

SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under sections 11(1) and 11B of the Securities and Exchange Board of India Act, 1992 in the matter of Astrazeneca Pharma India Ltd.

1. Securities and Exchange Board of India (SEBI) came across certain reports stating that the Offer for Sale (OFS) of the shares of M/s Astrazeneca Pharma India Limited (hereinafter referred to as "AZPIL") carried out by its promoter M/s AstraZeneca Pharmaceuticals AB Sweden (hereinafter referred to as "AZP AB") on May 26, 2013 was a deliberate attempt to subsequently get the shares of AZPIL delisted at ease. It was also reported that more than 94% of total shares offered through OFS had been subscribed by six Foreign Institutional Investors (FII).
2. It was noted that on March 3, 2014, AZPIL had informed the stock exchanges that it has received a letter from AZP AB, proposing to make voluntary delisting offer to the public shareholders of AZPIL. AZP AB also requested the Board of Directors of AZPIL to convene a meeting of the Board and to take requisite steps to obtain the approval of the shareholders in this regard.
3. In view of the above reports and ensuing delisting offer of AZPIL, SEBI undertook examination of the OFS and earlier attempts of the of AZPIL to delist its shares from the concerned stock exchanges. It was observed that:-
 - a) AZP AB had made two unsuccessful attempts to delist the shares of AZPIL. In 2004, the delisting could not be completed successfully as the delisting price (₹ 3,000 per share) discovered through reverse book building process was not acceptable to AZP AB. Again in 2010, the delisting proposal of AZP AB was not approved by shareholders of AZPIL.
 - b) As on March 31, 2013, AZP AB was holding 89.99% of equity share capital of AZPIL. In order to comply with Minimum Public Shareholding Norms stipulated in the Securities Contracts (Regulation) Rules, 1957, on May 28, 2013, AZP AB carried out OFS of 37,49,950 shares (i.e. 14.99% of equity share capital of AZPIL). BSE was the designated exchange for OFS. ICICI Securities was appointed as Seller Broker to the OFS.
 - c) ICICI Securities had carried out more than 60 road shows with prospective investors ahead of the OFS.
 - d) It was observed that though on two previous trading days i.e. May 24, 2013 and May 27, 2013, the price of the scrip on NSE closed at ₹ 694.05 and ₹ 805.3, respectively, the OFS floor price was fixed at ₹ 490 on May 27, 2013. The cut off price after book building was determined as ₹ 620/ per share.

- e) The OFS was oversubscribed 2.84 times. Out of the total 37,49,950 shares offered for sale, 35,25,773 (i.e. 94.02% of total shares offered by AZP AB through the OFS) were allocated to 6 FIIs/Sub-accounts as under :

Sl. No	FII / Sub-account Name	Quantity	Price (₹)
1	DB International Asia Limited	7,87,280	628
2	Suffolk (Mauritius) Limited	7,13,620	620
3	Morgan Stanley Asia (Singapore) PTE	7,12,301	625
4	BNP Paribas Arbitrage	5,99,832	625
5	Mansfield (Mauritius) Limited	4,32,343	630
6	Merrill Lynch Capital Markets Espana S.A. SVB	2,80,397	626

4. From the information provided by the FIIs/Sub-accounts, the end subscribers to the shares of AZPIL, quantity sold to them and corresponding bid prices were noted as following:

Sl. No.	Participating FII/Sub-account	End Subscriber	Quantity	Bid Price (₹)
1	DB International Asia Limited	Liverpool Limited Partnership	7,87,280	628
2	Suffolk (Mauritius) Limited	Suffolk (Mauritius) Limited	7,13,620	620
3	Morgan Stanley Asia (Singapore) PTE	Elliott Associates LP	3,56,150	625
		Elliott International LP	3,56,151	
4	BNP Paribas Arbitrage	Elliott International LP	2,99,916	625
		Elliott Associates LP.	2,99,916	
5	Mansfield (Mauritius) Limited	Mansfield (Mauritius) Limited	4,32,343	630
6	Merrill Lynch Capital Markets Espana S.A. SVB.	Elliott Associates, L.P.	1,40,198	626
		Elliott International, LLP.	1,40,199	
TOTAL			35,25,773	

5. Elliott Advisors (HK) Ltd. (SEBI registered FII) provides management service to two end subscribers viz; Elliott International L.P and Elliott Associates L.P. through Elliott Management Corporation. From the information provided by Elliott Advisors (HK) Ltd., following relationships were observed among the end -subscribes mentioned in the above table:
- Suffolk (Mauritius) Limited (SEBI registered sub-account) is indirectly wholly owned by Elliott International L.P.
 - Mansfield (Mauritius) Limited (SEBI registered sub-account) is indirectly wholly owned by Elliott Advisors, L.P.
 - The Liverpool Limited Partnership is wholly owned by Elliott Associates, L.P.

d) Elliott Advisors (HK) Ltd. provides management service to Elliott International L.P and Elliott Associates L.P. through Elliott Management Corporation.

6. Based on the aforesaid facts, it was *prima facie* observed that all these end subscribers (Participatory Note holder and Sub-accounts) are related, (hereinafter collectively referred to as the 'Elliott group').
7. On examination of bid placement pattern of the Elliott group in the OFS book building, it was observed that all of the above mentioned FIIs/Sub-accounts initially placed a minimal bid quantity of around 600-700 shares between 10:40 AM to 12:18 PM. All the orders were placed around the floor price of ₹ 490. Further, all the FIIs modified the bid order in the last few minutes of market closing to a price much higher than the floor price and the indicative price prevalent at that point in time. The details of all order entries, amendment and the then prevalent indicative price for the OFS are mentioned in the following table-

FII Name	Buy Sell Indicator	Bid Quantity	Bid Price (₹)	Indicative Price (₹)	Bid Entry Time	Order Activity Type
Morgan Stanley Asia (Singapore) PTE	B	650	491	527.75	11:43:30	Enter
Morgan Stanley Asia (Singapore) PTE	B	7,12,301	535	503.94	15:06:13	Amend
Morgan Stanley Asia (Singapore) PTE	B	7,12,301	585.15	522.03	15:23:43	Amend
Morgan Stanley Asia (Singapore) PTE	B	7,12,301	625	545.43	15:29:43	Amend
DB International Asia Limited	B	900	491.5	513.74	11:55:28	Enter
DB International Asia Limited	B	7,87,280	570	522.03	15:16:58	Amend
DB International Asia Limited	B	7,87,280	588	545.43	15:28:31	Amend
DB International Asia Limited	B	7,87,280	628	545.43	15:29:24	Amend
Mansfield (Mauritius) Limited	B	800	499.5	515.6	12:18:31	Enter
Mansfield (Mauritius) Limited	B	4,32,343	572	522.03	15:16:51	Amend
Mansfield (Mauritius) Limited	B	4,32,343	590	545.43	15:28:27	Amend
Mansfield (Mauritius) Limited	B	4,32,343	630	545.43	15:29:15	Amend
Suffolk (Mauritius) Limited	B	950	495	515.37	12:09:56	Enter
Suffolk (Mauritius) Limited	B	9,37,000	575	522.03	15:16:38	Amend
Suffolk (Mauritius) Limited	B	9,37,000	592	545.43	15:28:19	Amend
Suffolk (Mauritius) Limited	B	9,37,000	620	545.43	15:29:11	Amend
Merrill Lynch Capital Markets Espana S.A. SVB.	B	700	496.5	525.73	11:05:46	Enter
Merrill Lynch Capital Markets Espana S.A. SVB.	B	700	497.5	525.56	13:06:30	Amend
Merrill Lynch Capital Markets Espana S.A. SVB.	B	2,80,397	530	503.94	15:06:26	Amend

Merrill Lynch Capital Markets Espana S.A. SVB.	B	2,80,397	580	522.03	15:23:46	Amend
Merrill Lynch Capital Markets Espana S.A. SVB.	B	2,80,397	626	545.43	15:29:44	Amend
BNP Paribas Arbitrage	B	600	498	527.30	10:40:11	Enter
BNP Paribas Arbitrage	B	600	499.5	525.56	13:08:21	Amend
BNP Paribas Arbitrage	B	5,99,832	531	503.94	15:07:38	Amend
BNP Paribas Arbitrage	B	5,99,832	581	522.03	15:23:37	Amend
BNP Paribas Arbitrage	B	5,99,832	625	545.43	15:29:40	Amend

8. It is noted from the table above that the bid orders were modified through all 6 FIIs/Sub-accounts just ahead of the market closing. It may be mentioned that the exchanges periodically disseminate the indicative price on their websites while the OFS book is getting built. The indicative price forms the basis for all market participants to modify their bids. It is observed that the final bid price amendment by Elliott group through all 6 FIIs/Sub-accounts was significantly more than the indicative price. At 15:25:00, the indicative price was ₹ 545.43 and the Elliott group bids through all 6 FIIs/Sub-accounts were already more than the same at that time. Still in the last 30 seconds before the market closing, the Elliott group through all 6 FIIs/Sub-accounts increased the bid price significantly from the range of ₹ 570-585 to ₹ 620-630 in synchronized manner. It is worth mentioning that though these revised bids were at a price higher than the prevailing indicative price by ₹ 75 to ₹ 85, yet the same were substantially lower than the previous day's closing price i.e. by ₹ 175 to ₹ 185. Apparently, the unusually lower floor price of ₹ 490 per share as against the last closing price of ₹ 805.3 per share made the market bids and consequently the indicative price hover around the floor price i.e. much lower than the previous day's closing price and facilitated the Elliott group to mop up almost all the shares at a price much lower than the last closing price.
9. As mentioned hereinabove, the OFS was oversubscribed 2.84 times, still 94.02% of shares in OFS were allocated to the Elliott group. It is also noted that prior to the date of OFS, none of the entities of Elliott group had comparable previous exposure in the scrip of AZPIL nor did they hold any shares of AZPIL. The shareholding pattern of AZPIL pre and post OFS is as following:-

Shareholder Category	Pre OFS March 31, 2013	Post OFS March 31, 2014
Promoter (AZP AB)	89.99%	75%
Domestic Institutions	0.58%	0.20%
FII	0.27%	15.91%
Corporate Bodies	0.89%	0.72%
Retail	8.27%	8.89%

10. Post OFS, the Elliott Group has further purchased 3,54,196 shares of AZPIL through open market transactions. Thus, as on March 31,2014, Elliott group has interest in total 38,79,969 shares (i.e. 15.52% of equity share capital of AZPIL).
11. It is relevant to mention that in the year 2004, the delisting price (₹ 3,000 per share) offered by the shareholders through reverse book building process was not acceptable to AZP AB and in the year 2010, the public shareholders, which majorly comprised of retail category, had rejected the delisting proposal.
12. As per proviso to regulation 8(1)(b) of the SEBI (Delisting of Equity Shares) Regulations, 2009 (Delisting Regulations), the special resolution with regard to delisting of equity shares can be acted upon '*if and only if*' the votes cast by the public shareholders in favour of the proposal amount to at least two times the number of votes cast by public shareholders against it. In this case, it is observed that with regard to the present delisting proposal special resolution has been passed by the shareholders of AZPIL through the facility of postal ballot and the same has been intimated to the stock exchanges on June 20, 2014. It is noted from the disclosure made by AZPIL on the stock exchanges that the shareholders have voted on the special resolution in the following manner:

Sl. No.	Particulars	No. of Shareholders voted	No. of Shares	% of Shares
1	Public voting (including e-voting)	460	15,05,325	100.00
2	Public voting with assent for the resolution (including e-voting)	130	13,02,560	86.53
3	Public voting with dissent for the resolution (including e-voting)	330	2,02,765	13.47

13. From the voting pattern available with the stock exchanges and depositories, it is noted that of the total 13,02,560 votes cast in favour of delisting, 11,45,963 votes (i.e. 76.1% of the total votes cast and 87.97% of total votes cast in favour of delisting) were cast by the two entities of Elliott group viz; Suffolk (Mauritius) Limited and Mansfield (Mauritius) Limited who held equity shares with voting rights in AZPIL. Thus, the entire voting rights of Elliott group were exercised in favour of delisting proposal. From such voting pattern it may be seen that the present delisting would not have been through without favourable voting by Elliott group.
14. Further, as per regulation 17 of the Delisting Regulations, for a delisting offer to be successful, the post offer shareholding of the promoter group should be higher of 90% of the total issued share capital excluding the shares which are held by a custodian and against which depository receipts have been issued overseas, or the total of the pre-offer promoter shareholding and 50% of the offer size. In the present matter, it would be required for AZP AB to take its shareholding from current 75% to minimum 90% through reverse book building process. As

the Elliott group and the participating FIIs hold 15.52% of the equity share capital of the company, they are in position to ensure that the delisting process goes through even if none of retail investors (refer table at para 9) offer their shares. They also, by virtue of their 15.52% shareholding as against the 8.89% shareholding of retail investors, have the potential to influence the delisting price in the proposed delisting offer in the manner that could be detrimental to the interest of these retail shareholders.

15. The above mentioned facts and circumstances, as summarised below raise suspicion that Elliott group might be working in collaboration/concert with the promoters of AZP AB, to facilitate the delisting of AZPIL :

- (a) the Seller Broker had conducted more than 60 road shows prior to the OFS and the OFS floor price was at significant discount to prevailing market price; still only Elliott group was allocated 94.02% of shares offered through OFS;
- (b) the Floor price was kept at ₹490 against the previous day's closing price of ₹805.3, which made the bids (2.84 times oversubscription) in the OFS hover around this price only. This facilitated the Elliott group to mop up almost all the shares (i.e. 94.02%) offered in OFS at an average price of ₹ 625.35 which is lower than previous day's closing price by ₹179.95;
- (c) the OFS bid prices of Elliott group were significantly above the floor price and the then prevailing indicative price;
- (d) Elliott group had placed their bids in the OFS in synchronised manner through 6 FIIs/Sub-account and the final bid modifications were made few seconds ahead of the market closing ;
- (e) the Elliott group had no previous exposure to the scrip of AZPIL;
- (f) The present delisting offer has been made within one year of OFS;
- (g) earlier delisting offers were unsuccessful/ rejected as retail shareholders were either demanding price of ₹3000 per share or were not keen to delist the company;
- (h) the present delisting offer would not have been through without favourable voting by Elliott group;
- (i) the Elliott group and the participating FIIs, with their current shareholding i.e. 15.52% of the equity share capital are in position to ensure that the delisting process goes through even if none of retail investors offer their and they also, by virtue of their 15.52% shareholding as against the 8.89% shareholding of retail investors, have the potential to influence the delisting price in the proposed delisting offer in the manner that could be detrimental to the interest of these retail shareholders.

16. If the suspected concerted/co-ordinated action of AZP AB and Elliott group is found true then their act/conduct may amount to contravention of SEBI (Prohibition of Fraudulent and Unfair Practice Relating to Securities Market) Regulations, 2003. The matter requires further examination in this regard. However, at this stage, in the facts and circumstances as mentioned above, the interest of retail investors is supreme in my mind. I, therefore, deem this case fit

for taking appropriate *measures* under section 11(1), and 11B of SEBI Act, in order to protect the interest of the retail investors in the delisting process which is already on and issue following directions:

- (a) Bombay Stock Exchange Limited and National Stock Exchange Limited shall closely monitor the entire delisting process of M/s Astrazeneca Pharma India Ltd. and allow the final delisting of its shares only after satisfying themselves that the process has been fair and transparent.
- (b) Bombay Stock Exchange Limited and National Stock Exchange Limited shall promptly report any aberrations noticed in the delisting process of M/s Astrazeneca Pharma India Ltd. to SEBI.
- (c) The promoters of M/s Astrazeneca Pharma India Ltd. shall finally purchase shares from public shareholders in the delisting offer only after seeking approval of the Bombay Stock Exchange Limited and National Stock Exchange Limited.

17. This order shall come into force with immediate effect.

DATE: June 24th , 2014
PLACE: MUMBAI

RAJEEV KUMAR AGARWAL
WHOLE TIME MEMBER
SECURITIES AND EXCHANGE BOARD OF INDIA