

Ref: L/SURV/OFL/KM/2017-18/SHELL/COMP/526652/1

Date: March 23, 2018

To,
Cals Refineries Ltd.
Unit No. 209, 2nd Floor,
Suneja Tower – II,
District Centre, Janakpuri,
New Delhi – 110 058

Dear Sir,

Sub: Representation vide letter dated August 19, 2017 and other submissions received from Cals Refineries Ltd. (“Company”).

We refer to your captioned representation and our decision thereof is as follows:

Background of the case:

1. BSE Limited (hereinafter referred to as “Exchange”) was in receipt of a letter no. SEBI/HO/ISD/ISD/OW/P/2017/18183 dated August 07, 2017 from Securities and Exchange Board of India (hereinafter referred to as “SEBI”) wherein it was mentioned that SEBI was in receipt of a letter no. F. No. 03/73/2017-CL-II dated June 09, 2017 from the Ministry of Corporate Affairs (hereinafter referred to as “MCA”) vide which MCA had annexed a list of 331 shell companies for initiating necessary action as per SEBI laws and regulations. Vide said letter, SEBI has also directed the Exchange to take various steps as mentioned herein including shifting of the securities to Graded Surveillance Measures (“GSM”) Stage VI.
2. Pursuant to the said SEBI’s letter, the Exchange vide its notice dated August 07, 2017, addressed to all its market participants, circulated a copy of the said letter issued by SEBI and initiated actions as mentioned therein in respect of all suspected shell listed companies. Vide the said Exchange’s notice, it was also informed to the market participants that the trading in such companies shall be shifted to GSM Stage VI with effect from August 08, 2017.
3. In furtherance to the SEBI’s letter dated August 07, 2017, SEBI vide another letter no. SEBI/HO/ISD/ISD/OW/P/2017/18926/1 dated August 09, 2017 advised the stock exchanges to follow the procedure as set out therein such as seeking auditor’s certificate from the company on various aspects like company’s compliance with Companies Act, whether company is a going concern, its business model, status of compliance with listing requirements, etc.
4. Thereafter, pursuant to SEBI’s aforesaid directions, the Exchange addressed a letter/email dated August 10, 2017 to the Company, requesting it to submit the auditor’s certificate along with the following documents within 7 days from the receipt of the letter:
 - a. Status of filing of income tax return for last three years and status of pending disputes with Income Tax Department, if any.



- b. Status of Company's compliance with all the requirements of Companies Act and annual returns filing during last three years.
 - c. Whether Company is a going concern and description of its business model. Bank Statements of last one year with active / dormant status.
 - d. Status of Company with respect of default to any bank / financial institution.
 - e. Status of Company's compliance with all the listing regulation requirement for a period of last three years.
5. A scanned copy of the Exchange's letter dated August 10, 2017 was also emailed to Company's email Id: sharesdept@calsrefineries.com, info@calsrefineries.com & cs@calsrefineries.com as updated by the Company in the Exchange's records.
6. The Company submitted the auditor certificate dated August 19, 2017 from M/s. VATSS & Associates, Chartered Accountants certifying all the following requirements as mentioned in the Exchange's letter dated August 10, 2017:-
- a. The Company has duly filed its income tax returns for last three years i.e. AY 2014-15, AY 2015-16 and AY 2016-17 and there are pending disputes with Income Tax Department aggregating to Rs. 586.18 crores for AY 2008-09 and AY 2014-15 and disallowance of expenses for AY 2009-10 which are pending before CIT (A) and proceedings under section 143 is ongoing with Assistance Income Tax Commissioner for AY 2015-16.
 - b. The Company is in compliance with the requirements of the Companies Act, 2013 / 1956 and Annual return filings during last three financial years and same is also confirmed by the Secretarial Auditors / Company Secretary for the preceding three financial years.
 - c. With regard to going concern status, the Auditor has qualified their report stating "Attention of the matters is invited to regarding the financial statements of the Company having been prepared on a going concern basis, notwithstanding that, due to continuous losses incurred by the Company during the past years and current year, the accumulated losses of the Company have far exceeded its net worth resulting in negative net worth on Balance Sheet date. The Company has written off a substantial part of its Fixed Assets during earlier years. This situation indicates the existence of a material uncertainty that may cast a significant doubt on Company's ability to continue as a going concern."

Further, Auditor has stated that, Company has plans to set up crude oil refinery in Haldia, West Bengal for which it has raised USD 200 million in December 2007 by GDR Issue. The proceeds of the issue were fully utilized to pay capital advances related to purchase of equipment for setting up of oil refinery and towards other corporate expenses. However company could not achieve financial closure and fulfill the terms of said contracts thereby resulting in cancellation of contract and forfeiture of advances paid. Further, SEBI vide interim order in September 2011 had issued directions to the company not to issue equity or any other instruments convertible into equity or alter capital structure in any manner till further direction. SEBI further issued final order dated October 23, 2013 confirming the interim order for a total period of 10 years from the restriction

imposed on the Company i.e. September 2011. The Company has challenged the final order at Securities Appellate Tribunal and final decision is pending in the matter.

- d. There are no default in any loans with any bank / financial institutions. Further, one of the bank account with Axis Bank Ltd. is attached / frozen in view of Income Tax demand order relating to AY 2008-09.
 - e. Complied with various compliances under listing regulations requirements for three financial years i.e. F.Y. 2014-15, 2015-16 & 2016-17.
7. Exchange vide its email dated August 23, 2017 advised the Company to submit information about number of employees on payroll of the Company and provident fund filings for the last 3 financial years. The Company was also advised to confirm if it wishes to provide any additional information by way of personal hearing before the Exchange, so that meeting for the same can be arranged.
 8. The Company submitted the auditor certificate dated August 29, 2017 and provided the details of number of employees and provident fund filings to the Exchange for the last 3 financial years.

Hearing and Reply:

9. The Exchange vide its email dated August 23, 2017 offered an opportunity to the Company for personal hearing before the Exchange. The Company vide its email dated August 29, 2017 opted for the personal hearing before the Exchange. Accordingly, a personal hearing was arranged on November 01, 2017.

The Company was represented by Mr. Suvindra Kumar, Company Secretary of the Company. The Company submitted as under-

- The Company was incorporated on July 25, 1984 and around year 2007, the Company was taken over by Spice Energy Group represented by SRM Exploration Pvt. Ltd. and its affiliates.
- The Company was identified for implementation of crude oil refineries project at Haldia in West Bengal and in order to fund the project, the Company came up with GDR issue of USD 200 million (around Rs. 788 crores).
- Investor Hardt Group initiated to infuse funds into the Company by way of FDI against issue of approx. 12 crores equity shares of Re. 1/- each by the Company.
- SEBI by way of an interim order in September 2011 restricted the Company from issuing any securities and altering its capital structure. In October 2013, SEBI confirmed its order for 10 years from date of first order. The Company challenged the said order in SAT. SAT upheld the order passed by SEBI.
- Existing promoters of the Company have not done trading during the period of restriction imposed by SEBI.



- Promoters have been infusing funds to the Company by way of unsecured loan to enable it to do the necessary expenditures on compliances, administrative and other expenses and also to contest various litigations.

The Company, however, did not submit any additional information / clarifications during the personal hearing other than submissions made earlier.

Consideration of issues:

10. The Company submitted the auditor certificate dated August 19, 2017 from M/s. VATSS & Associates, Chartered Accountants certifying all the following requirements:-

- a. The Company has duly filed its income tax returns for last three years i.e. AY 2014-15, AY 2015-16 and AY 2016-17 and there are pending disputes with Income Tax Department aggregating to Rs. 586.18 crores for AY 2008-09 and AY 2014-15 and disallowance of expenses for AY 2009-10 which are pending before CIT (A) and proceedings under section 143 is ongoing with Assistance Income Tax Commissioner for AY 2015-16.
- b. The Company is in compliance with the requirements of the Companies Act, 2013 / 1956 and Annual return filings during last three financial years and same is also confirmed by the Secretarial Auditors / Company Secretary for the preceding three financial years.
- c. With regard to going concern status, the Auditor has qualified their report stating “Attention of the matters is invited to regarding the financial statements of the Company having been prepared on a going concern basis, notwithstanding that, due to continuous losses incurred by the Company during the past years and current year, the accumulated losses of the Company have far exceeded its net worth resulting in negative net worth on Balance Sheet date. The Company has written off a substantial part of its Fixed Assets during earlier years. This situation indicates the existence of a material uncertainty that may cast a significant doubt on Company’s ability to continue as a going concern.”

Further, Auditor has stated that, Company has plans to set up crude oil refinery in Haldia, West Bengal for which it has raised USD 200 million in December 2007 by GDR Issue. The proceeds of the issue were fully utilized to pay capital advances related to purchase of equipment for setting up of oil refinery and towards other corporate expenses. However company could not achieve financial closure and fulfill the terms of said contracts thereby resulting in cancellation of contract and forfeiture of advances paid. Further, SEBI vide interim order in September 2011 had issued directions to the company not to issue equity or any other instruments convertible into equity or alter capital structure in any manner till further direction. SEBI further issued final order dated October 23, 2013 confirming the interim order for a total period of 10 years from the restriction imposed on the Company i.e. September 2011. The Company has challenged the final order at Securities Appellate Tribunal and final decision is pending in the matter.

- d. There are no default in any loans with any bank / financial institutions. Further, one of the bank account with Axis Bank Ltd. is attached / frozen in view of Income Tax demand order relating to AY 2008-09.



- e. Complied with various compliances under listing regulations requirements for three financial years i.e. F.Y. 2014-15, 2015-16 & 2016-17.
11. The Exchange vide its email dated August 23, 2017 advised the Company to submit information about number of employees on payroll of the Company and provident fund filings for the last 3 financial years. The Company submitted the auditor certificate dated August 29, 2017 and provided the details of number of employees and provident fund filings to the Exchange for the last 3 financial years.
12. Therefore, based on the material available on record *prima facie* observations are as under:
- a. It is observed that, the Company is in compliance with Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**LODR Regulations**”) and the same has been certified by the Auditor of the Company.
- b. The Main object of the Company as per Memorandum and Articles of Association is to carry on the business of refineries of petroleum products, crude, oils and all kinds of mineral oils and gases. However, the revenue from operations has been NIL from the last four financial years i.e. F.Y. 2013-14, 2014-15, 2015-16 and 2016-17.
- c. As per the financials of the Company, its net worth (Share Capital + Reserves) has been fully eroded as on March 31, 2016 and March 31, 2017.
- d. There was a huge write-off of advances and Capital work-in-progress and other related expenses for an amount of Rs. 55.87 crores which is reflected under exceptional items in the financial year 2014-2015.
- e. As per the Audit report as on March 31, 2016 and March 31, 2017, there are few qualifications stated by the Auditor in the report. These qualifications are extreme in nature and point out that, there may be uncertainty in the Company to perform and continue as a going concern.

Qualification stated by Auditor in Annual Report for F.Y. 2015-16 – “Attention of the matters is invited to note no. 27(d) of the notes to accounts regarding the financial statements of the Company having been prepared on a Going concern basis, notwithstanding that due to continuous losses incurred by the Company during the past years and current year, the accumulated losses of the Company have far exceeded its net worth resulting in negative net worth on balance sheet date. The Company has written-off a substantial part of its Fixed Asset during the previous year. This situation indicates the existence of a material uncertainty that may cast a significant doubt on the Company's ability to continue as a going concern.”

Qualification stated by Auditor in Annual Report for F.Y. 2016-17 – “Attention of the matters is invited to note no. 28(d) of the notes to accounts regarding the financial statements of the Company having been prepared on a Going Concern basis, notwithstanding that due to continuous losses incurred by the Company during the past years and current year, the accumulated losses of the Company have far exceeded its net worth resulting in negative net worth on balance sheet date. The Company has written-off a substantial part of its Fixed Asset during earlier years. This situation indicates the existence of a material uncertainty that may cast a significant doubt on the Company's ability to continue as going concern.”

- f. Among other qualifications in the Auditor report for F.Y. 2016-17, a Company viz. Udyog Private Limited (UPL) has filed a winding up petition with the Honourable High Court, Delhi for the recovery of an amount of Rs. 0.50 crores owed by the Company to UPL and the matter is pending before Hon'ble Delhi High Court.
- g. There is a tax demand of approximately Rs. 586 crores on the Company from the Income tax department for assessment year 2008-09 and an amount of approximately Rs. 0.18 crores for the assessment year 2014-15. The matter is sub-judice with the Income tax authorities and company has filed an appeal for the same.
13. In light of the above, and powers granted by SEBI, considering that, Company is not having any operations for past few years, the Exchange is of the view that, following interim actions in terms of the said SEBI's directions are required to be continued:
- i. The trading in securities of the Company shall continue to remain in GSM Stage VI as was directed vide SEBI letter dated August 07, 2017.
- ii. The Company is strictly directed to provide the information / documents as sought by the Exchange within the stipulated time.
14. Further, the other actions envisaged in SEBI's letter dated August 07, 2017 in paragraph 1.b) & 1.d), as may be applicable, and the consequential action taken by the Exchange shall continue to have effect against the Company.
15. The representation filed by the Company is accordingly disposed of.

Yours faithfully,



Authorized Signatory