



भारतीय प्रतिभूति  
और विनिमय बोर्ड  
Securities and Exchange  
Board of India

GENERAL MANAGER  
CORPORATION FINANCE DEPARTMENT

SEBI/HO/CFD/DCR1/OW/P/2019/29159/1  
05 November 2019

JSW Steel Limited  
JSW Centre, Bandra Kurla Complex  
Bandra (East), Mumbai – 400 051  
Maharashtra  
lancy.varghese@jsw.in

**Kind attention: Mr. /Ms. Lancy Varghese (Company Secretary)**

Dear Sir/Madam,

**Sub:** Request for informal guidance by way of “Interpretive Letter” under the SEBI (Informal Guidance) Scheme, 2003 in relation to SEBI (Share Based Employee Benefits) Regulations, 2014 (SBEB Regulations) in the matter of JSW Steel Limited

1. This has reference to your letter dated 19 August 2019 on the captioned subject.
2. Vide the aforementioned correspondence, you have, *inter alia*, represented as under:
  - a) JSW Group, comprises of various subsidiaries, joint venture companies, associates and other related party entities form an integral part of JSW Group and have contributed significantly to the growth of JSW Steel. In order to retain talented human resources and recognize the efforts of employees of these entities (Joint venture as per Annexure A and Promoter controlled entities as per Annexure B) in JSW Group (hereinafter referred to as JSW entities). JSW Entities are desirous of granting cash based SARs linked to the share of JSW Steel, to certain identified employees, through a Trust established by JSW Entities, which shall be managed by professional trustees appointed by JSW Entities.
  - b) The mechanism for implementation of the Proposed Scheme is given below:
    - (i) Each of the JSW Entities will formulate a cash based Stock Appreciation Scheme (“Scheme”) for its employees. Each unit of SAR will derive its value from one equity share of JSW Steel.
    - (ii) The scheme will be implemented through a discretionary trust (“Trust”) to be settled by JSW Entities. The Trust will be managed by professional trustees appointed by JSW Entities.

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सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बांद्रा कुर्ला कॉम्प्लेक्स, बांद्रा (पूर्व), मुंबई - 400 051.  
दूरभाष : 2644 9950 / 4045 9950 (आई.वी.आर. एस.), 2644 9000 / 4045 9000 फैक्स : 2644 9019 से 2644 9022 वेब : www.sebi.gov.in

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- (iii) At the time of grant of SARs, the trust will acquire requisite number of shares of JSW Steel through Secondary market purchase by procuring interest bearing loan from the JSW Entity.
- (iv) On the date of redemption/settlement of SAR, the Trust will sell the requisite number of shares of JSW Steel representing the relevant SARs.
- (v) The difference between, the market price of equity shares of JSW Steel on the date of redemption of SAR and the exercise price of SAR (net of taxes) will be distributed to the employees.
- (vi) The Trust will utilize the balance funds to repay the loan and interest thereon to JSW Entity.
- (vii) Upon closure of the Scheme, the Trust will terminate.
- c) You have further submitted that none of the Proposed Schemes will be administered or implemented by JSW Steel or its subsidiaries.
- d) It is further submitted that compliance with relevant Insider Trading regulations will be ensured.
- e) In the proposed scheme, the SAR is being set up by -  
**Case A** - Joint Ventures (Group entity as per definition of Regulation 2(1)(o)) for the benefit of employees of the Joint Venture and not for the benefit of the employees of JSW Steel of its subsidiaries.  
**Case B** - Promoter Controlled Entities (Not a Group entity as per definition of Regulation 2(1)(o)) for the benefit of employees of the Promoter Controlled Entities and not for the benefit of the employees of JSW Steel of its subsidiaries.

**Queries: -**

3. In view of the above, you have sought guidance from SEBI on the following:
- a. **Case A:** Whether the scheme under Case A falls under purview of SBEB Regulations, and if not, whether there is a prohibition under any SEBI Regulations in executing such a Scheme.
- b. **Case B:** Whether the scheme under Case B falls under purview of SBEB Regulations, and if not, whether there is a prohibition under any SEBI Regulations in executing such a Scheme.

**Our Comments**

4. We have considered the submissions made by you and without necessarily agreeing with your analysis, our views on the queries are as follows:
- i. Regulation 1(4) of SBEB Regulations states as under: -  
*"The provisions of these regulations shall apply to any company whose shares are listed on a recognized stock exchange in India, and has a scheme:*  
*(i) for direct or indirect benefit of employees; and*  
*(ii) involving dealing in or subscribing to or purchasing securities of the company, directly or indirectly;*

 and



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(iii) satisfying, directly or indirectly, any one of the following conditions:

- The scheme is set up by the company or any other company in its group;
- the scheme is funded or guaranteed by the company or any other company in its group;
- the scheme is controlled or managed by the company or any other company in its group.”

ii. Regulation 2(1)(f) of SBEB Regulation, 2014 is reproduced as under:

“Employee means-

- (i) a permanent employee of the company who has been working in India or outside India; or
- (ii) a director of the company, whether a whole time director or not but excluding an independent director; or
- (iii) an employee as defined in clause (i) or (ii) of a subsidiary, in India or outside India, or of a holding company of the company but does not include —
  - (a) an employee who is a promoter or a person belonging to the promoter group; or
  - (b) a director who either himself or through his relative or through any body corporate, directly or indirectly, holds more than ten per cent of the outstanding equity shares of the company;”

iii. Regulation 2(1)(o) of SBEB Regulation, 2014 states:

- ” group means two or more companies which, directly or indirectly, are in a position to, —
- (i) exercise twenty-six per cent. or more of the voting rights in the other company; or
  - (ii) appoint more than fifty per cent. of the members of the board of directors in the other company; or
  - (iii) control the management or affairs of the other company;”

iv. It is noted from the Regulation 1(4) of SBEB Regulations that the provisions of the regulations shall apply to those companies whose shares are listed on any recognized stock exchange in India and has a scheme, which is set up, funded or guaranteed and controlled or managed by the company or any other company in its group for the direct or indirect benefit of the employees. Further, the word ‘employee’ as defined under Regulation 2 (1)(f) of the SBEB Regulations, means a permanent employee or a director of the company or of a subsidiary, in India or outside India or the holding company of the company.

v. The proposed Scheme, as mentioned by you at Case A in Paragraph No. 2 (v) above, is being set up by entities which are group entities (as per definition of Regulation 2(1)(o) of SBEB Regulations) of the JSW Steel, and are JVs with JSW Steel but with less than 50% stake of JSW Steel. As mentioned by you in your letter, the said Scheme is for the benefit of the employees of the said group entities. Thus, the said scheme does not come under the ambit of the said SBEB Regulations, as the said Scheme is not for the benefit of the employees of the listed company, i.e. JSW Steel or its subsidiaries or holding company, as mentioned in Regulation 2(1)(f) of the SBEB Regulations.

vi. The proposed Scheme, as mentioned by you at Case B in Paragraph No. 2 (v) above, is being set up by entities which are promoter controlled companies (but not group entities as per definition of Regulation 2(1)(o) of SBEB Regulations) of the JSW Steel.



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As mentioned by you in your letter, the said Scheme is for the benefit of the employees of the said promoter-controlled Entities. Therefore, from your submissions, it is seen that the said scheme is not being issued by the listed company or its group entities and that the said scheme is not being issued for the benefit of the employees of the listed company or its subsidiary or holding companies as defined under the definition of "employee". Thus, it appears that the said schemes do not fall under the ambit of SBEB Regulations.

- vii. In light of the above interpretation, it appears that both the cases/schemes, as mentioned above, would not fall under the ambit of SBEB Regulations.
5. Vide your aforesaid letter, you have requested for confidentiality in respect of your application. Accordingly, it has been decided that the no-action letter issued to you in this matter will not be made public for a period of 90 days from the date of issuance of this letter.
6. The above position is based on the information/details furnished in your letter under reference. Different facts or conditions might lead to a different result. Further, this letter does not express a decision of the Board on the questions referred.
7. You may also note that the above views are expressed only with respect to the clarification sought in your letter under reference with respect to Securities and Exchange Board of India (Share Based Employee Benefits) Regulations, 2014 and do not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or of the laws administered by any other authority.

Yours faithfully,

  
Rajesh Gujjar