PART FOUR: REGULATORY CHANGES

1. REGULATORY AMENDMENTS

I. Amendment(s) to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997

(a) SEBI (Substantial Acquisition of Shares and Takeovers) (Second Amendment) Regulations, 2004 dated December 30, 2004.

The amendments were made to harmonise the provisions on level of public shareholding contained in the Takeover Regulations with the Listing Agreement, to bring greater clarity in the operation of Takeover Regulations, eliminate the scope of regulatory arbitrage between Takeover Regulations and Delisting Guidelines and to eliminate the possibility of delisting through Takeover Regulations. These include:

(i) Change in the definition of 'Promoter' and 'Public Shareholding'

The existing definitions of terms "promoter" and "public shareholding" in the Regulations were revised. The said definitions would also be adopted in Delisting Guidelines and continuous listing requirement of Listing Agreement in order to achieve harmony with Takeover Regulations.

(ii) Restriction on Creeping Limit only between 15 per cent and 55 per cent

Creeping acquisition of 5 per cent is permitted for persons holding 15 per cent or more but less than 55 per cent of the shares or voting rights in a company. Any acquisition beyond this 5 per cent limit shall mandate a public offer in terms of the Takeover Regulations.

(iii) For acquisitions beyond 55 per cent

- An acquirer, who together with persons acting in concert with him has acquired, in accordance with the provisions of law, fifty five per cent (55 per cent) or more but less than seventy five per cent (75 per cent) of the shares or voting rights in a target company, may acquire either by himself or through persons acting in concert with him any additional share or voting right, only if he makes a public announcement to acquire shares or voting rights in accordance with these regulations.

- Acquisitions of shares through market purchases and preferential allotments would be restricted to 55 per cent. Any acquisition through market purchases in excess of 55 per cent would be liable to be disinvested forthwith and may also attract penal provisions.

- Where the acquirer is likely to cross 55 per cent pursuant to a MoU/agreement, he shall make an open offer for at least 20 per cent. He shall ensure that minimum public shareholding required under the Listing Agreement is maintained after the public offer, by reduction in the size of the proposed acquisition under the MoU/agreement, if necessary.

- Persons holding more than 55 per cent but less than 75 per cent can consolidate their holding only by making an open offer of a suitable size that does not result in the public shareholding being reduced below minimum level of public shareholding for continuous listing.

(iv) For indirect acquisitions/global arrangements

If consequent to the public offer made in pursuance of global arrangement, the public shareholding falls to a level below the limit

specified in the Listing Agreement with the stock exchange for the purpose of listing on continuous basis, the acquirer shall undertake to raise the level of public shareholding to the levels specified for continuous listing specified in the Listing Agreement with the stock exchange, within a period of twelve months from the date of closure of the public offer.

(b) SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2004 dated August 30, 2004.

In order to safeguard the interest of investors and to better regulate the takeovers, following amendments were made:

(i) Reduction in the time period of open offers

The current time cycle of the open offer has been reduced from 120 days to 90 days.

(ii) Expansion in the scope of Regulation 3(1)(f)

The scope of Regulation 3(1) (f) is expanded to include the change in control by takeover of management of the borrower company by the secured creditor in terms of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

(iii) Restriction in the participation of Merchant Banker in the open offer and its disclosure requirement

- Merchant Bankers are restricted to deal in the scrip of target company during the period commencing from date of their appointment in terms of Regulation 13 till 15 days from the closure of the offer.
- Merchant Bankers have to disclose their shareholding in the target company, if any, in the public announcement as well as in the letter of offer.

II. Amendment(s) to SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) Regulations, 2002

(a) SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) (Third Amendment) Regulations, 2004 dated December 31, 2004.

A penalty of 'warning' can be imposed by SEBI only by following the enquiry procedure under the existing regulations. It was felt that issuance of a warning as distinct from censure can be removed from the scope of regulations so as to enable SEBI to issue "warning" as an administrative action for technical & venial violations without necessarily following the procedure laid down in the regulations. By this amendment, the word 'warning' as a minor penalty has been deleted from Regulation 13(1) (a) of the Enquiry Regulations.

(b) SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) (Second Amendment) Regulations, 2004 dated September 2, 2004.

Even in cases where intermediaries have surrendered their certificates, or when the intermediary has been declared insolvent or is wound up or fails to pay the registration, renewal or annual fees to the Board or being a stock broker, ceases to be a member of a recognised stock exchange or has been declared a defaulter by such stock exchange, a detailed summary procedure under Regulation 16 of the said regulations is required to be followed as per the existing regulations. In case of surrender of certificate etc., the intermediary may seek waiver of the opportunity of hearing. Therefore, the regulations were amended to have a simpler procedure to be followed in the above cases

in consonance with Section 12(3) of the SEBI Act, 1992.

(c) SEBI (Procedure for Holding Enquiry by Enquiry Officer and Imposing Penalty) (Amendment) Regulations, 2004 dated July 13, 2004.

The amendment enables the Board to appoint Grade 'C' officers as enquiry officers under Regulation 2(1) (e) of the said Regulations.

III. Notifications under SEBI (Central Database of Market Participants) Regulations, 2003

(a) Notification under sub-regulation (1) of Regulation 6 of Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 dated March 31, 2005.

In terms of the Notification issued by SEBI under sub-regulations (1) and (3) of Regulation 6 of the Securities and Exchange Board of India (Central Database of Market Participants) Regulations 2003 on September 28, 2004, SEBI had *inter alia* notified "all resident investors not being bodies corporate who enter into any securities market transaction (including any transactions in primary or secondary market in any listed securities and any transaction in units of mutual funds or collective investment schemes) of a value of rupees one lakh or more" as "specified investors" under the relevant regulations and, as such they were required to obtain the UIN by March 31, 2005. However, in view of the representations received by SEBI from the above "specified investors" on the difficulties faced by them in adhering to the time line of March 31, 2005, it was decided to give some more time to them to obtain the UIN. Accordingly the "notified date" has been extended from March 31, 2005 to December 31, 2005.

(b) Notification under sub-regulation (2) of Regulation 6 of Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 dated December 30, 2004

In order to mitigate the undue hardship which may be caused by insistence on strict compliance with the time limit specified vide notification dated July 30, 2004 in respect of certain specified investors where such promoters or directors are persons resident outside India, it was considered necessary to extend the time within which they shall be required to obtain Unique Identification Numbers. The notified date was extended from December 31, 2004 to December 31, 2005.

(c) Notification under sub-regulation (1) and (3) of Regulation 6 of the Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 dated September 28, 2004.

All resident investors not being bodies corporate who enter into any securities market transactions (including any transactions in primary or secondary market in any listed securities and in any transactions in units of mutual funds or collective investments schemes) of a value of rupees one lakh or more and foreign institutional investors, sub-accounts and foreign venture capital investors were defined as 'specified investors' for the purposes of clause (v) of sub-regulation (1) of Regulation 2 of the said regulations.

(d) Notification under sub-regulation (1) of Regulation 5A of SEBI (Central Database of Market Participants) Regulations, 2003 dated August 17, 2004.

In order to prevent genuine hardship to promoters or directors of specified

intermediaries, who are resident outside India the notified date of December 31, 2004 within which they were required to obtain Unique Identification Numbers was extended to June 30, 2005.

(e) Notification under sub-regulation (1) of Regulation 4 and sub regulation (1) and (2) of Regulation 6 of Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 dated July 30, 2004.

Two new classes of entities have been specified, *viz,* (1) the sub broker as 'specified intermediaries'; and (2) investors who are bodies corporate as 'specified investors', in order to bring these entities within the ambit of the MAPIN database, within December 31, 2004.

(f) Notification under sub-regulation (1) of Regulation 4 of Securities and Exchange Board of India (Central Database of Market Participants) Regulations, 2003 dated April 5, 2004.

The database of MAPIN Registrants is being gradually built up by notifying the applicability of the regulations to specified persons in phases. In the first phase of implementation which was scheduled to end by March 31, 2004, only intermediaries registered with SEBI were required to be covered. However, considering the extent of work and logistics involved in obtaining a UIN and also to ensure adequate coverage of all intermediaries registered with SEBI, the notified date was extended to June 30, 2004.

IV. SEBI (Depositories and Participants) (Amendment) Regulations, 2004 dated June 10, 2004.

SEBI has been enabled to notify any other security to be eligible for dematerialisation by way of a notification in the Official Gazette from time to time.

V. SEBI (Venture Capital Funds) (Amendment) Regulations, 2004 dated April 5, 2004.

- It expanded the scope of equity linked instruments.
- Venture Capital Funds can distribute assets of schemes at any time including winding up of the schemes after obtaining approval from 75 per cent of the investors of the schemes.
- The restriction on not investing in companies engaged in real estate sector has also been removed.
- Venture Capital Funds are permitted to invest in NBFCs which are registered with RBI and have been categorised as equipment leasing or hire purchase companies.
- Venture Capital Funds are permitted to invest in gold financing companies engaged in financing for jewellery.

VI. SEBI (Foreign Venture Capital Investors) (Amendment) Regulations, 2004 dated April 5, 2004.

- It expanded the scope of equity linked instruments.
- The restriction of investments of not more than 25 per cent of the funds in one venture capital undertaking is removed.
- The restriction that the foreign venture capital investor invests only in venture capital undertaking is also removed.
- The restriction of 75 per cent of the investible funds to be invested in unlisted equity shares has been relaxed to 66.67 per cent.

- The restriction of not investing in real estate sector has also been removed.

VII. SEBI (Portfolio Managers) (Amendment) Regulations, 2004 dated May 27, 2004.

Amendments were made providing payment of registration fee by the portfolio managers. By this amendment, the portfolio managers have to pay a sum of Rs. 25,000 as application fee and Rs. 5 lakh as registration fee at the time of grant of certificate.

VIII. SEBI (Buy-back of Securities) (Amendment) Regulations, 2004 dated June 18, 2004.

In addition to shares, other specified securities were also permitted for buy-back. The existing regulations, when originally notified in 1998, were applicable to the buy back of equity shares of a company listed on a stock exchange. Subsequently, vide amendment dated September 21, 1999, the words 'share', 'shareholder' and 'share certificate' were replaced with 'specified securities', 'security holders' and 'security certificates'. However, in view of the mandatory provision of Section 77 A(2)(f) of the Companies Act, 1956, the language used is 'shares or other specified securities' listed on any recognised stock exchange by the company provided *inter alia* that buy-back is in accordance with the said regulations. The present amendment is aimed at harmonising the regulations with the aforementioned provisions of the Companies Act.

It has been stipulated that the specified date for public announcement for buy-back shall not be later than 30 days from the date of announcement.

Since there was a stipulation under Schedule II, Clause 24 that public announcement should be signed by the Board of Directors of the company, doubts have been expressed whether the entire Board has to sign or any number of Directors authorised by the Board shall be sufficient. There was also stipulation in Clause 23 that declarations mentioned in the schedule were to be signed by two Whole Time Directors.

Companies Act does not require a company to have a minimum number of Whole Time Directors. It is also highly unlikely that in a particular company there is no managing director or Whole Time Director at all. Further as per Section 215(1)(ii) of the Companies Act, every balance sheet and profit and loss account of a company shall be signed on behalf of the Board of Directors, by its manager or secretary, if any, and by not less than two directors of the company, one of whom shall be managing director, if there is one. The amendment was therefore aimed at harmonising these provisions.

It was also proposed to incorporate similar provisions in the said regulations that transfer shall not exceed 90 per cent of the amount in the escrow account to the special account for the payment of the consideration under Regulation 11(1) of the said Regulations. Remaining 10 per cent shall be released only on completion of all the formalities laid down in the said regulations.

IX. SEBI (Central Database of Market Participants) (Amendment), 2004 dated July 21, 2004.

During the first phase of MAPIN database, several representations were received from intermediaries and market participants, investors, companies etc. expressing apprehensions and difficulties about the MAPIN database. These representations centered around three issues *viz.* inclusion of relatives of natural persons who are to be registered under the MAPIN database e.g., dependent parents, dependent

major children and spouse, inclusion of associates of intermediaries and the wide coverage of the definition of the term 'promoter'. In order to address these issues, the regulations were amended.

2. SIGNIFICANT COURT PRONOUNCEMENTS: 2004-05

I. Civil Writ Petition No.188 of 2003- PGFL Ltd. Vs. SEBI – in the High Court of Punjab & Haryana at Chandigarh

The Hon'ble Court *inter alia,* held as under:

a) "Tracing the evolution of law leading up to the addition of Section 11AA to the SEBI Act, we are satisfied that the subject of legislation under the SEBI Act relates to the promotion, development and regulation of the securities market as also to protect the interest of the investors in securities, whereas the object of adding Section 11AA to the SEBI Act was pointedly aimed at "investor protection".

"Since no Entry under the State List and the Concurrent List in the Seventh Schedule of the Constitution of India, relates to the subject of "investor protection", Parliament had the right to legislate on the subject in hand, under Article 248 of the Constitution of India, read with Entry 97 of the Union List in the Seventh Schedule of the Constitution, because Entries 1 to 96 of the Union List also do riot over the instant subject of legislation."

b) "It is difficult to comprehend the nature of the ownership/possession rights, of a customer/investor, who has no control over the basic facilities essential for effective use of agricultural land. Without control over irrigation and drainage systems, which constitutes the blood stream of agriculture, and without control over motors, pump sets, sheds and structures, a customer/investor is, in reality and for all practical purposes, never in absolute ownership/possession/ control, of the agricultural land purchased by him".

c) "The alleged business activity of sale and purchase of agricultural land by the PGFL is an effective camouflage over its real activities. In view of the above, we have no doubt in our mind that the projection by the PGFL, that it is engaged in sale and purchase of agricultural land and/or sale and development of agricultural land, is not a truthful expression of its activities".

Viewed in any manner, it is clear, that in its activities allegedly limited to, sale and purchase of agricultural land and/or sale and development of agricultural land, the PGFL accepts "contributions" from customers/investors, for collective utilisation, and further, that the PGFL pools the investments made by customers/investors with the aim/ objective of carrying out the purpose of the overall scheme/arrangement".

d) "It is, therefore apparent that each customer/investor of the PGFL is admittedly a recipient of one of the benefits contemplated under Clause (ii) (supra), namely, "property". In view of the above, we are satisfied, that the PGFL, satisfies the second mandatory ingredient/characteristic, of a "collective investment scheme" as has been specified under Section 11AA (2)(ii) of the SEBI Act."

e) "In view of the totality of circumstances noticed above, it is not possible for us to accept the contention of the learned counsel for the petitioner, that the

customer/investor, has day-to-day control over the agricultural land purchased by him or that he himself manages the agricultural land purchased by him. The aforesaid fact situation, therefore, leads to the only other conclusion possible, namely, the agricultural land purchased by a customer/investor is managed on his behalf".

f) "The business activity of the PGFL incorporates all the mandatory ingredients/characteristics of a "collective investment scheme", in terms of Section 11AA (2) of the SEBI Act. It is natural for us, therefore, to conclude that the activities of the PGFL constitute a "collective investment scheme" within the meaning of the SEBI Act."

g) The Parliament is vested with the authority and jurisdiction to legislate on the subject of legislation covered by the SEBI Act, including Section 11AA of the SEBI Act and that, Section 11AA of the SEBI Act does not impinge upon Entry 18 of the State List in the Seventh Schedule of the Constitution.

h) Finally, there is no legal infirmity in the impugned order of the Board dated December 6, 2002. In view of the above, the instant petition is liable to be dismissed. The same is accordingly dismissed.

II. Clariant International Ltd. & Anr. Vs. SEBI – Supreme Court

Brief Facts

SEBI has received complaints alleging that Clariant International Ltd. (acquirer) has acquired 50.1 per cent shares/voting rights and control of the Colour-Chem Ltd. (target company) from Hoechst AG (Hoechst) and triggered the provisions of Regulations 10 & 12 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as said regulations). The complaints were examined and subsequently, SEBI *vide* order dated August 16, 2002, directed the acquirer to make a public announcement in terms of Regulations 10 & 12 of the said regulations taking November 21, 1997 as the reference date for calculation of offer price. The acquirer was also directed to pay interest @ 15 per cent p.a. to all the shareholders of the target company from March 22, 1998 till the date of actual payment of consideration for the shares to be tendered and accepted in the offer made by acquirer. The acquirer had preferred an appeal against the said order in Securities Appellate Tribunal (hereinafter referred to as SAT), *inter alia* contending that:

(i) the rate of interest is on a higher side;

(ii) the dividends, having been paid in the meantime, should be set off from the amount of interest payable;

(iii) the interest is payable only to those shareholders who held shares on the triggering date, i.e., February 24, 1998.

SAT's Decision

The SAT *vide* its order dated February 21, 2003 held that

(a) The interest payable by the acquirer shall be at the rate of 15 per cent per annum.

(b) The dividend paid by target company to its shareholders is not required to be deducted from the interest payable to the shareholders by the acquirer.

(c) Those persons who were holding shares of target company on February 24, 1998 and continue to be shareholders on the closure day of public offer to be made in terms of the directions given in the SEBI's order alone shall be eligible to receive interest in case the shares which they were holding on February 24, 1998

are tendered in response to public offer made in terms of the said order, and acquired by the acquirer.

Appeal to Supreme Court

The acquirer preferred an appeal to the Supreme Court of India ("Supreme Court") against the said SAT order seeking reduction in the rate of interest payable and deduction of dividend paid by target company from the interest payable to the shareholders. Hon'ble Supreme Court *vide* order dated August 25, 2004 held that:

(i) The interest payable by the acquirer shall be at the rate of 10 per cent per annum.

(ii) If any dividend was paid during the said period, the same shall be adjusted with the amount of interest.

(iii) Those persons who were the shareholders till February 24, 1998 and continued to be shareholders on the closure day of public offer alone would be entitled to interest.

III. Swedish Match AB & Anr. Vs. SEBI – Supreme Court

The acquirers (Swedish Match AB) had acquired 21.89 per cent shares in the target company (Wimco Ltd.) from Jatia Group @ Rs.35 /- per share in pursuance to a resolution passed by the shareholders of the target company on September 27, 2000. As the acquirers acquired 21.89 per cent shares without making a public announcement in terms of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (hereinafter referred to as the said regulations), SEBI *vide* order dated June 4, 2002 *inter alia,* directed the acquirers to make a public announcement to the shareholders of the target company taking September 27, 2000 as the reference date for calculation of the offer price. Further, the acquirer was directed to pay an interest @ 15 per cent per annum on the offer price to the shareholders for delay in payment of consideration beyond January 27, 2001, i.e. the date by which payment would have been made had the open offer been made taking September 27, 2000. The acquirers went in appeal against SEBI order and Securities Appellate Tribunal (hereinafter referred to as SAT) *vide* order dated February 18, 2003 upheld SEBI's order. Thereafter, the acquirers preferred an appeal before the Supreme Court against the SAT order and the Supreme Court *vide* order dated August 25, 2004 upheld SAT's order. As regards the payment of interest for delayed payment, the investors would also be entitled to interest at such rate as SEBI may determine.

IV. Raj Kumar Kishorepuria Vs. GM, SEBI – High Court, Calcutta

In the captioned case, the petitioner filed a writ petition being aggrieved by the show cause notice dated August 26, 2004 issued by the General Manager, SEBI. By the said notice, the petitioner was asked to show cause as to why proceedings should not be initiated against the petitioner under Section 11B of SEBI Act, 1992, read with Regulation 12 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 1995 (hereinafter referred to as the repealed regulations) and also read with Regulation 11 of SEBI (Prohibition of Fraudulent and Unfair Trade Practices) Regulations, 2003 (hereinafter referred to as new regulations) for the role allegedly played by him in the process of irregular allotment of preferential shares of Padmini Technologies Ltd., in the year 1999.

The petitioner's case was that provisions of Regulation 12 of the repealed regulations and Regulation 11 of the new regulations, both being substantive provisions of law as opposed to procedural ones, while in view of provisions of Regulation 13 of the new

regulations, the Board is empowered to follow the procedural provisions of the new regulations for concluding the pending investigations. It does not possess the power to take any action against or punish the petitioner under Regulation 11 of the new regulations, though, if occasion arises, it can do so under Regulation 12 of the repealed regulations.

The Hon'ble High Court *vide* its judgment dated March 23, 2005, held that the actions taken and directions issued under Regulation 11 of the new regulations are only to advance the purposes of SEBI Act, 1992, which conferred very extensive and wide powers on the Board by its Section 11B. Further, the Hon'ble Court did not accept the interpretation given by the counsel for the petitioner to Regulation 11 of the new regulations that it being a piece of substantive law shall not apply to the investigations started against the petitioner under the repealed regulations. The Court also held that nothing in Regulation 11 of the new regulations falls in the field of substantive law.

The Hon'ble Court also observed that Regulation 11 of the new regulations prescribes the manner in which the Board shall take the interim measures till the time it takes the final decision under Sections 11 (1), (2), (2A), (3) and 11B of the SEBI Act. The several different preventive measures mentioned therein are intended mainly to ensure a purposeful investigation, which is nothing but a process to reach a conclusion.

Further, the Hon'ble Court held that it is apparent from the impugned post investigation show cause notice that the Board contemplated actions against the petitioner under Section 11B which empowers it to issue all or any of the directions as prescribed in the Regulation 11 of the new regulations. Section 11B confers power on the Board to issue such directions as may be appropriate in the interest of investors in securities market. Hence, the petitioner cannot say that the measures mentioned in Regulation 11 cannot be taken against him, if there are good and sufficient reasons for taking any of them. Accordingly, the Hon'ble Court found no merit in the petitioner's argument and dismissed the writ petition.

V. Alkan Projects Pvt.Ltd Vs. SEBI – Appeal No.88/2004

The Hon'ble Securities Appellate Tribunal *vide* order dated August 9, 2004 has held that while imposing penalty, the Adjudicating Officer should also take into account the capacity to pay by the delinquent in addition to the factors mentioned in Section 15J of the SEBI Act.

However, the Hon'ble Supreme Court admitted the appeal filed by SEBI and vide its order dated February 18, 2005 stayed the order of the Hon'ble SAT.

VI. WP (C) No. 2094/1996 – Mrs. Geeta Kapoor, WP (C) No. 4679/ 1996 – Lt. Col. M G Kapoor, WP (C) No. 4662/1996 – Consumer Education & Research Society Suraksha Sankool Vs. Union of India & Ors. – High Court of Delhi

The above petitions had been filed in the nature of public interest litigations challenging *inter alia* the preferential allotments made by various multinational companies (MNCs) such as Castrol India Ltd., Alfa Laval Ltd. etc. The petitioners had alleged that these companies had issued shares to their foreign promoters or select group of persons at a price lower than the market price. The petitioners had also challenged SEBI's Preferential Allotment Guidelines dated June 11, 1992 and June 17, 1992 on the ground that they are illegal,

arbitrary and violative of Article 14 of the Constitution of India.

The Hon'ble Delhi High Court *vide* its order dated January 11, 2005 has dismissed these writ petitions with following observations:

a. In such petitions what is to be considered is whether the respondents (SEBI / RBI / GOI) have acted in accordance with law or not. If the action of the authorities is in accordance with law, then merely because the petitioners are of the opinion that the same has caused loss of foreign exchange which has resulted in subsequent change of policy cannot be the reason to interfere and affect the third party right which were created on the basis of the policy which existed on the relevant date.

b. The RBI/SEBI/Central Government have taken a decision in accordance with the policy applicable on that date and have examined the case within the parameters of that policy. It would not be wise for the court to sit as an appellate court in a public interest litigation.

c. Considering the specific cases, the Hon'ble Court observed that there cannot be second view on the decision taken by the authority, as majority shareholders have taken a decision under the provision of the Companies Act and which is duly approved by the competent authority. In the first two cases where the grievances are made by a shareholder the remedy is available in other laws i.e. a petition in the Companies Act or a Civil Suit. In the third case although various grievances were set out in the petition, yet at the stage of submissions the grievances were confined to only pricing of the shares in preferential issues.

d. The petitions are not maintainable by way of PIL, particularly when the remedies are available in the Companies Act.

In view of the above observations, the Hon'ble High Court dismissed the petition. The court also refused to issue the certificate for appeal to the Supreme Court.