

CLARIFICATIONS

1. Were there any prior conditions applicable to the agreement of Open Offer between Dream sellers and Artemis?

There was “no agreement of open offer”. There was a Pledge Agreement which empowered Dream sellers to invoke the pledge and acquire shares in Artemis, in the event of a default in payment. No other conditions were applicable.

2. What are the documents examined by Dream sellers prior to making open offer?

Dream seller relied on publicly available documents on the financial position of Artemis such as the balance sheet, profit and loss account, as represented to them by the promoters of Artemis.

3. Paragraph 9 of the factsheet talks about on-going legal proceedings in the Delhi High Court. What are the on-going proceedings in Delhi High Court about? Please clarify.

The nature of proceedings is not relevant to the issue. In these proceedings, information about the investigative report that was otherwise not public, became public.

4. Were the observations made by SEBI in Paragraph 11 in pursuance of old or new regulations?

Paragraphs 11 to 13 make this clear. No clarification is necessary.

5. Although Paragraph 4 of the fact sheet states that Dream sellers decided to make voluntary public offer for acquisition of 37.6% of shares, acquisition of 37.6% of shares would trigger mandatory public offer and hence the offer is mandatory public offer and not voluntary. Please clarify.

Read Paragraph 5 for the quantum of voting rights involved and re-read the provisions that govern the thresholds at which the regulations would trigger a mandatory open offer.

6. In which year has the Supreme Court listed the case for hearing? Is it 2011 or 2016?

Now. In 2016.

- 7. What are roles and stands of merchant bankers in this particular case? Please clarify about the merchant bankers of Dreamsellers; whether merchant bankers are advisor, consultant or agent of the company.**

Read the provisions of the regulations to understand the role of the merchant bankers.

- 8. In Paragraph 7 the word lenders, does it also include Dreamsellers?**

No, it does not include Dreamsellers.

- 9. In Paragraph 9 the sentence "one of the representatives of the lenders on the board of directors of Artemis filed the report in the legal proceeding that were under way in the Delhi high court" is absurd without any connectivity to the problem. Can you please explain? What proceeding? Is it a winding up proceeding?**

Understanding the connectivity to the problem is expected to come out of research on why it would be relevant. Whether it is a winding up proceeding or a simple recovery proceeding is wholly irrelevant to the point. Participants are expected to have an approach of a wider understanding of the context in which securities regulations operate.

- 10. Can we add any other issues other than the 4 issues given in the problem before the Supreme Court?**

No.

- 11. Whether any agreement existed between Dreamsellers and Artemis?**

Yes, a Pledge Agreement. Artemis was a party to the Pledge Agreement along with the Promoters.

- 12. Whether the application given by Dreamsellers for withdrawal of open offer consisted of all their reasons for such withdrawal?**

The matter is in appeal. What is on record is all that can be relied upon by any side.

- 13. Whether Dreamsellers want retrospective application of Takeover Regulations, 2011?**

The problem does not state so. This is not a clarificatory question.

14. Was the 'Letter of Offer' sent to shareholders of Artemis? Or has just a public announcement been made?

The "SEBI Order" is the letter of observations, which is under challenge. The letter of observations is issued on the DRAFT Letter of Offer.

15. What was the market price of shares of Artemis at the time of invocation of pledge by Dreamsellers?

The numerical value of market price is not relevant to the problem.

16. In what transactions of Artemis fraud and embezzlement has been discovered?

Specific transactions are not relevant. Rs. 300 crores had been siphoned off.

17. What was the shareholding of promoters' pre and post invocation of pledge?

Not relevant.

18. In the Para 10 of the Moot Problem, the date which mentioned is that 30th October 2011 and after, the very next Para no. 11 has mentioned that November 1 2011 and mentioned "after long delay" is there any change in that date?

No change. The Draft Letter of Offer was filed in 2010. The observations came in October 2010. The letter of observations came in November 2011.

19. Are the promoters of the Company "Artemis" are Directors of the company or not?

Not necessary to be clarified.

20. Can you provide any information regarding the value of shares?

Not relevant to the problem. There was a sharp decline in the market price after the embezzlement became publicly known.

21. In the Para 20, it has mentioned that Larger Bench, Can you exactly provide the number of judges (like 3 judge bench or 5 judge bench)?

Irrelevant query.

22. In Para 8, a date has mentioned "September 30, 2011", Is there any change in that Date?

No.

23. In Para 1 of the factsheet, did the pledged equity shares of Artemis Ltd. belonged to the promoters themselves?

One can only pledge what one owns.

24. Also, in Para 1, did the promoters take the loan on behalf of the company or themselves?

The Para clearly says the Promoters borrowed the funds.

25. In Para 9, it is stated that; "One of the representatives of the lenders on the Board of directors of Artemis filed the investigative report in the legal proceedings that were underway in Delhi High Court." No other reference to these proceedings are made anywhere else in the problem. What are these proceedings, please specify the same.

Nature of proceedings are irrelevant. Apply your mind to why this Para is relevant under securities law.

26. In Para 13, it has been stated SEBI gave its 'observations' in regards to the Draft letter of offer whereas in Para 14 the word 'order' has been used. Please specify if these were 'observations' or 'orders'?

The letter of observations also rejecting the application for withdrawal is the "SEBI Order". Apply your mind to what is an "order" in the eyes of law.

Note from the Problem Drafter:

Requests for clarifications cannot be the route for covering up the lack of research. Therefore, while every effort has been made to be co-operative and clarify where doubts could have emerged, where it is evident that the participants have not cared to research the law, no clarifications are provided. Participants would be well advised to apply their mind to all provisions of law, with particular focus on securities regulations that govern the conduct of transactions of the nature set out in the problem. Best of luck.