

BOARD FOR INDUSTRIAL & FINANCIAL RECONSTRUCTION

BENCH-I / MON-III

MISC. APPLICATION NO.606/2011

in CASE NO.321/2002

M/s PRINCIPAL PHARMACEUTICALS & CHEMICALS LTD.

**SUMMARY RECORD OF PROCEEDING OF MISC. APPLICATION HELD ON
26.03.2012 BEFORE BENCH-III CONSISTING OF
SHRI NIRMAL SINGH, CHAIRMAN AND SHRI YK GAIHA, MEMBER**

<u>Present</u>	<u>Name and Designation of the representative(s) S/Shri/Smt/Kum</u>
M/s Principal Pharmaceuticals & Chemicals Ltd	1. Bhagwan Chhapparwal, FCA 2. Pradeep Malu, Director
Union Bank of India (MA)	U. K. Khanna, Sr. Manager

1. (i) A scheme for revival of the sick company M/ s Principal Pharmaceuticals & Chemicals Ltd. (PPCL) was sanctioned by the Board, in its hearing held on 14.07.2011, having considered the **cut-off date (COD) as 31.03.2010**, which, hereinafter, would be referred to as **SS-11**. The Board appointed **Union Bank of India (UBI) as the monitoring agency (MA)** to monitor the progress of implementation of SS-11.

(ii). **Cost of Scheme & Means of Finance:**

Cost of Rehabilitation

(Rs. in Lakhs)

	Implemented Upto 31.03.10	To be implemented	Total
Repayment of Term Dues - ARCIL under OTS	140.00	0.00	140.00
Repayment of Term Dues – GIDC	0.00	7.00	7.00

	Implemented Upto 31.03.10	To be implemented	Total
Start up / Operational Cost	20.00	0.00	20.00
Working Capital	35.00	353.00	388.00
TOTAL	195.00	360.00	555.00
MEANS OF FINANCE			
Promoters' Contribution:			
Equity Share Capital	195.00	360.00	555.00
TOTAL	195.00	360.00	555.00
Promoters Contribution	100.00%	100.00%	100.00%

(iii) As per profitability/ viability projected in SS-11, the networth of the company becomes positive immediately after restructuring as on 31.03.2010. The Project Profitability Statement reveals that the entire accumulated losses will be wiped out in the seventh year of rehabilitation 2015-16.

2.1 Shri Pradeep Malu, Director on behalf of the sick company vide application dated 29.09.2001 filed Misc. Application registered in BC Section vide **No.606/BC/2011** dated 29.09.2011. In the Misc. Application the applicant prayed the following :-

- (a) Pass order for modified of Clause I (iv) of Sanctioned Scheme to change the Memorandum of Association and Articles of Association to effect authorised capital to PPCL from existing 100 lakhs shares of Rs.10/- each aggregating value to Rs.10.00 crores to 250 lakhs shares of Rs.4/- each aggregating value to Rs.10.00 crores.
- (b) Pass any other or such further order which this Hon'ble Authority may deem fit and proper under the facts and circumstances of the case.

2.2 In Misc. Application (No.606/2011) hearing held on **10.10.2011**, *The Bench observed that there was no one present in today's hearing from SEBI or from other concerned agencies.* Accordingly, the Bench directed that the Company should serve copies of today's summary record of proceeding (SOP)

on all concerned parties within a period of one week. The company is also directed to submit proof of service before the next hearing. Thereafter, all concerned Department are directed to file their written submissions, if any, within a further period of 10 days. The Bench also directed that all concerned Department should depute their representative to attend the next hearing before the Board. **The next date of hearing in Misc. Application (No.606/2011) is fixed on 03.11.2011.**

3. In the Misc. Application (No.606/ 2011) hearing held on 03.11.2011, the Bench issued the following directions :-

(a) MA (Union Bank of India) is directed to attend the next hearing before the Board, without fail.

(b) MA (Union Bank of India) and DIT(R) is directed to file their comments on the Misc. Application (No.606/ 2011) within a period of 15 days.

(c) The next date of hearing on Misc. Application (No.606/ 2011) is fixed on **20.12.2011**.

4. In the Misc. Application (No.606/ 2011) hearing held on 20.12.2011, the Bench "**Reserved the Order**", which will be announced at a later date.

5.1 In today's Pronouncement of Order (26.03.2012), the Bench on considering the Misc. Application and submission made in the hearing, observed that the company has filed this Misc. Application pointing out the fact that while passing the scheme by the Board's office, an error has been carried in Clause I(iv) on page 15 of sanctioned scheme. It was submitted during the hearing that company had already obtained Special Resolution Passed by the Shareholders of the company on 14.07.2011, with regard to reduction of share capital of the company from the existing Rs.10.00 each to Rs.4.00 each. It was also submitted that under clause I(ii) of the relief and concessions, under the

heading “Promoters & Existing Shareholders” provide for face value of equity share to be Rs.4.00 each, whereas in clause I(iv) the amendment in Memorandum of Association and Articles envisages face value of equity share to be Rs.1/- each.

5.2 The Bench noted that MA (Union Bank of India) in its joint meeting report held on 07.12.2011 between the company and MA (UBI) on the issues raised in the Misc. Application, noted that an error has occurred in clause I(iv) on page 15 of SS, which is inconsistent to de-rating of shares being allowed to the extent of 60%, as against 90% proposed by the company in DRS.

5.3 The Bench also noted that Income Tax Department through its reply to Misc. Application dated 19.12.2011 has objected in raising this issue through Misc Application, instead of through MDRS. The Deptt. also remarked any modification in scheme has to be carried out through an MDRS.

5.4 The Bench observed that the company through this Misc. Application is seeking rectification of clause as the error has occurred due to clerical mistake and not a modification of scheme as remarked by Income Tax Department. The Bench then relied upon the Order of Hon'ble AAIFR dated 28.09.2005 in Case No.152/2000 – M/s Denholm Steel Ltd has observed that an error has occurred in AAIFR's own order dated 16.05.2005 and has observed that “error is a clerical one which has occurred inadvertently, there appears to be no objection to rectifying it”. Thus keeping in line of the observation of Hon'ble AAIFR, the Bench noted that the issue raised in MA No.606/2011 is inconsistent to de-rating of share allowed to the extent of 60% against 90% de-rating. Further, the error occurred needs to be rectified to enable the company to implement the scheme in letter and spirit. Accordingly, the Bench directed that the prayer made in Misc. Application no.606/2011 be allowed and the clause I(iv) on page 15 of sanctioned be rectified to the extent as detailed below:

“To change the Memorandum of Association and Article of Association to effect the Authorised Capital of PPCL from existing 100.00 lakhs shares of Rs.10/- each aggregating value to Rs.10.00 crore share to 250 lakhs shares of Rs.4/- each aggregating value to Rs.10.00 crore, subject to the compliance of statutory law”.

Misc. Application No.606/2011 stands disposed of.

(YK GAIHA)
MEMBER

(NIRMAL SINGH)
CHAIRMAN