Group (A)</b>				
Acquirer	3,51,35,205	28.70	4,43,15,205	36.20
Promoters (other than the acquirer)	1,05,23,040	8.60	1,05,23,040	8.60
<b>Sub total (A)</b>	<b>4,56,58,245</b>	<b>37.30</b>	<b>5,48,38,245</b>	<b>44.80</b>
<b>Non Promoters Group (B)</b>				
Institutions	3,70,97,333	30.31	3,70,97,333	30.31
Body Corporates	1,58,53,423	12.95	66,73,423	5.45

Individuals	1,44,81,379	11.83	1,44,81,379	11.83
HUF/QFI/Trusts/NRIs/Clearing Members/Foreign Corporate Bodies	93,17,113	7.61	93,17,113	7.61
<b>Sub total (B)</b>	<b>7,67,49,248</b>	<b>62.70</b>	<b>6,75,69,248</b>	<b>55.20</b>
<b>Grand total (A+B)</b>	<b>12,24,07,493</b>	<b>100</b>	<b>12,24,07,493</b>	<b>100</b>

7. The Acquirer belongs to the promoter group which is already in control of the Target Company and the proposed acquisition would not result in any change in control of the management of the Target Company. No fresh consideration is required for the proposed transfer of shares to the Acquirer and that pursuant to the said transfer, the Acquirer would receive back his shares which he had pledged with Macquarie. I also note that pursuant to the proposed acquisition of shares, the Target Company will continue to be in compliance with the minimum public shareholding requirements. I also note that the proposed acquisition would not affect or prejudice the interests of the public shareholders of the Target Company in any manner. Having considered the application, I consider the present case a fit one for granting exemption from the applicability of regulations 3(2) and 3(3) of the Takeover Regulations, as sought for by the Acquirer.
8. In view of the foregoing, I, in exercise of the powers conferred upon me under Section 19 of the Securities and Exchange Board of India Act, 1992 read with regulation 11(5) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, hereby grant exemption to the Acquirer, Mr. Shantanu Prakash, from the applicability of the provisions of regulations 3(2) & (3) of the Takeover Regulations, with respect to his proposed acquisition of 91,80,000 equity shares, which would increase his individual shareholding/voting rights in the target company from 28.70% to 36.20% and would increase the promoter group's shareholding/voting rights from 37.30% to 44.80%.
9. The exemption is granted subject to the following conditions:
- a. The proposed acquisition shall be in accordance with the relevant provisions of the Companies Act, 1956 and other applicable laws and shall be completed within 30 days from the date of this order and the Acquirer shall file a report with SEBI in the manner provided in SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 within 21 days from the date of the acquisition.

- b.** The statements/ averments made or facts/ figures given in the application and in the subsequent correspondence by the said Acquirer are true and correct to his best knowledge;
- c.** The acquirer/ target company shall ensure compliance with the statements, disclosures and undertakings made in the application and subsequent correspondences;
- d.** This exemption is limited to the requirements of making open offer under Regulation 3(2) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and shall not be construed as exemption from the requirements of disclosure required under Chapter V of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, compliance of SEBI (Prohibition of Insider Trading) Regulations, 1992, the Listing Agreement or any other applicable Acts, Rules and Regulations.

**DATE: MAY 31<sup>st</sup>, 2013**  
**PLACE: MUMBAI**

**PRASHANT SARAN**  
**WHOLE TIME MEMBER**  
**SECURITIES AND EXCHANGE BOARD OF INDIA**