



भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

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SEBI/CFD/CMD1/PR/OW/ 13 53 /1/2020
January 09, 2020

Shri. Y. Vijaykumar
Company Secretary
KCP Limited
Ramakrishna Buildings, 2,
Dr. P V Cherian Crescent Egmore,
Chennai, Tamil Nadu- 600008

Dear Sir,

Sub: Request for Informal Guidance by way of interpretive letter under the SEBI (Informal Guidance) Scheme, 2003

1. This has reference to your letters dated November 11, 2019 and December 13 2019 requesting for interpretive letter under Securities and Exchange Board of India (informal Guidance) Scheme, 2003 ("Scheme").
2. You have, *inter alia*, represented as under:
 - a. KCP Limited (**hereinafter referred to as KCP**) has a subsidiary in Vietnam namely M/s KCP Vietnam Industries Limited (**hereinafter referred to as KCP Vietnam**), incorporated as a Limited Liability Company, under the Laws of Republic of Vietnam, KCP holds 66% shareholding in KCP Vietnam.
 - b. Regulation 24(1) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (**hereinafter referred to as LODR**) states as under:

At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.

Explanation - For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the

Page 1 of 4

सेबी भवन, प्लॉट सं. सी 4-ए, "जी" ब्लॉक, बान्द्रा कुर्ला कॉम्प्लेक्स, बान्द्रा (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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Continuation :

**भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India**

consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.

- c. KCP Vietnam is a material subsidiary of KCP in terms of explanation to Regulation 24(1) of LODR as the income or net worth exceeds twenty percent of the consolidated income or net worth respectively. Details are provided in the table below:

Based on Turnover:

Entity Name	Revenue as per immediately preceding audited (FY 2018-19) results (In Rs Lakhs)	%age
KCP Limited (Consolidated)	1683.38	100%
KCP Limited (Standalone)	1163.53	69%
KCP Vietnam	519.85	31%

Based on Net Worth:

Entity Name	Revenue as per immediately preceding audited (FY 2018-19) results (In Rs Lakhs)	%age
KCP Limited (Consolidated)	991.01	100%
KCP Limited (Standalone)	490.34	49%
KCP Vietnam	500.67	51%

- d. Article 55 of the Law on Enterprises of Vietnam states as under

Article 55. The organizational and management structure of companies

A limited liability company with two or more members must have a Members' Council, a chairperson of the Members' Council and a director or director general. A limited liability company with 11 or more members shall form a supervisory board; if having fewer than 11 members, it may form a supervisory board to meet its management requirements. The rights, obligations, criteria, conditions and working regulations of the supervisory board and the head of the supervisory board shall be provided in the company charter.

- e. According to the Law on Enterprises of Vietnam, The Management structure of a Limited Liability Company in Vietnam does not require a board of directors



अनुवर्ती :
Continuation :

भारतीय प्रतिभूति
और विनिमय बोर्ड
Securities and Exchange
Board of India

and the same is being managed by Members Council. KCP Vietnam has less than 11 members and doesn't require a board.

- f. However, pursuant to Regulation 24 (1) of LODR, KCP is required to nominate one of the Independent Director of KCP as a Director on the board of KCP Vietnam which does not have any board.
3. You have sought informal guidance on the procedure to comply with Regulation 24 (1) of LODR.
4. In this regard, it may be noted that we have considered the submissions made by you in your letters under reference and without necessarily agreeing with your analysis, our view on the query raised by you is as under:
- a. Regulation 24(1) of the LODR, with effect from April 01, 2019, (substituted¹ by the SEBI (Listing Obligations and Disclosure Requirements) (Amendment) Regulations, 2018 (**Amendment Regulations, 2018**) states:
- At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.*
- Explanation - For the purposes of this provision, notwithstanding anything to the contrary contained in regulation 16, the term "material subsidiary" shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year*
- b. Vide the aforesaid Amendment Regulations, 2018, it is mandated that at least one independent director of the listed entity shall be a director on the board of unlisted material subsidiaries including the material subsidiary incorporated outside India.
- c. Further, on simple reading of Article 55 of the Law on Enterprises of Vietnam, it appears that there is no explicit prohibition on a limited liability company, having fewer than 11 members, to form a supervisory board.

¹ Prior to the substitution, sub-regulation (1) read as follows:

"(1) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, incorporated in India."



अनुवर्ती :
Continuation :

भारतीय प्रतिभूति
और विनिमय बोर्ड
**Securities and Exchange
Board of India**

- d. On the contrary, simple reading of the text of Article 55 suggests that a limited liability company may form a supervisory board to meet its management requirements.
- e. In view of the above and considering the fact that KCP Vietnam constitutes 51% of the consolidated net worth of KCP (Consolidated), compliance with Regulation 24(1) of LODR would require KCP to appoint one of its Independent Directors on the supervisory board of KCP Vietnam.

Without prejudice to the above, it is also observed that KCP has in its 78th Annual Report 2018-19 in reference to Subsidiary Company has *inter alia* mentioned that *Pursuant to Regulation 24 of the SEBI (LODR) Regulations, 2015 as amended, Subsidiary Company, M/s KCP Vietnam Industries Limited, whose turnover or net worth exceeds 20% of the consolidated turnover or net worth respectively of the Company and its subsidiary in the immediately preceding accounting year, the board has appointed Sri. P. S. Kumar, Independent Director on the board of the subsidiary company and hence your statement that KCP Vietnam does not have a board appears to be factually incorrect.*

- 5. The above position is based on the information furnished in your letters under reference. Different facts or conditions may lead to a different result. Further, this letter does not express a decision of the Board on the question referred.

You may also note that the above views are expressed only with respect to the clarification sought in your letters under reference on the applicability of the SEBI (Listing Obligations and Disclosure Requirement Regulations), 2015 as referred above and does not affect the applicability of any other law or requirements of any other SEBI Regulations, Guidelines and Circulars administered by SEBI or the laws administered by any other authority.

Yours faithfully,


Pradeep Ramakrishnan