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DCS/AMAL/CS/24(f)/134/2015-16

August 28, 2015

The Company Secretary,
Sterlite Technologies Limited
E 1, MIDC, Survey No 68/1, Rakholi Village,
Madhuban Dam Road, Silvassa,
Dadra- 396 230,
Dadra & Nagar Haveli.

Dear Sir/Madam,

Sub: Observation letter regarding Draft Scheme of Arrangement of Sterlite Technologies Limited and Sterlite Power Transmission Limited.

We refer to your submission of draft Scheme of Arrangement of Sterlite Technologies Limited (STL) and Sterlite Power Transmission Limited (SPTL), filed under clause 24[f] of Listing Agreement and in accordance with SEBI Circular No. CIR/CFD/DIL/5/2013 & No. CIR/CFD/DIL/8/2013 dated February 4, 2013 & May 21, 2013 respectively.

As required under SEBI Circular No. CIR/CFD/DIL/5/2013 & No. CIR/CFD/DIL/8/2013 dated February 4, 2013 & May 21, 2013 respectively, SEBI vide its letter dated August 27, 2015 has given its letter of comments on the draft scheme and a copy of the same is attached as **Annexure I**. In addition to the same, in para 2 of its observation letter, SEBI has interalia stated that:

a) Stock Exchange(s) to ensure that "fairness opinion" submitted by Sterlite Technologies Limited, as forwarded by NSE, vide letter received by SEBI on June 11, 2015, is displayed from the date of receipt of this letter on the website of the listed company and the Stock Exchange(s) along with various documents submitted pursuant to the Circulars.

b) Considering that STL is promoter of SPTL and the shareholding of STL in SPTL is proposed to cancelled as part of the proposed scheme, Stock Exchange(s) may advise the company to consider modifying the draft scheme to clearly state that the obligation of purchasing equity shares and redeemable preference shares pursuant to the scheme of arrangement will be on promoters of STL and not on STL, as informed by STL in earlier communications.

c) The Company shall duly comply with provisions of Circulars.

Accordingly, you are advised to comply with the same.

In the Annexure I of its aforesaid comment letter dated August 27, 2015, SEBI has raised certain concerns with regards to the following:

1. *Partial Delisting of STL without providing an exit opportunity – an attempt to circumvent the obligations under Delisting Regulations.*

2. *Clubbing of the number of independent unrelated transactions in the draft scheme of arrangement.*

Further, as mentioned in last para of point 7 of Annexure I of the aforesaid SEBI letter, the above comments/observations do not preclude the company from filing the draft scheme with the Hon'ble High Court for sanction.

Yours faithfully,

Nitin Pujari
Manager

Lalit Phatak
Asst. Manager

Annexure 1

I. Facts of the Case In brief

1. The parties relevant to this case are as under:

1.1. Sterlite Technologies Limited ("STL") - transferor company and listed on BSE & NSE

1.2. Sterlite Power Transmission Limited ("SPTL") – transferee company and Unlisted.

SPTL is a wholly owned subsidiary of the STL.

2. The scheme envisages the following:

2.1. **Demerger of Power Products and Transmission Grid Business of STL into SPTL**

The Scheme provides for demerger of the Power Products and Transmission Grid Business ('Demerged Undertaking') into SPTL.

SPTL shall, issue and allot Securities to all the shareholders of STL as consideration for the transfer of the Demerged Undertaking in proportion of their shareholding in the STL and provide an option to the shareholders of the STL to elect the Securities being issued by SPTL as either:

2.1.1. 1 (one) fully paid equity share of Rs. 2/- (Rupees two) each of SPTL for every 5 (five) fully paid up equity shares of Rs. 2/- (Rupees two) each of the STL held by the said Eligible Member;

2.1.2. 1 (one) fully paid-up redeemable preference share of Rs. 2/- (Rupees two) each at a premium of Rs 110.30 (Rupees One hundred ten and thirty paise) per redeemable preference share in SPTL for every 5 (five) fully paid equity shares of Rs. 2/- (Rupees two) each of the STL held by the said Eligible Member, with the option of seeking voluntary exit.

The Redeemable Preference Shares issued by SPTL shall be listed on a recognised stock exchange. However, Equity Shares of the SPTL shall not be listed on any stock exchange.

Simultaneously with issuance of Securities, all existing shares held by the STL in SPTL shall stand cancelled, without any further act or deed as an integral part of this

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Scheme. The loss on such cancellation shall be debited to profit and loss account of the STL.

In view of the provisions of Applicable Laws (which does not permit the issuance of Redeemable Preference Shares to non-residents), in consideration of the Demerger, such Eligible Members who are non-resident (including Depositary in respect of the equity shares of the STL underlying the STL GDRs but other than FIIs) shall be issued and allotted 1 (one) Resulting Company Equity Share for every 5 (five) fully paid up equity shares of Rs. 2 (Rupees two) each of the STL held by them on the Record Date. All such SPTL Equity Shares issued shall, subject to Applicable Law, be purchased by the promoters of the SPTL and/ or their affiliates or any other person and/or entity identified by them, in the manner as stated in para 3.2 below.

In view of provisions of Applicable Laws, SPTL shall, in consideration of the Demerger, subject to receipt of the approval of the Appropriate Authority including RBI and SEBI, and fulfilment of such other conditions, allot either equity shares or redeemable preference share as indicated in para 2.1.1 and 2.1.2 above to eligible members being FIIs. In the event, approvals from the Appropriate Authority is not received by SPTL on or before the Effective Date, SPTL shall compulsorily issue and allot 1 (one) Equity Share for every 5 (five) equity shares of the STL held by such FIIs on the Record Date. All such SPTL Equity Shares shall be compulsorily purchased by the promoters of the SPTL and/ or their affiliates or any other person and/or entity identified by them, in the/ manner as stated in para 2.2 below.

If any resident Eligible Member has not submitted the duly completed Election Notice(Choice of Equity shares or Preference Shares) to the SPTL prior to the expiry of the Election Period or has not provided requisite details as may be required in relation to the option or where such Election Notice has not been received by SPTL or its registrars or the Election Notice has returned undelivered or the ownership of the equity shares of the SPTL is in dispute, then in that event, such resident Eligible Member shall be compulsorily allotted Resulting Company Equity Shares.

2.2. **Exit Options to Shareholders of STL**

2.2.1. Exit option for shareholders opting for Redeemable Preference Shares

Redeemable Preference Shareholders may sell the Redeemable Preference Shares to the promoters of the SPTL and/ or their affiliates or any other person and/or entity identified by them within 30 (thirty) days from the date of allotment of the Redeemable Preference Shares by the SPTL at a price of Rs. 112.30.

The Redeemable Preference Shares shall be redeemable on the expiry of 18 (eighteen) months from the date of allotment thereof. Each Redeemable Preference Share shall be redeemed at a premium of Rs. 123.55.

2.2.2. Exit option non-resident shareholders opting for Equity Shares

Non-Resident Eligible Members may offer for sale the SPTL Equity Shares issued and allotted to it under the Scheme for purchase by the promoters of the SPTL and/or their affiliates or any other person and/or entity identified by them within 30 (thirty) days from the date of allotment at a price of Rs. 112.30.

2.2.3. No exit option is envisaged for resident shareholders opting for Equity Shares

2.3. **Transfer of investment in ENICL to Sterlite Grid Limited**

Immediately upon the Demerger being effective and upon transfer of investments of the STL in ENICL to the SPTL, SPTL shall in consideration and terms as may be mutually agreed between the SPTL and Sterlite Grid Limited ('SGL'), transfer all the shares held by it in ENCIL together with all benefits, rights, privileges, advantages and incidentals attached to the respective shares of ENCIL to SGL.

2.4. **Restructuring of Employee Stock Option Scheme**

The options granted (whether vested or not) ("Options") by STL pursuant to the existing stock option scheme of STL ("Existing Stock Option Scheme") to its employees (whether Transferred Employees or Remaining Employees) will continue to be governed by the provisions of the Existing Stock Option Scheme.

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Upon the Scheme coming into effect, the Options shall be restructured by the Compensation Committee in such a manner that the employees on exercise of such Options will be entitled to the same benefit in terms of value of equity shares of STL as they would have received on exercise of the Options prior to the Demerger.

2.5. **Enhancement of Lending and Borrowing limit of SPTL**

Clause 22.2 of the proposed scheme provides for enhancing the borrowing limit of the SPTL to Rs. 3000 cr. Further, Clause 22.3 of the proposed scheme provides for enhancing the lending limit of the SPTL to Rs. 3000 cr.

3. The pre and post scheme shareholding pattern in summarized form is given as under:

Share Holding Pattern	STL (Pre-Scheme)		
	No. of shareholders	No. of shares	%
Promoter	8	216027101	54.83
Public	125115	178031900	45.17
Total	125123	394059001	100.00

Assuming all STL shareholders opt for Equity Option

Share Holding Pattern	SPTL (Pre-Scheme)			SPTL (Post-Scheme)		
	No. of shareholders	No. of shares	%	No. of shareholders	No. of shares	%
Promoter	1	500000*	100.00	8	43205420	54.83
Public	0	0	0.00	125115	35506380	45.17
Total	1	500000*	100.00	125123	78811800	100.00

* *Entire pre-scheme equity capital of SPTL is held by STL*

Assuming all STL shareholders opt for Redeemable Preference Shares Option

Share Holding Pattern	SPTL (Pre-Scheme)			SPTL (Post-Scheme)		
	No. of shareholders	No. of shares	%	No. of shareholders	No. of shares	%
Promoter	1	500000*	100.00	8	43205420	93.43
Public	0	0	0.00	2480	3047080	6.57
Total	1	500000*	100.00	2488	46262500	100.00

* *Entire pre-scheme equity capital of SPTL is held by STL*

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4. Voting by Shareholders:

The company has given a certificate dated May 18, 2015 from S R B C & Co. LLP confirming that the requirements prescribed in para 5.16(a) of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013 in relation to the voting by public shareholders through postal ballot and e-voting, is not applicable in relation to the proposed scheme.

5. In view of the above, STL has made application to SEBI (through NSE, the designated Stock Exchange) as per the provisions of SEBI Circular No. CIR/CFD/DIL/5/2013 dated February 4, 2013.

II. <u>SEBI's observations with regard to Scheme of Arrangement</u>

6. The Scheme, which involves demerger of Power Products and Transmission Grid Business ('Demerged Undertaking') of STL into SPTL, certain concerns are observed with regard to the following:

6.1 Partial Delisting of STL without providing an exit opportunity - an attempt to circumvent the obligations under Delisting Regulations.

6.2 Clubbing of the number of independent unrelated transactions in the draft scheme of arrangement.

6.1. **Partial Delisting of STL without providing an exit opportunity - an attempt to circumvent the obligations under Delisting Regulations**

6.1.1. The draft scheme proposes to demerge Power Products and Transmission Grid Business ('Demerged Undertaking') of STL into SPTL (an unlisted entity). From the disclosures in draft scheme and supporting documents, it is observed that the contribution of Demerged Undertaking in the operations of STL is as under:

Parameter	STL	Demerged Undertaking	Contri. to STL (%)
Net worth (Rs. Cr.)	1242.65	574.84	46%
Turnover (Rs. Cr.)	3030.10	1499.99	50%
PBT (Rs. Cr.)	99.02	(116.66)	-118%

Thus, from the above parameters, it appears that the Demerged Undertaking contributes significantly to the operations of STL.

6.1.2. From the disclosures in draft scheme and supporting documents, it is observed that the SPTL has been incorporated in May 2015 and has very limited experience in Power Products and Transmission Grid Business.

6.1.3. As consideration for the aforesaid demerger, the draft scheme provides for provide an option to the shareholders of the STL to elect the Securities being issued by SPTL as either:

- 1 (one) fully paid equity share of Rs. 2/- (Rupees two) each of SPTL for every 5 (five) fully paid up equity shares of Rs. 2/- (Rupees two) each of the STL held by the said Eligible Member;
- 1 (one) fully paid-up redeemable preference share of Rs. 2/- (Rupees two) each at a premium of Rs 110.30 (Rupees One hundred ten and thirty paise) per redeemable preference share in SPTL for every 5 (five) fully paid equity shares of Rs. 2/- (Rupees two) each of the STL held by the said Eligible Member, with the option of seeking voluntary exit.

6.1.4. The Redeemable Preference Shares issued by SPTL shall be listed on a recognised stock exchange. However, Equity Shares of the SPTL shall not be listed on any stock exchange. Further, the draft scheme provides that Redeemable Preference Shares shall be redeemable on the expiry of 18 (eighteen) months from the date of allotment at a premium of Rs. 123.55 thereof.

6.1.5. The equity shares of SPTL will be unlisted from the date of allotment whereas Redeemable Preference Shares shall cease to exist after 18 months from the date of allotment. This effectively means that no securities of the SPTL will continue to remain listed.

6.1.6. The draft scheme further proposes that the equity shares allotted to non-residents and FII shareholders of STL shall be compulsorily purchased by promoters of the SPTL whereas no such benefit has been extended to resident shareholders. The company could have provided

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the exit option of compulsory purchase by the Promoters to resident shareholders to maintain parity among shareholders. As per draft scheme, the resident shareholders opting for equity shares will end up holding unlisted equity share whereas non-residents and FIIs will have additional exit option of compulsory purchase by the Promoters. Thus, the exit opportunity provided to shareholders of STL also varies among class of shareholders.

6.1.7. By providing aforesaid exit option only to non-residents and FIIs shareholders, it appears that company has provided preferential treatment to one set of shareholders over others.

6.1.8. SEBI, in order to protect the interest of investors, has put in place SEBI (DELISTING OF EQUITY SHARES) REGULATIONS, 2009 ("Delisting Regulations") which seek to ensure that the delisting of a listed company in the securities market takes place in a fair, equitable and transparent manner. Delisting Regulations are based on the following principles:

- Equality of treatment and opportunity to all shareholders.
- Protection of interests of shareholders.
- Fair and truthful disclosure of all material information by the acquirer in all public announcements.
- Availability of sufficient time to shareholders for making informed decisions.
- Delisting offer to be announced only after most careful and responsible consideration.
- Delisting Price determined by independent market mechanism (Reverse Book Building)

6.1.9. Delisting Regulations require the promoter to make an offer/ give exit opportunity to incumbent shareholders before delisting the listed company.

6.1.10. However, it may be argued that such delisting of listed company due to scheme of arrangement pursuant to the sanction of Hon'ble High Court will not be in line with the procedure laid down in Delisting Regulations.

6.1.11. Partial delisting of listed company is taking place without any reasonable exit opportunity to the public shareholders of the listed entity. Moreover, the shareholding of the erstwhile public shareholders of the listed entity in SPTL would get reduced to a significantly low percentage in the post scheme capital, i.e. from 45.17% to only 6.57% of post-scheme capital of SPTL if all STL shareholders opt for Redeemable Preference Shares Option.

6.1.12. Partial delisting of listed company is being achieved without going through the transparent mechanism of envisaged in the Delisting Regulations. Thus, the principles underlying the regulations have also been defeated because of this non-transparent method adopted through the Scheme of Arrangement.

6.1.13. The present Scheme appears to have been designed as an artifice to circumvent the compliance with the provisions of the Delisting Regulations.

6.2. **Clubbing of the number of independent unrelated transactions in the draft scheme of arrangement**

6.2.1. The draft scheme, in addition to demerger of demerge Power Products and Transmission Grid Business ('Demerged Undertaking') of STL into SPTL, seeks approval for following:

- Transfer of investment in ENICL to Sterlite Grid Limited (SGL)
- Enhancing the borrowing and lending limit of the SPTL to Rs. 3000 cr.

6.2.2. Due to the clubbing of the number of independent unrelated transactions in the draft scheme of arrangement, the shareholders are required to choose (by voting) either the all transactions together or none of the transactions. Had the transaction involving ENICL or enhancing the borrowing and lending limit not been included in draft

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scheme, the regulatory framework would have provided opportunity to the shareholders to decide on each transaction independent of decision on approval the draft scheme. The limited supporting information about the transactions further aggravates the problem.

7. **Conclusion on the Scheme of Arrangement**

7.1. The Scheme of Arrangement in its current form is resulting in partial delisting of a listed company and will be detrimental to the public shareholders of STL as the delisting process is achieved through a non-transparent, inequitable and unfair method.

7.2. Due to clubbing of the number of independent unrelated transactions in the draft scheme of arrangement, the right of the shareholders to decide on each transaction independent of decision on approval the draft scheme has been diluted.

The above comments/observations do not preclude the company from filing the draft scheme with the Hon'ble High Court for sanction.

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