

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO  
TRANSACTIONS IN SECURITIES) ACT, 1992 AT BOMBAY

LD-VC-MISCELLANEOUS APPLICATION NO.11 OF 2020

The Custodian .. Applicant

Vs.

Piramal Enterprises & Ors. .. Respondents

Mr. Gandhar Raikar a/w Ms. Shilpa Bhate i/b. Leena Adhvaryu  
Associates for the applicant.

Ms. Preeti Misra for Piramal Enterprises.

Mr. Ashwin Mehta for the notified parties.

CORAM : A. K. MENON,  
JUDGE, SPECIAL COURT  
DATED : 9<sup>TH</sup> OCTOBER, 2020.  
(THROUGH VIDEO CONFERENCE)

P.C. :

1. By this application, the Custodian seeks confirmation of his decision not to subscribe to a right issue of respondent no.1 company. Respondent no.1 has announced the rights of issue of shares in a Letter of Offer, copy of which appears at Exhibit A to this application.

2. It is the Custodian's contention that as per the usual practice followed, opinions and recommendations are sought from financial advisers. Mr. Raikar submits that the letter of offer is said to have been issued on 24<sup>th</sup> December, 2019. According to him, it was received by the Custodian on 6<sup>th</sup> January, 2020. On 10<sup>th</sup> January, 2020 the Custodian sought to opinion from ICICI Securities Ltd. and SBI CAP Securities Ltd. Vide letter of the same date addressed to the respondent no.1 company, the Custodian requested the company to keep the Rights Offer in abeyance.
  
3. Ms. Misra on behalf of Respondent no.1 states that the offer so made has been in kept abeyance. In the meantime, M/s. ICICI Securities Ltd. has declined to make a recommendation since they were advisers to the Rights issue but M/s. SBI CAP Securities Ltd. has opined that it is not advisable to subscribe to this issue. The Custodian's communication dated 9<sup>th</sup> January, 2020 had sought specific opinion whether Custodian should subscribe the issue which is opening on 7<sup>th</sup> January, 2020 and closing on 21<sup>st</sup> January, 2020. The request was made on 10<sup>th</sup> January, 2020 and on 18<sup>th</sup> February, 2020 the SBI CAP Securities Ltd. has sent a opinion saying that the company is

presently in the Pharma and NBFC Space having suffered owing to the negative property prices. Hence, the stock is vulnerable given the fact that a significant portion of its loan which is under moratorium and there is also substantial exposure to development activities which is under pressure SBICAP Securities Ltd. therefore did not recommend subscription. The Custodian thus sought approval of his decision not to subscribe.

4. The application has been opposed by Mr. Mehta who states that the track record of the company has been good and that they given opportunity to subscribe to the issue because capital markets are likely to improve. An Affidavit in reply was served on the respondent in which Mr. Mehta has set out, inter alia, that the Custodian has delayed approaching this Court not only in this case but on several other occasions. That prompt opinion should have been taken promptly rather than belatedly and receiving an opinion after the issue has closed. He submits that the decision not to subscribe is not proper. He relies upon the contents of affidavit which has been perused today during this hearing on VC. Mr. Raikar has taken me through the affidavit in reply which Mr. Mehta says has been sent to the

registry last week.

5. I do not find any merit in the submissions of Mr. Mehta that the delay has caused any prejudice since the offer of the company was already kept in abeyance. Given the fact that the advisers given a negative opinion, I am not inclined to take a different view. Considering the fact that post the opinion businesses have suffered on account of the unprecedented pandemic driven lock down which continues. In these circumstances, I am of the view that the decision of the Custodian appears to be correct one.

6. Hence, I pass the following order;

(i) Misc. Application is allowed in terms of prayer clause (a).

(ii) Application is disposed in the above terms.

(iii) It is clarified that the respondent no.1 is relieved of the statement that it has kept the Rights issue in abeyance.

(iv) This order shall be digitally signed by the Personal Assistant of this Court.

**(A. K. MENON, J.)**