

**GENERAL MANAGER
CORPORATION FINANCE DEPARTMENT
DIVISION OF CORPORATE RESTRUCTURING**

CFD/DCR/SKM/TO/18378/2010
September 2, 2010

M/s. Ramkrishna Forgings Limited

L & T Chambers,
6th Floor
16, Camac Street,
Kolkata – 700 017

Dear Sir,

Sub:- Request for Informal Guidance under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003 {The Scheme} in the matter of M/s. Ramkrishna Forgings Limited (Target Company).

This has reference to your letter dated April 6, 2010 requesting for interpretive letter under Securities and Exchange Board of India (Informal Guidance) Scheme, 2003.

- 1.0 You have represented , *inter-alia*, as under:
- 1.1 Ramkrishna Forgings Limited, (“Company”) is listed on the National Stock Exchange and the Bombay Stock Exchange.
- 1.2 As of December 31, 2009 the promoter group holding in the Company is 53.95%.
- 1.3 In order to recognize excellence amongst its employees and grant them stock options, an employee stock option plan has been established by the Company with effect from August 22, 2009 (“**ESOP Scheme**”) to be managed and administered through a trust settled by the Company for such purpose in accordance with the SEBI (Employee Stock Option Scheme and Stock Purchase Scheme) Guidelines, 1999. In order to manage the ESOP Scheme, the Ramkrishna Forgings Employee Welfare Trust (“**Trust**”) was formed with Mr. Mahabir Prasad Jalan, Mr. Naresh Jalan and Mr. Alok Sharda appointed as the trustees of the Trust vide trust deed dated July 9, 2009 (“**Original Trust Deed**”). In the relevant filings made by the Company with the Stock Exchanges, Mr. Mahabir Prasad Jalan and Mr. Naresh Jalan have been disclosed as belonging to the promoter group of the Company.

1.4 The Trust has been settled with the following objective as stated in clause 6 of the Trust Deed:

“The purpose of the Trust shall be acquiring and holding shares, warrants or other securities of the Settlor for the purpose of implementing the Settlor’s ESOP Scheme(s). The shares and other securities may be acquired by the Trust from the Settlor directly and/or from any other person or purchase from open market (recognized stock exchange). The Trust may sell shares, warrants or other securities held for the beneficiaries for the purpose of implementing the Settlor’s ESOP Scheme (s).”

1.5 In order to meet such objectives, the Trust has utilized donations, advances and grants received to purchase shares of the Company from open market which securities are held beneficially for the employees of the Company by the Trust and shall be distributed to the employees upon exercise of the stock options granted under the ESOP Scheme. Till date, the Trust has acquired 608,467 shares for such purpose. Since the majority of the trustees presently belong to the promoter group, (the shareholding of the Trust has been aggregated with the promoters) and necessary disclosures and filings under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 (“**Takeover Regulations**”), the SEBI (Prohibition of Insider Trading) Regulations, 1992 (“**Insider Trading Regulations**”) and other applicable laws and regulations have been made.

1.6 The Company proposes to transfer control over the Trust to independent entities including an employee representative who shall now be appointed as trustees to manage the Trust and represent the interest of the employees of the Company, who are the beneficiaries of the Trust. Consequently, the Company proposes to change the constitution of the Trust by amending the Original Trust Deed by executing a supplemental trust deed (“**Amended Trust Deed**”) with following changes:

- (i) Amended Trust Deed shall state that the acquisition of shares by the Trust and the trustees shall not, in any manner, be for the purpose of substantial acquisition of shares or voting rights or gaining control over the Company.
- (ii) The Amended Trust Deed shall state that Mr. Mahabir Prasad Jalan and Mr. Naresh Jalan shall be replaced with two independent trustees who shall be persons having a good standing in society. Further they will be absolutely unrelated and unconnected in any manner whatsoever to the Company or its management and shall maintain their independence during the time they serve as trustees of the Trust.

- (iii) The third trustee shall be one of the employees of the Company shall represent and safeguard the interests of the employees of the Company (“**Employee Trustee**”) and will be appointed by the two independent trustees in consultation with the Company.
- (iv) The Amended Trust Deed shall state that no person who is a promoter or person falling within the promoter group or director or key managerial personnel of the Company can be appointed as a trustee of the Trust. In the event that any of the trustees becomes a promoter/member of the promoter/director or becomes a key managerial personnel of the Company, it will be assumed that they may come in possession of unpublished price sensitive information and such person will vacate the trusteeship immediately. Upon such resignation, he/she would be replaced with another trustee meeting the qualifications stated in the Amended Trust Deed within 14 days of such post being vacated.
- (v) The Amended Trust Deed shall state that all decisions relating to the Trust, except as specifically provided otherwise, shall be taken by majority of the trustees. The following decisions shall require to be consented to by the Employee Trustee, irrespective of the decision of the majority of trustees:
 - (a) Any decision relating to the sale or acquisition of shares and/or other securities;
 - (b) Amendment of terms of the deed governing the Trust; and
 - (c) Any act of issuing payment instructions including signing of cheques, demat instructions etc. by the Trust. This shall ensure that the trustees are always acting for the benefit of the beneficiaries and to safeguard the interest of the beneficiaries. The promoters or management shall have no power or authority whatsoever in respect of the Trust or any decision of the Trust.
- (vi) In the list of specifications relating to the appointment of the Employee Trustee, the Amended Trust Deed shall specify that a high ranking official or key managerial personnel or the Company who could have access to unpublished price sensitive information relating to the securities of the Company shall not be appointed as the Employee Trustee. Employee Trustee shall not at any time have any access to unpublished price sensitive information in respect of securities of the Company.

2.0 You have sought clarification on the following issues:

2.1 **Queries under the Takeover Regulations:**

- 2.1.1 In light of the above mentioned conditions to be specified in the Amended Trust Deed, whether the shareholding of the Trust and the trustees (in their capacity as trustees of the Trust) in the Company would still be aggregated with the shareholding of the promoters of the Company for the purpose of computing the shareholding of the promoters (along with persons acting in concert) for the purposes of Regulation 11 of the Takeover Code.
- 2.1.2 In light of the abovementioned conditions to be specified in the Amended Trust Deed, whether the shareholding of the Trust and the trustees in the Company would be considered “public shareholding” within the meaning of Regulation 2(1)(j) of the Takeover Code.

2.2 **Query under the Insider Trading Regulations:**

- 2.2.1 In light of the abovementioned conditions to be specified in the Amended Trust Deed, whether the Employee Trustee or any of the trustees of the Trust would fall within the definition of “insider” or “connected person” under Section 2(e) and Section 2(c) of the Insider Trading Regulations, respectively.

3.0 Without necessarily agreeing with your analysis, our views on the queries raised by you are as under:

- 3.1 In your letter, it is mentioned that the Employee Stock Option Scheme is to be managed and administered through a trust settled by the Company for such purpose in accordance with SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999 (SEBI (ESOS & ESPS) Guidelines, 1999). Further, it is mentioned that the shares or other securities may be acquired by the trust from the settler directly and/or from any other persons or purchase from open market.

In this regard, it is stated that SEBI (ESOS & ESPS) Guidelines, 1999 covers only issuance of fresh shares. The definition of Employee Stock Option and Employee Stock Purchase Scheme (ESPS) as per the said Guidelines are as under:

“Employee stock option” means the option given to the whole-time Directors, Officers or employees of a company which gives such Directors, Officers or employees, the benefit or right to purchase or subscribe at a future date, the securities offered by the company at a pre-determined price.”

“Employee Stock Purchase Scheme (ESPS)” means a scheme under which the company offers shares to employees as part of a public issue or otherwise.” The word “otherwise” in the definition is to be interpreted to include only issuance of fresh shares but not shares purchased from others or from open market.

This is substantiated by the provisions prescribed in various other clauses of the SEBI (ESOS & ESPS) Guidelines, 1999 which, inter-alia, elaborate the procedure for issuance, obtaining shareholders approval for allotment, pricing and listing of shares issued under ESPS. Thus, purchase of shares, including purchase from secondary market, would not fall within the scope of SEBI (ESOP and ESPS) Guidelines, 1999.

In view of the above, the queries sought are not being replied to.

- 4.0 This position is based on the representation made to the Division in your letter and do not affect the applicability of any other law or requirements. Different facts or conditions might require a different result. This letter does not express decision of the Board on the questions referred.

Yours faithfully,

Sd/-

Neelam Bhardwaj