

"The Hon'ble Special Court passed an order in Custodian Report dated 08.10.2003 confirming the sale of shares of ACC to LIC @ Rs.170/- per share when the market price was Rs.210/- per share. All the objections of Mehtas were overruled and their 5 Applications seeking release from attachment were rejected. That selling the shares in Bulk Category will not make any difference and considering the number of shares it will be impracticable to sell the shares in routine category as it will result in crushing market of these shares."

1

IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES)

AT BOMBAY

**ORDER ON CUSTODIAN'S REPORT DATED 8TH OCTOBER 2003 FOR
SALE OF SHARES OF ACC LTD. & SNOWCEM INDIA LTD.**

Appearances in sale of shares of ACC Ltd.:-

Mr. G.E. Vahanvati, Sr. Counsel with Mr. H.D. Petit and

Mr. H.A. Saldhana i/b M/s Gagrat and Co. for ACC Ltd.

(Company and Management)

Mr. G.R. Joshi i/b M/s P.M. & Mithi & Co. for Custodian.

Mr. Amol Chaugule for Ms Jyoti Mehta and Mr Sudhir Mehta
(Notified Parties).

Mr. Navroz Seervai with Mr D.H. Shah i/b M/s Little and Co. for L.I.C. of India Ltd.

Mr. Ajay Khandhar with Mr Ashwin Mehta, Ms Deepika Mehta, for Growmore Research, Growmore Leasing, Growmore Exports, Harsh Estates, Pallavi Holding Pvt. Ltd., Topaz Holding, Aatur Holding (Notified Parties).

Mr. S.B. Mainak for L.I.C. of India Ltd. present.

Appearances in sale of shares of Snowcem India Ltd.:-

Mr. G.R. Joshi i/b M/s P.M. & Mithi & Co. for Custodian.

Mr. Ravi Kadam with Ms Heena Cheda i/b M/s Hariani & Co. for Snowcem India Ltd.

Ms Jyoti Kapadia i/b M/s Pandya Gandhi & Co. for Kosha Investments.

Ms. Savita Suryawanshi i/b M/s Malvi Ranchoddas for Dhanraj Mills.

**Coram : D.K. Deshukh J.
 Judge, Special Court**

Date : 10th October 2003

P.C. :-

1. The Custodian has submitted this report in relation to sale of 1,62,64,865 shares of ACC Ltd. The procedure as laid down by this Court for sale of shares in controlling block category has been followed. Only one offer was received that was from L.I.C. of India Ltd. offering to buy the shares at the rate of Rs.163/- per share. The objections have been raised on behalf of the notified party. The first objection is that the present ruling price of the share is in excess of Rs.200/- per share. It is between Rs.200/- and Rs.210/- per share and therefore, the price offered by the highest bidder is too low. It is submitted, relying on an order of the Supreme Court in Civil appeal No.7629 of 1999 dated 23rd August 2001, that as shares in controlling block category are not fetching adequate price, the Court should sell the shares in the next categories i.e. bulk share category and routine share category. The second objection is that some of the notified parties have filed applications for lifting attachment on some of the shares which are being sold and that till those applications are disposed off, the process of sale should be postponed.

2. So far as the first objection is concerned, considering the number of shares, they fall in the category of bulk shares. As per the order passed by this Court in miscellaneous petition No.64 of 1998 dated 17th August 2000 where procedure for sale of the shares in the hands of the Custodian has

been laid down. In so far as the process of sale of the shares in bulk category and controlling block category is concerned, there were two distinguishing features. As far as sale of the shares in bulk category as per that order is concerned, the shares were to be first offered to public financial institutions and second distinguishing feature was after ascertaining what the highest price offered, the shares were to be offered to the Company. Otherwise, the procedure to be followed in bulk category and controlling block category is the same. The Supreme Court has considered that aspect in its order referred to above in the case of Apollo Tyres Ltd. and the Supreme Court has not made any change therein except that now even controlling block category shares need not be offered to the public financial institutions first and there is some change made in relation to the offer of the shares to the Company. In my opinion, therefore, by selling of these shares in the bulk category will not make any difference so far as fetching of higher price is concerned. So far as the third category is concerned, i.e. routine share, considering the number of shares that are required to be sold, it is impracticable to sell such a large quantity of shares in routine category. It will result in crushing market of these shares of the Company. It will also prejudicially affect the interest of the Company. From practical point of view also, it will be hazardous to sell such a large quantity of shares in routine category. If such a large quantity of shares are to be sold on the Stock Exchange, in all probability the ruling price will drastically come

down. In my opinion, therefore, there is no justification for making even an attempt to sell these shares in routine category. So far as the second objection is concerned, perusal of the order passed in miscellaneous petition No.64 of 1998 referred to above shows that similar types of objections in applications for lifting attachment were earlier made and those applications have been rejected. So far as the present application is concerned, admittedly that application has been made after the advertisement was published on 2nd September 2003. The shares have been attached in the year 1992 and except for saying that till the accounts were audited, the application for lifting of attachment could not be made. There is no justification for not making the application at any point of time earlier during the last 11 years before the advertisement was published. Therefore, the whole objection for lifting of attachment is just to block the process of sale. It was submitted on behalf of the notified party that for selling these shares in bulk category, the shares should be divided into blocks and then sold. Firstly, there is nothing pointed out to me which permits such splitting of shares into blocks and secondly, the exercise of splitting of shares will require first and enquiry into how many shares should be contained in a block and how that is to be done. The notified parties have not placed any material to show that how this split up should be done and how that will help in fetching substantially higher price.

3. The learned counsel appearing for L.I.C. of India Ltd. offered that though the L.I.C. of India Ltd. has offered to buy the share at the rate of 163/- per share, the L.I.C. of India Ltd. is now willing to offer Rs.170/- per share. The learned counsel appearing for the Company stated that in case the offer is accepted for buying shares at the rate of Rs.170/- per share, then the Company does not want to exercise its option. Therefore, taking overall view of the matter, it is directed that the offer of the L.I.C. of India Ltd. for buying 1,62,64,865 shares of ACC Ltd. at the rate of Rs.170/- per share is accepted. The Custodian is directed to take further steps in accordance with the order passed in the matter and in accordance with law.

4. So far as the offer received for 1,25,000 shares of Snowcem India Ltd. is concerned, the sole offer received is from Ashok C. Samani. He is offering Rs.10/- per share. I have been told that the ruling market price is Rs.17/- per share. The Committee has found that 52 week mean price of these shares is Rs.22.39 per share. The learned counsel appearing for Company states that he will take instructions from the company whether the Company is willing to buy back these shares at proper price. The offerer who is present in the Court has stated that he is willing to keep his offer open for a period of one week from today. Taking overall view of the matter therefore, in my opinion, it will be appropriate to postpone the order in relation to the sale of shares of Snowcem India Ltd. for a period of one week

to enable the Company to make an offer. Hence put up on 16th October 2003.

5. So far as the order in relation to the shares of ACC Ltd. are concerned, on behalf of the notified party a request was made that this order should be stayed. Taking pros and cons in the matter into consideration, in my opinion, it will not be in the interest of justice to stay the order. The request is therefore rejected.

Parties to act on the copy of this order duly authenticated by the Associate/ Personal Secretary as true copy.

Certified copy expedited.

Typed Copy