BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

UNDER SECTION 11(1) AND 11 B OF THE SEBI ACT, 1992 READ WITH REGULATION 25A OF THE SECURITIES AND EXCHANGE BOARD OF INDIA (DELISTING OF EQUITY SHARES) REGULATIONS, 2009.

IN THE MATTER OF DELISTING OF EQUITY SHARES OF U.P. HOTELS LTD.

Background –

1. Securities and Exchange Board of India (hereinafter referred to as 'SEBI') passed an interim order dated June 04, 2013 (hereinafter referred to as 'the Interim Order') with respect to 105 listed companies including U.P. Hotels Ltd. (hereinafter referred to as 'UPHL' / 'the company') for non-compliance 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') within the due date i.e., June 03, 2013. The directions in the order, inter-alia, included freezing of voting rights and corporate benefits with respect to the excess of proportionate promoter / promoter group shareholding, prohibition on promoters / promoter group and directors of such non-compliant companies from buying, selling or otherwise dealing in securities of their respective companies etc. The directions contained in the interim order were confirmed vide order dated December 02, 2014 (hereinafter referred to as 'the Confirmatory Order').

2. UPHL, along with its joint managing directors Shri. Rupak Gupta and Shri. Apurv Kumar, challenged the SEBI Confirmatory Order dated December 02, 2014 before the Hon'ble Securities Appellate Tribunal ('SAT'). Hon'ble SAT, vide order dated November 11, 2016, allowed the appellants to withdraw the appeals with liberty to move an application before the appropriate authority seeking permission to delist

the company and to seek modification of the SEBI Interim Order and Confirmatory Order for that purpose.

3. UPHL, vide letter dated March 27, 2017, requested SEBI for modification in the SEBI Interim and Confirmatory orders to permit entities to deal in shares of UPHL for the limited purpose of complying with the delisting of shares of the company from the respective stock exchanges. UPHL also forwarded additional written submissions vide letters dated August 11, 2017, February 09, 2018, February 28, 2018, February 04, 2019 and July 17, 2019. However, these applications were not made in accordance with the requirements specified in Regulation 25A (2) and (3) of the SEBI (Delisting of Equity Shares) Regulations, 2009 ('Delisting Regulations').

4. UPHL was provided an opportunity to make submissions in person on July 20, 2017 before SEBI, for which the company was represented by Mr. Ashok Agarwal, CEO, Mr. Prakash Chandra Prusty, Company Secretary, Mr. Uday P. Nair, Consultant, Mr. Prakash Shah and Mr. Robin Shah, Advocates. Subsequently, another opportunity for personal hearing was given on February 05, 2018 wherein the company was represented by Mr. Ashok Agarwal, CEO, Mr. Prakash Chandra Prusty, Company Secretary, Mr. Uday P. Nair, Consultant, Mr. Prakash Shah, Advocate and Mr. Harsh Jain.

5. Subsequently, SEBI received an application dated September 26, 2019 from UPHL under regulation 25A of Delisting Regulations seeking relaxation from the directions in Para 17(b) of the Interim Order and from MPS requirements to enable the company to propose a delisting of equity shares of the Company.

6. Facts relevant to the case, as borne out from the applications made by the company and gist of the submissions made vide the aforesaid correspondences, are summarized below:

a. UPHL is a Public Limited company carrying on the business of running and managing hotels. UPHL was originally incorporated on February 13, 1961 and is listed on Bombay Stock Exchange (BSE). The Promoters of

UPHL are members belonging to the family of Late Shri Sri Das (referred to as "Gupta Family"). The promoters, consisting of family members along with certain companies promoted by them, hold around 88.38% shares of UPHL.

b. Due to certain non-compliance of the listing requirements of the stock exchange, trading in shares of the company has been suspended since September 15, 2015.
c. Family disputes were going on amongst members of Gupta family with respect to the distribution of family properties and has undergone various rounds of Court proceedings.
d. Disputes and differences amongst promoters have adversely affected the regulatory compliance requirements of the company including compliance requirements of minimum public shareholding in terms of Rule 19 A of SCRR.
e. Further, lack of liquidity in the shares of the company and due to adverse market conditions, there were no takers for the shares of the company.
f. In view of the above non-compliance, ex-parte ad-interim order dated June 04, 2013 was passed by Hon'ble Whole Time Member, SEBI which was confirmed on December 02, 2014.
g. Consequently, Appeals were filed by Joint Managing Directors viz. Shri. Apurv Kumar and Shri. Rupak Gupta before Hon'ble Securities Appellate Tribunal. In the course of hearing before Tribunal, a plea was raised by the Appellants that they are desirous of moving an application before appropriate authority seeking permission to delist the company and for that purpose approach SEBI seeking modification of the orders passed on June 04, 2013 and December 02, 2014 so as to enable the Appellants to seek permission for delisting the company.
h. The company owns 4 five star hotels located at Jaipur, Khajuraho, Lucknow and Agra.
i. The shareholding Pattern of the company, as on June 30, 2019, is as under:

Category	No. of Shares	%	No. of Shareholders
Promoter	47,72,960	88.39	40
Public	6,27,040	11.61	994
Total	**54,00,000**	**100**	**1034**

j. Vide Oder dated August 19, 2016 passed by Hon'ble National Company Law Tribunal (NCLT), New Delhi, Justice B. P. Singh (Retd.) has been appointed as Chairman and Independent Non-Executive Director of the company mainly to ensure due compliances with all statutory requirements of Law.

k. Additionally, from 12.05.2017, Shri. Safi Alain has been appointed as an Independent Director. He was an IPS Officer in Bihar Cadre and retired as Director General, National Crime Records Bureau.

l. In case voluntary delisting is allowed, no loss would be caused to the shareholders; on the contrary, they will be able to unlock the value and get a fair market value as per the formula prescribed under the Delisting Regulations through the Merchant Banker registered with SEBI.

m. UPHL has also provided gist of litigations initiated by a group of promoters against other group which are pending before trial court and NCLT, New Delhi.

n. In the past, SEBI had granted permission to voluntarily delist the shares of certain MPS non-compliant companies viz. Vippy Industries Limited, REIL Electricals India Ltd. and Shantivijay Jewels Ltd.

o. Regulation 8(1B)(i) of Delisting Regulations requires a company to comply with all the requirements under the Listing Regulation before an application for voluntary delisting is made.

p. As part of the commitment by the Promoter and the Company, the Company has complied with all the pending non-compliances and is up-to-date and regular in its filings with BSE, except the requirement of complying with the Minimum Public Shareholding.

q. Suspension of trading of the Company, pending disposal of the matter by SEBI, would cause hardship to the public shareholders as they would not be able to trade in the shares of the Company. The promoters of the Company have undertaken not to deal in the shares of the Company pending final disposal of the matter before SEBI.

r. The company has already decided to voluntarily delist its shares from stock exchanges, so that proper exit may be provided to the present shareholder of the company, so as to protect their rights and interest in the company.

s. Under Regulation 8 (1B) (i) of the Delisting Regulations for the purpose of voluntary delisting of shares from stock exchange, it is required that the company is in compliance with applicable provisions of securities laws. In this case, as on date the company is fully compliant with the applicable provisions of securities laws except compliance with MPS norms.

t. If such exemption is not granted, the promoters would have to disperse the shareholding to public to comply with Rule 19A of SCRR and thereafter they would have to acquire shares from public for delisting, causing undesirable financial loss and unwarranted hardships to the promoters of the company.

7. UPHL has also submitted that the promoters had provided the following undertakings in this regard:

a. Promoters have stated that they will vigorously follow up to comply with all pending requirements of law.

b. Promoters have undertaken that they shall acquire the minimum number of equity shares as stipulated under Regulation 17 of the Delisting Regulations.

c. If need arises, Shri. Apurv Kumar, one of the promoters, has undertaken in his individual capacity to acquire the minimum number of equity shares as stipulated under Regulation 17 of Delisting Regulations as amended thereto and subsequent amendments (i.e. 90%of total equity shareholding of the company)

d. Promoters have further declared that they have got adequate net worth and financial capacity to fulfil the above commitment.
e. Promoters have also undertaken that they shall initiate the delisting process within one month from the date of the order.

8. In view of the above, UPHL has requested SEBI to grant relaxation from complying with MPS requirement in the context of Regulation 8(1B) (i) of Delisting Regulations and allow them to voluntarily delist the equity shares of the company from the stock exchanges. Following exemptions / relaxations have been sought by the company:

a. The directions issued by SEBI vide interim order dated June 04, 2013 and confirmed vide confirmatory order dated December 02, 2014 may be modified as follows:-
    i. The Company and its promoters may be permitted to take steps for initiating voluntary delisting process within 1 month from the date of the order.
    ii. The direction issued in Para 17(b) of its interim order dated June 04, 2013 and confirmed vide its confirmatory order dated December 02, 2014 may kindly be modified to the extent that it shall not prevent the company or its promoters from initiating and carrying out the process of voluntary delisting.
    iii. Promoters of the Company may be permitted to buy shares of the Company offered by public shareholders in the process of delisting of shares of the Company.
b. The promoters of the company may be granted one year to complete the delisting process in accordance with the law.
c. Company may be exempted from compliance with MPS requirements to enable them to make voluntary delisting from stock exchange.
d. Company may be granted relaxation from such other non-compliance with the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 ('LODR') including non-compliance with the requirement of dematerialization of promoter's shareholding, as

may be necessary, so that such non-compliance does not become a hindrance in completion of the delisting process.

e. A direction may be issued to BSE to revoke suspension of the Company, pending disposal of the Company's request for granting relaxation from complying with MPS requirement under Regulation 8(1B) (i) of Delisting Regulations to allow voluntary delisting of the equity shares of the Company from the stock exchanges.

Delisting Regulations and scope of SEBI's powers

9. The requirement to maintain Minimum Public Shareholding in a listed company was explicitly laid out by way of insertion of Rule 19A in the SCRR with effect from June 04, 2010. Rule 19A(1) read as follows:

"Continuous Listing Requirement.

19A. *(1) Every listed company other than public sector company shall maintain public shareholding of at least twenty five per cent.:*

...

10. The procedure relating to voluntary delisting of a company's equity shares is governed by the provisions of Delisting Regulations. However, one of the essential conditions relating to granting permission to voluntarily delist is recorded in Regulation 8(1B) of the Delisting Regulations, which reads as follows:

"(1B) The board of directors of the company while approving the proposal for delisting shall certify that :

(i) the company is in compliance with the applicable provisions of securities laws;

(ii) the acquirer or promoter or promoter group or their related entities, are in compliance with sub-regulation (5) of regulation 4;

(iii) the delisting is in the interest of the shareholders."

Further, regulation 25A of the Delisting Regulations reads as follows:

"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.

..."

11. I have perused the facts and circumstances of the case. I have also examined the scope of the powers of the Board under Regulation 25A of the Delisting Regulations. Under Regulation 25A, the Board has the power to relax strict enforcement of the regulations, if it is satisfied that the relaxation is in the interests of the investors in securities and the securities market and while doing so, the reasons for grant of relaxation need to be recorded in writing. This would imply that the Board is empowered to relax the rigors of the requirements under the Delisting Regulations on a case to case basis, upon being satisfied that such relaxation would serve the interest of investors of the company and the securities market as a whole.

Issues for consideration

12. Following are the major issues that require consideration in the matter:

a. Whether relaxation from complying with MPS requirements is warranted in the extant matter.
b. Whether relaxation under Regulation 25A of Delisting Regulations could be considered in the extant matter, given the facts and circumstances of the case.
c. If yes, what conditions would need to be imposed along with the relaxation to ensure that public shareholder's interests are protected?
d. Whether the instant matter requires issuance of directions to BSE to revoke suspension of the trading in shares of the company.
e. Whether any relaxation of directions contained in Para 17(b) of the SEBI Interim order dated June 04, 2013 and confirmed vide SEBI order dated December 02, 2014, are warranted in the matter.
f. Whether relaxation from other non-compliances with the provisions of LODR including non-compliance with the requirement of dematerialization of promoter's shareholding needs to be considered in the extant matter.

13. MPS norms were framed with the objective of ensuring wider dispersal of shareholding in publicly traded companies and higher participation of non-promoter shareholders. The objective has been clearly stated in the Press Release dated June 04, 2010,

issued by the Ministry of Finance, Government of India, in, inter alia, the following words: *"A dispersed shareholding structure is essential for the sustenance of a continuous market for listed securities to provide liquidity to the investors and to discover fair prices. Further, the larger the number of shareholders, the lesser is the scope for price manipulation."*

14. In the instant case, it is seen from the BSE website that the promoters have been holding 88.39% of shareholding since March 31, 2001. The concentration of shares with the promoters could have been one of the factors that have contributed to absence of active trading in the shares of the company. It is observed from the information available on BSE website that the shares of the company are infrequently traded and annual trading turnover since 2009 has not crossed even 10% of the total outstanding shares, as seen from the table below:

Year	**No. of shares traded during the year**	**Total outstanding shares**	**Percentage of shares traded during the year to total shares**
	(A)	(B)	(A)/(B) x 100
2009	61,361	54,00,000	1.14%
2010	4,79,123	54,00,000	8.87%
2011	3,73,516	54,00,000	6.92%
2012	71,707	54,00,000	1.33%
2013	1,34,207	54,00,000	2.49%
2014	51,262	54,00,000	0.95%
2015	1,890	54,00,000	0.04%
September 2015 till date	Trading suspended due to penal reasons		

Source: BSE Website

15. As per the company's submissions, the Board of Directors of the company passed a resolution on February 13, 2013 to get the company voluntarily delisted from BSE. However, it is stated that the company could not proceed with the delisting proposal in view of the order of the civil court, inter-alia, directing parties to maintain status-quo regarding the assets and business interests of the company. Further, the company,

vide letter dated February 28, 2018, submitted that the Hon'ble Allahabad High Court, vide its order dated May 30, 2014, has clarified that *"…the status quo shall be maintained amongst the parties with regard to management of assets only, as granted by the trial court vide order dated March 20, 2013*".

16. From the SEBI confirmatory order dated December 02, 2014, it is observed as under:

"8. I have considered the submissions made by the Company and its Joint Managing Directors and other material available on record. The interim order was issued against the Company as it was non-compliant with the provisions of Rule 19A of the SCRR and Clause 40A of the Listing Agreement read with Section 21 of the Securities Contract (Regulation) Act, 1956 ('SCRA'), having not maintained the minimum level (of 25%) of public shareholding as of June 03, 2013 (the time line before which such compliance was to be achieved). Admittedly, this contravention still continues. The amended provisions of Rules 19A of the SCRR came into force with effect from June 04, 2010, offering a time period of three years (i.e., on or before June 03, 2013) for a listed company to maintain public shareholding of atleast 25%. I note that the Company had not taken any step to comply with the MPS requirements except placing the issue for consideration in its Board meetings. It has been submitted by Mr. Rupak Gupta, one of the Joint Managing Directors that initially no consensus could be arrived at amongst the Board members as to the way forward for compliance and therefore no effective decisions could be taken on the matter. I note that it was only on February 13, 2013, that a resolution was passed to voluntarily delist the Company. However, this decision was reconsidered in the meeting of May 12, 2013 and in the Board meeting dated May 27, 2013, wherein it was resolved that bonus shares be issued exclusively to the public.

9.The Company and the Joint Managing Directors in their submissions have argued that they were not able to comply with the MPS norms due to the restraint order dated December 07, 2012 and status quo order dated March 20, 2013 passed by the Learned Civil Court. However, it is to be noted that prior to the orders of Learned Civil Court also the Company had sufficient time to comply with the MPS norms. Further, the Hon'ble High Court has also vide its order dated

September 09, 2013, inter alia said that '... ... in case Apurv Kumar is not cooperating as per Resolution dated February 13, 2013, the Company Secretary is authorized to take necessary steps as required under Securities Contract Regulation Rules, 1957 read with Clause 40 A of the Listing Agreement and SEBI directives applicable to public listed companies. ... ...'. Considerable time has elapsed, since the order of Hon'ble High Court, however, the Company is yet to comply with the MPS norms.

10.It is to be noted that the relevant statute does not provide for exemption/ relaxation of such continuous listing requirements. The same also does not provide any category by the name of 'sub-judice category' as submitted by one of the Joint Managing Directors, Mr. Apurva Kumar. From the submissions and the records brought before me, there appears to be no order directing status quo of the shareholding levels in the Company. On the contrary as stated above, the Hon'ble High Court has directed the Company to take necessary steps towards the MPS compliance. I also note that the Hon'ble High Court, vide its order dated May 30, 2014 has inter alia stated that "... ... status quo shall be maintained amongst the parties with regard to the management of assets only, as granted by the trial Court vide order dated March 20, 2013." The Hon'ble High Court also directed the Learned Trial Court to expedite the hearing of the regular Suit No. 1574 of 2012."

17. As noted in the above extracted part of the confirmatory order, there was no court order which prevented the company from complying with MPS requirements. I further note that the company / promoters have not made any genuine and tangible efforts to achieve compliance with MPS requirements, even after the said confirmatory order.

18. I also note that the company, in their submissions, has cited certain prior instances where SEBI had permitted delisting of companies which were not compliant with the MPS requirements. However, I note that some of the earlier orders allowing delisting was made pursuant to BIFR directions. I have also taken note that these cases are not exactly comparable as the facts and circumstances in each of these cases are different vis-à-vis the extant matter. SEBI, in the past, has also rejected certain applications from MPS non-compliant companies seeking delisting, considering the facts and circumstances in such cases. The relaxation under Regulation 25A of

Delisting Regulations is neither automatic nor precedent-driven but is extended only in exceptional cases after judiciously considering the peculiarities associated with the respective cases.

19. Another issue to be considered in the matter is whether relaxation under Regulation 25A of Delisting Regulations could be considered in the extant matter, given the facts and circumstances of the case, to enable the company to initiate voluntary delisting. Regulation 8(1B)(i) of the Delisting Regulations requires the company proposing to make a voluntary delisting to certify that it is in compliance with "applicable provisions of securities laws". This provision, read with Rule 19A of the SCRR (*also recorded above*), indicates that a company which is non-MPS compliant (*thereby said to be not compliant with "applicable provisions of securities laws"*) cannot seek voluntary delisting. In the context of consideration of such delisting applications made by MPS non-compliant companies, it is relevant to make certain observations. Firstly, delisting should not serve as an easy option that can be chosen by such companies to sidestep MPS compliance. At the same time, preventing delisting of companies which are not frequently traded and/or having low public shareholding actually works against the interest of the public shareholders. Furthermore, voluntary delisting is a preferable option from the perspective of investors as the public shareholders get to participate in the reverse book building process to arrive at a fair and acceptable exit price. In cases of non-compliance with MPS norms, SEBI has allowed certain MPS-non-compliant companies to go ahead with voluntary delisting, taking into consideration certain peculiar facts of the company. In fact, the powers conferred on SEBI under regulation 25A of the Delisting Regulations to relax the applicability of provisions of the Regulations and Rule 19 (7) of the SCRR permitting SEBI to waive or relax the strict enforcement of listing requirements under the SCRR is indicative of the legislative intent for SEBI to take a pragmatic view of cases, keeping the interest of investors as the predominant consideration. Therefore, there is a need to balance the interest of the public shareholders vis-à-vis a strict interpretation of Regulation 8(1B)(i) of the Delisting Regulations, so as to enable the shareholder to realize the best value of the shares while allowing such relaxations in suitable cases. The relaxations given to such companies to initiate voluntary delisting may therefore come with certain stringent conditions, basically with an objective to protect investor interest.

20. I note that compliance with applicable provisions of securities laws including MPS requirements is mandated under Regulation 8(1B)(i) of the Delisting Regulations before a company can initiate delisting proceedings. In this context, having regard to the preceding paragraphs, I find it appropriate to relax the requirement under Regulation 8(1B)(i) of Delisting Regulation limited to the extent of compliance by the company with MPS requirements.

21. While the company has remained listed, the trading in its shares has been minimal and the trading has been suspended since September 2015. In view of the above, the company, while continuing as a listed company on records, was in effect, akin to an unlisted company, giving no liquidity or reasonable exit opportunity to public shareholders.

22. For the public shareholders, the reverse book building mechanism in voluntary delisting gives them an option to get a price better than what may be available in an otherwise illiquid market. However, if the public shareholders foresee better financial future for the company, they would be free not to participate in the voluntary delisting process. As per available records, there are no investor grievances pending against the company. Thus, in my opinion, voluntary delisting would be a better alternative in the investors' interest in the instant case, as compared to compulsory delisting, which would result in shareholders being paid the fair value as calculated by the independent valuer.

23. Presently, the company has a public shareholding of 11.61% as against the minimum requirement of 25%. In case of those companies undertaking voluntary delisting, while being compliant with MPS requirements, the promoters are required to acquire at least 15% of total shareholding from the public in terms of Regulation 17 of Delisting Regulations, to deem the delisting offer to be successful. In other words, promoters of an MPS compliant company would need to acquire at least 60% of the public shareholding (i.e.15% of total shareholding out of the 25% total public shareholding), to make the delisting offer successful. Since the promoters already hold 88.39% shareholding in the company, they would have to acquire only 1.61% shareholding

from public to reach 90% in the instant case. Applying the threshold of 90% promoter holding under Regulation 17 to deem the delisting to be successful in the instant case is felt inadequate as it may indirectly incentivize the MPS violation. Hence, certain conditions are being imposed upon the company and promoters, which would balance the breach of MPS non-compliance vis-à-vis the interest of investors, as indicated under the heading “Directions”.

24. Another major concern in case of a company getting delisted is whether the public shareholders are given the fair price, especially when the shares are not widely traded to reflect its actual worth. In the given case, the company is a profit making company. However, the trading in shares of the company has been suspended since 2015 for certain non-compliances with listing requirements. It is observed from the disclosures available on BSE website that total revenues, profits and net worth of the company have shown steady improvement, as seen below:

(Amount in Rs. crore)

	FY2019	**FY2018**	**FY2017**	**FY2016**	**FY2015**
Turnover	109.73	98.45	87.89	86.88	77.80
Net Profit	6.56	3.05	4.15	3.93	2.71
Net worth	92.57	86.07	82.48	79.87	76.59

25. In such a scenario, it becomes imperative that the public shareholders opting for exit are paid fair value for the shares tendered by them, especially in the context that the price discovery mechanism through the market is not available since the year 2015. Hence, I find it appropriate to impose additional conditions with respect to valuation to ensure that the public shareholders opting for exit are paid a fair price for their shares.

26. The company, vide letter dated February 04, 2019, has also prayed for issuing directions to BSE, to revoke its order suspending trading in shares of the company. The company has submitted that the trading in its shares has been suspended by BSE since September 15, 2015 due to certain non-compliance with the listing requirements of the stock exchange. In this regard, I note that the trading in the shares of the company has been suspended by BSE in accordance with the Standard Operating

Procedure for suspension and revocation of equity shares of listed entities for non-compliance of certain listing conditions and the company continues to be non-compliant with the MPS requirements. While I do not find any valid ground to intervene in the matter, UPHL may consider approaching BSE in this regard and BSE may consider the application on merits.

27. The company has also requested that the directions issued by SEBI in Para 17(b) of its interim order dated June 04, 2013 and confirmed vide confirmatory order dated December 02, 2014 may be modified to the extent that it shall not prevent the company or its promoters from initiating and carrying out the process of voluntary delisting and the promoters of the company be permitted to buy shares of the company offered by public shareholders in the process of delisting of shares of the company. I note that the directions contained in the aforementioned SEBI orders, inter-alia, prohibit the promoters / promoter group and directors of these non-compliant companies from buying, selling or otherwise dealing in securities of the company, either directly or indirectly, in any manner whatsoever, except for the purpose of complying with the MPS requirement, till such time the company complies with the MPS requirement. Voluntary delisting process would necessitate buying of shares of public shareholders by the promoters. Hence, I deem it fit to modify the direction contained in Para 17(b) of its interim order dated June 04, 2013 and confirmed vide order dated December 02, 2014, to the extent required to enable the promoters to acquire shares from public shareholders as part of the voluntary delisting process.

28. The company has also sought relaxation from such other non-compliance with the provisions of LODR including non-compliance with the requirement of dematerialization of promoter's shareholding. However, I note that no specific grounds in support of such request have been made out in the application and no specific reason for not complying with the requirement of dematerialization of promoter shareholding has been brought out in the application. In this regard, I note that relaxation under Regulation 25A of the Delisting Regulations can not become a comprehensive forbearance mechanism to bypass various regulatory requirements applicable to a listed company or to regularize existing non-compliances by listed entities. I am of the view that the power to grant relaxation

under Regulation 25A of the Delisting Regulations has to be judiciously used and should not be used by listed entities to obtain blanket exemptions from complying with various listing requirements. In view of the above, I do not deem it fit to grant any relaxation from the provisions of LODR including non-compliance with the requirement of dematerialization of promoter's shareholding, except as mentioned elsewhere in the order.

Directions:

29. For the aforesaid reasons, in the interest of investors in securities 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 company i.e. U.P. Hotels Ltd., relaxation from the applicability of regulation 8(1B)(i) *(limited to the extent of compliance with minimum public shareholding norms)* for the specific purpose of seeking voluntary delisting of its equity shares, subject to the following conditions:

(i) The Company is in compliance with provisions of all other applicable laws.

(ii) The company shall initiate voluntary delisting of its equity shares within a period of 1 month from the date of this Order and shall complete the process of voluntary winding up within a period of one year from the date of this order.

(iii) The company shall obtain valuation of its equity shares from two independent peer reviewed chartered accountants.

(iv) The delisting price to be paid to the investors shall be at least equal to the price as determined through reverse book building process or through the valuation mechanism at clause (iii) above, whichever is higher.

(v) The company shall cause to publish a 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.

(vi) The advertisement as provided in clause (v) above as well as the explanatory statement to special resolution shall indicate the valuation obtained as per clause (iii) above and shall also state that the higher of the price determined through the reverse book building process and the valuation as obtained in

clause (iii) above, shall be paid to investors, in the event of company proceeding with the delisting.

(vii) The offer price shall be paid to tendering shareholders only through banking channels through crossed account payee cheque / crossed demand draft / internet banking channels to enable audit trail.

(viii) In addition to compliance with the applicable provisions of Delisting Regulations, the delisting offer shall be considered as successful only if the promoters acquire at least 60% of the existing public shareholding of 11.61%, i.e. approximately 6.97% of the total shareholding;

(ix) Pursuant to delisting of company's equity shares, the promoters shall continue to accept shares tendered by any remaining public shareholder holding such equity shares, for up to 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.

(x) Subject to the above, the company shall comply with all other conditions, including those pertaining to determination of the offer price, stipulated in Chapter IV of the Delisting Regulations.

(xi) The directions contained in Para 17(b) of the SEBI Interim order dated June 04, 2013 and confirmed vide SEBI order dated December 02, 2014, pertaining to prohibition on promoters / promoter group and directors of the company from buying, selling or otherwise dealing shall stand modified to the limited extent to allow promoters / promoter group entities and directors of the company to purchase shares from public shareholders under the proposed delisting process. The direction contained in Para 17(b) of the Interim Order shall be re-imposed / revived immediately (without the need for passing of a separate order) in case the delisting process of the company is not successful within the period directed in clause (ii) above.

(xii) Upon the company getting delisted in accordance with this order, the directions issued vide the Interim Order dated June 04, 2013 read with the Confirmatory Order dated December 02, 2014 shall stand vacated automatically without any further orders.

(xiii) The above directions are without prejudice to the right of SEBI to take any other appropriate action for other non-compliances including with MPS requirements and non-dematerialization of shareholding of promoters, etc.

(xiv) Copy of this order shall also be displayed on the company's website and the web link thereto shall be included in the notice of special resolution sent to shareholders.

30. The Application dated September 26, 2019 along with related correspondences stands disposed of accordingly.

DATE: September 30, 2019 **G. MAHALINGAM**

PLACE: Mumbai **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA