By fe Bureau, 15/01/2011

Anil Ambani, R-Infra & RNRL barred from secondary markets

The Securities and Exchange Board of India (Sebi) Friday barred the Anil Ambani-led Reliance Infrastructure and RNRL from investing in the secondary markets till the end of December 2012 citing multiple violations of regulations. The Sebi order also imposed Rs 50 crore as 'consent terms' on the two companies for allegedly having diverted the overseas borrowing raised by them for investing in stock markets.

The order, the first of its kind passed by the market regulator on a major corporate, has also barred group chairman Anil Ambani and key directors of the two companies from investing in the secondary market till December 2011.

The regulator disposed off its proceedings initiated against the ADAG after the company and its senior directors proposed to settle the case by paying a sum of Rs 50 crore under the consent terms which was approved by the High Powered Advisory Committee (HPAC) constituted by Sebi. However, the regulator stated that individual directors charge-sheeted in the case will pay the settlement charges on behalf of all the applicants and the same shall not be borne by the applicant companies. This is the highest amount paid under consent terms ever since it was introduced in 2007. "It is a clear signal sent to the market to make the consent order more effective," said Vyapak Desai, head - litigation, Nishith Desai Associates.

Other executives named in the regulatory order are Lalit Jalan, CEO and wholetime director, Reliance Infra; JP Chalasani, CEO, Reliance Power; SC Gupta, director (operations), Reliance Infra and Satish Seth, vice-chairman, Reliance Infra. The regulator, however, said the entities and the directors will be allowed to invest in mutual funds and can also subscribe to primary issuances, buybacks and open offers.

Sebi also directed RNRL and Reliance Infra to implement a policy of rotation of its statutory auditors. "...therefore, the statutory auditors as of March 2010 shall not be reappointed for a period of three years commencing 2010-11," said Sebi.

Since RNRL is in the process of being merged with Reliance Power, another ADAG company, the Sebi order also clearly stated that its consent terms will remain applicable on surviving corporate entities.

"The above consent term shall remain applicable on surviving corporate entities should any of the corporate applicants undergo any change on account of merger, amalgamation or restructuring or any other similar corporate action," Sebi said in its order.

Reliance Infra in a media statement said the rotation of auditors is in accordance with risk management best practices, and already implemented by the company. The company further said: "The voluntary decision to not make investments in listed securities in secondary market (till next year by company, and this year by directors) is to conserve resources for investment in own substantial projects, and will not impact growth prospects in any manner."

The Sebi order comes in the wake of a regulatory probe into alleged violation of overseas debt norms by ADAG group companies. Sebi commenced its investigation into dealings in the shares of Reliance Communication by ADAG companies, directly and indirectly. This was after Sebi received information that the Group had misused the amounts raised through external commercial borrowings by investing its proceeds in the secondary market. The regulator stated that ADAG companies were prima facie found responsible for misrepresenting the nature of investments in "yield management certificates/deposits", and profit and loss thereof, in their annual reports for the year ending March 2007, 2008 and 2009 apart from misusing the framework of the Sebi (FII) Regulations, 1995.

It was alleged that the fund raised through the ECB route, which was parked with the London branch of UBS were siphoned off to buy shares in Indian secondary market through multiple entities registered overseas. The regulator in December 2009 had barred Societe General and Barclays Bank, both FIIs registered with the regulator from issuing fresh offshore derivative instruments (ODI). This was after these entities misled the regulator by furnishing misleading data on the end beneficiary of the ODI issued with Rcom shares as the underlying. Subsequently, the regulator revoked the ban after these FIIs satisfied Sebi about strengthening their internal process.

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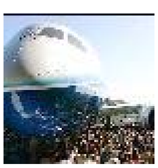
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