

Sebi vets ABB Power offer price, valuation

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ABB Power Products and Systems India Ltd's plan to buyback shares worth ₹917 crore through an open offer has attracted the scrutiny of the markets regulator after complaints by a section of minority shareholders, said two people with direct knowledge of the matter.

The Securities and Exchange Board of India (Sebi) is examining whether the price offered to minority shareholders as well as the valuation is fair, and whether it needs to be revised, said one of the two people cited above. "Sebi is examining whether there is a need to appoint an independent valuer," the person said.

There are, however, multiple issues that need to be considered. These include whether the promoters of ABB Power will earn better value for their holdings than minority investors, whether interest should be added to the offer price, and also whether the offer price has considered the low valuation at the time due to covid-19 and, finally, the precedence of having an independent valuation in earlier instances as seen in the case of Federal-Mogul Goetze (India) Ltd last year.

"Sebi is conducting its routine review as customary prior to granting clearance. ABB remains in close dialogue with the regulator on the matter," said ABB in an emailed response.

ABB Power, which was hived off from ABB India Ltd when the parent sold its power grid business to Japan's Hitachi Ltd, debuted on exchanges in March through a demerger. In this deal, the merchant banker had considered the date of listing as 30 March and also considered the target company as infrequently traded.

The mandatory open offer was announced in June jointly by parent ABB Group and Hitachi for acquiring 25% of the public shareholding of ABB Power at ₹865.92 apiece.

The minority investors claimed in their complaint to Sebi that ABB was frequently traded at the time of the main transaction in 2018, and consequently, the resultant company must be treated as a frequently traded company and its valuation should have been done based on that price instead of March 2020.

"The manager to the offer has accepted valuation as on 24 March 2020, the date on which the global markets were at an all-time low, thus making the valuation less than it should be," the minority investors said in their complaint, a copy of which was reviewed by *Mint*. They also claimed the deal has placed minority investors at a disadvantage as compared to promoters, who got an exit at the much higher valuations of December 2018.

The investors also argued that interest should be added to the open offer price. They claim that the open offer was triggered in December 2018 when the demerger was announced. The company announced the open offer 15 months later in March 2020.

An ABB spokesperson said the ABB Power was valued by two independent experts—EY and Bansi S. Mehta.

"At the time of entering into the SPA (share purchase agreement) on December 17, 2018, the intrinsic valuation of ABB Ltd's power grids business in India was not determined. At that point in time, AB Power was not in existence as it was one of the business segments of ABB India Limited. As a result, it only became subject to stock exchange regulations on March 30, 2020, when APPSIL was listed following a demerger process in full compliance with NCLT requirements," the spokesperson added.

This case adds onto the ever increasing list of cases against Multinational Companies (MNCs) where minority investors have complained of getting short changed either in open offers or delistings.

Sebi in March 2019 had stepped in and asked US-based Tenneco Inc to increase the open price for acquiring shares of Federal Mogul Goetze India from ₹400 to ₹608.46 after shareholders raised concerns. Securities Appellate Tribunal (SAT) had in November 2019 dismissed an appeal against this order, directing the promoters to revise the open offer price upwards and Supreme Court had refused to intervene.

Sebi appointed an independent valuer, CNK Associates last year in the delisting and price offered by Linde India Ltd.

"Indian regulatory regime has seen minority shareholders challenging almost every delisting of a subsidiary of a foreign parent or open offer price being offered. Delisting norms, open offers currently per se are tilted towards valuation report which puts promoters to certain advantage and it is time that the entire process is given a relook especially in the background of recent cases," said Sumit Agrawal, partner, Regstreet Law Advisors.

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