

## Pricing of Equity Shares by Private Limited Companies – Impact on Government Revenue

Gurcharan Singh\* and Rajansh Thukral\*\*

\* School of Management Studies, Punjabi University Patiala

\*\* School of Management Studies, Punjabi University, Patiala

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### Abstract

Under the Companies Act, 1956 (now Act of 2013) or the rules made thereunder, there is no mechanism to control the pricing of equity shares issued by the companies and many of the Private Limited Companies mobilize funds by issuing shares at exorbitant rate of premium. They use small amount of Authorised Capital and tend to save payment of Authorised Capital linked fees to Government due to a regulatory gap. Through this study, an attempt has been made to study the comparison of book value of pre-issue equity shares with the issue price and to study the impact on Central Government revenue in such cases where the premium was not justified on the basis of the book value. This study covers 231 sampled Form 2 of 108 Private Limited Companies for issue of equity shares at premium filed with 24 offices of Registrar of Companies in whole of India during the period 01.04.2007 to 31.03.2012. Accounting tools, mathematic tools and correlation analysis has been used to draw the conclusions. The results revealed that only in 31 cases (13.42%) the issue price was less than the book value of the pre-issue equity shares and in 200 cases (86.58%) the book value did not support the issue of shares at premium. Out of the total premium of Rs.9532.15 crores collected from these 231 forms, Rs.9083.84 crores (95.30%) is from 200 Form 2 where the book value does not support the issue price. If the premium were part of the Authorised Capital in these cases, this would have generated revenue of Rs. 45.42 crores to the central government in the form of payment of Authorised Capital linked fees in terms of Schedule X of the Companies Act, 1956. If this percentage is considered as representative of the entire data, then this would indicate adverse impact on government revenue to the extent of Rs. 2617.60 crores during the period of study.

### Key Words

Authorised Capital, Equity Shares, Face Value, Nominal Value, Premium, Book Value of Equity Shares, Pricing, Revenue, Authorised Capital Linked Fees, Impact on Government Revenue.

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## INTRODUCTION

After incorporation, Private Limited Companies may raise funds by issuing equity shares or preference shares against the authorized capital as per the provisions of the Companies Act, 1956 (now Act of 2013) without any restriction or norms for pricing of shares. These equity shares can be issued at par i.e. the face value (also called nominal value) or at premium. In order to facilitate the companies to rationalize the net worth of the existing shareholders, the Companies Act permits issue of shares at par or at premium at the discretion of Board of Directors. There is no mechanism to control the pricing of equity shares issued by these companies under the Act and as a result the companies price their shares without any criteria. In case of listed public limited companies, earlier the Controller of Capital Issues (CCI) was the regulatory authority for fixation and approval of issue price of shares. The office of CCI became defunct in 1992 with the introduction of economic reforms, whereby SEBI became regulator and the guidelines for investor protection were issued from time to time until the SEBI Investor Capital Disclosure Regulations, 2009 were framed. The pricing and issue of shares by listed public limited companies is now regulated by SEBI, but there is no regulation for pricing and issue of equity shares at premium by Closely Held Public Limited Companies or the Private Limited Companies.

Whenever, a company needs to issue further shares, there arises a question as to what shall be the price at which the shares may be issued. In case of a Private Limited Company, the issue price needs to be determined on some strong and logical basis such that the fair price is determined on the basis of the financials of the companies. There are no market forces to guide the pricing of the shares as in case of listed companies. In order to avoid payment of Authorised Capital linked fees to the Government on the increased authorized capital, the companies issue shares at premium which, in most of the cases, is without any rationale and is unjustified keeping in view the net worth of the company and thus, causing loss to the Government revenue. The expression "premium" is not defined. It may be that if, over and above the cash payment of the shares, some further advantage measurable in terms of money is conferred on the company the value of such advantage has been regarded as premium. A company is not bound to issue shares at premium. (Ramaiya A., (2010))

In terms of section 75(1) of the Companies Act, 1956, upon allotment of shares, a company is required to file return of allotment in Form 2 online within 30 days of allotment with the Registrar of Companies of the state under whose jurisdiction, the registered office of the company is located. During last few years,

it is observed from Form 2 filed with the Ministry of Corporate Affairs through MCA 21 portal that many of the Private Limited companies are issuing shares at substantial premium.(52nd Annual Report, Ministry of Corporate Affairs(2011)). The companies have not been following any pricing methodology to determine the price at which the shares may be issued and this resulted in many malpractices in the financial transactions. Even a newly incorporated company can issue equity share of face value of Rs.10/- at any price so that the promoters can induct a large amount of money into the company and also avoid the payment of Authorised Capital linked fees to the Government. In this way, without exhausting the authorized capital, companies can raise huge amount of money without paying additional fees to the Government for increasing the Authorised Capital of the company due to loophole in the Companies Act, 1956 or rules made there under. This loophole continues even in the Act of 2013. This practice has been causing enormous financial loss to the Ministry of Corporate Affairs.

The Finance Act, 2012 inserted clause (vii b) in section 56(2) of the Income Tax Act, 1961 to bring within the purview of taxation the premium received by a company (other than a listed company), on the issue of its shares in excess of the "Fair Market Value" of such shares. (BMR Advisors (2012)). This change is applicable w.e.f. 01.04.2013. This amendment now makes it mandatory for the private limited companies to follow their balance sheet for the purpose of pricing the issue of equity shares and if the price is more than the fair market value, the balance shall be treated as income in the hands of the company and taxed accordingly. But prior to this date there was no such deterrent so as to guide the companies on the pricing of the equity shares issued by them and as such the pricing appeared to be whimsical more often. Though a provision has been introduced in the Income Tax Act, 1961 w.e.f 01.04.2013, but there is no corresponding amendment in the Companies Act or the rules made thereunder to regulate the pricing of the shares till now. The Ministry of Corporate Affairs is the custodian of the information and there is no mechanism for sharing of the information by the Ministry of Corporate Affairs with the Income Tax department and it is unlikely that every case of issue of shares at disproportionate rate shall come into the notice of income tax department. Thus, the regulatory gap is apparent and continues. However, the new provision of the Income Tax Act has started acting as a deterrent to some extent.

#### **RELATIONSHIP OF PRICING AND GOVERNMENT REVENUE**

The Ministry of Corporate Affairs collects revenue from the public and the industry towards fees for incorporation of companies, Authorised Capital linked fees, filing fees for filing various returns under the Companies Act, the penalties

levied on the defaulters and the like. The fees collected from the industry or the public for incorporation of companies' inter-alia includes Authorised Capital linked fees collected as per the slab rates laid down in Schedule X of the Companies Act, 1956. If the Authorised Capital, as fixed in the capital clause of the Memorandum of Association of the companies is exhausted, then the companies are required to increase the Authorised Capital of the company to issue any further capital and in case they do, they are required to pay additional fees to the Government as per the prescribed rates. Thus, in the Ministry of Corporate Affairs, revenue largely depends on payment of fees by the companies to the Government. If the companies inappropriately price the issue of equity shares so that a small amount of Authorised Capital is exhausted to infuse huge funds into the company, then the government stands to incur loss to the extent of Authorised Capital linked fees on the excess amount inducted into the company in the name of premium. Thus, there is a direct relationship in the pricing of the equity shares and the Government revenue. Due to lack of regulatory controls, the companies kept mobilizing huge funds by playing around premium and utilizing small amounts of Authorised Capital so as to avoid increasing the Authorised Capital and consequent payment of Authorised Capital linked fees to the government.

#### REVIEW OF LITERATURE

For carrying out this study, it is hypothesized that if the share premium were part of the Authorised Capital and more so if the share premium were restricted keeping in view the book value of the company, then there would have been a substantial impact on the government revenue in terms of Authorised Capital linked fees payable to the Ministry of Corporate Affairs, Government of India. For this purpose, an endeavour is made to search the earlier literature on this subject to find the research gap. But it appears that no research has been carried out on this subject. Many of the research studies perused deal with shares, valuation, fixing premium, sources of finances, capital structure etc. and have been reviewed as under :

Sharma K. Rattan (1989) in his paper "Factors Affecting Relative Prices of Equity Shares : An Empirical Analysis" has made a study in Indian context to identify the factors affecting the relative prices of equity shares. Considering a sample of 30 cotton textile units for a period of 1976 to 1980, based on Bombay Stock Exchange, the study has developed separate log linear annual regression equation for relative price of equities as dependent on dividend pay-out, growth, capitalization rate and variability in market prices per share etc. The cross sectional

regressions establish the dividend pay-out, growth and size of the firm as significant variables.

Collins D. W., Morton Pincus, Hong Xier (1999) in their paper "Equity Valuation and Negative Earnings : The Role of Book Value of Equity" study the role of book value of equity in the equity valuation.

Ramachandran (1989) in his thesis "Behaviour of Share Prices : A Statistical Analysis", examined the monthly share prices of 132 actively traded scrips of Bombay Stock Exchange in a period from January 1979 to December 1986. He found that the CAPM was rejected with the Indian data.

Zahir, M. A., (1992) in his paper "Factors Affecting Equity Prices in India" made an attempt to compare the behaviour of more volatile shares with those of less volatile shares in terms of the impact of bonus issue, size, growth, dividend per share, earnings per share, book value, yield variability in market price, RBI security price index, money supply and time factor on the prices of two types of equity shares, by applying log linear multiple regression on a sample of 40 cross-section companies equally divided between more volatile and less volatile groups. He found that bonus issue, dividend per share, earnings per share, book value, yield and RBI security price index were the important factors influencing the prices of equity shares in India. However, the independent variables both internal and external were able to explain much larger variations in the prices of shares.

David C. Burgstahler and Ilia D. Dichev (1997) in their paper "Earnings, Adaptation and Equity Value" developed and tested an option style valuation model whose main prediction is that equity value is a convex function of both earnings and book value where the function depend on the relative values of earnings and book value and also provides a measure of the value of the firms' resources, independent of how the resources are currently used.

Monica Singhania (2008), in her paper "Determinants of Equity Share Prices in Indian Chemical Industry", studied the determinants of Indian equity prices during the period 2000 to 2007, for a sample of 51 manufacturing companies listed on the Bombay Stock Exchange. The results of the multiple regression analysis of the explanatory variables showed that book values, earning per share and price-earnings ratio were significant whereas dividend cover and yield were insignificant with negative value. Growth and dividend per share were insignificant but positive.

Dominique Nivat and Agnes Topiol, (2010), in their paper "Valuation of Unquoted Foreign Direct Investment Stocks at Market Value : Methods and Results for France" studied that Foreign Direct Investment equity is valued at book value and at market value in France's International Investment Position. The shares and

investment certificates of the companies owned by foreign direct investors are rarely traded on stock exchanges, which means that the book value is observed and the market value is estimated. The International Investment Position at book value is still the main item used for international comparisons of foreign direct investment (FDI) stocks. Estimating market value is a very complex exercise that only a handful of countries engage in.

Zhang *et al.* (2011) in his paper "Investment Growth and the Relation Between Equity Value, Earnings and Equity Book Value" has found a complex relationship between equity market value and equity book value. This paper also includes relationship of equity market value with investment growth and profitability.

Alaa Rady and Laura Nunez (2012), in their paper "Valuation Methodologies Used In Emerging Markets versus Developed Markets" based their research on a recent study on valuation methodologies used in developed markets and suggests different results for valuation methodologies used in emerging markets namely (1) less use of sophisticated valuation methodologies; (2) multiples valuations need to be supported by other valuation methodologies; and (3) DCF valuations tend to be extensively used in almost every valuation conducted. Results of the empirical work accepted the three hypotheses suggested above.

Mrs. Vimala. S., Mrs. Saranya P. B., Ms. Saranya. R. (2014) in their paper "A Study on Analysis of Equity Share Price Behaviour of the Selected Industries" analysed the equity share fluctuations in Indian Selected Industry. It also measures the strength of the trend and the money involved in investing in the stocks. Simple moving average model is applied for selected companies which would give the investor a sell signal or buy signal. Speculation involves higher risks to get return on the other hand investment involves no such risks and returns will be fair.

#### **OBJECTIVES OF RESEARCH**

1. To study the relationship of book value of pre-issue equity shares with the pricing of issue of equity shares.
2. To study the comparison of book value of equity shares with the pricing of issue of equity shares;
3. To study the impact of unregulated pricing of equity shares at premium on Central Governments' revenue.

#### **RESEARCH METHODOLOGY**

##### **Scope of Study**

The scope of the study extends to 231 sampled Form 2 filed with 24 offices

of Registrar of Companies for of issue of equity shares at premium by Private Limited Companies in whole of India during the period of study of 5 years from 01.04.2007 to 31.03.2012.

### Sample Size

Out of forms filed with the offices of Registrar of Companies in whole of India for issue of equity shares at premium, 121 samples of Form 2 were identified. These forms have been filed by 108 companies. These forms and the corresponding balance sheets of the identified companies can be downloaded from the website of the Ministry of Corporate Affairs on payment of requisite fees for inspection of record. Accordingly, the inspection of record of these companies was conducted one by one. During inspection of these companies it came to notice that these companies had filed some more Form 2 for issue of equity shares during the period of study. To study the rationale of pricing, it was thought necessary to download and study all such multiple forms filed by these companies. Accordingly, during inspection of the samples size of 121 Forms 2 was expanded to 231 Form 2 filed by these 108 companies and all these Form 2 were downloaded. The corresponding balance sheets are also downloaded to determine the book value of the pre-issue equity share capital of the issuer company for the purpose of comparison with the issue price.

### Sampling Technique

The total data of Private Limited Companies comprised 130226 Form 2 filed by these companies for issue of equity shares at premium. The data includes the names of companies, place of location, date of incorporation, company identification number, date of allotment, date of filing of Form 2, number of equity shares allotted, face value of the equity shares allotted, issue price and premium amount. The entire data was taken up and divided into five financial years. Within these categories, the data was divided into 8 ranges of premium from Rs. 0-50, 51-100, 101-250, 251-500, 501-1000, 1001-5000, 5001-50000 and more than 50000. This data was further divided into three categories on the basis of the age of the issuer company on the date of issue and allotment of shares i.e. age up to 3 years, age from 3 to 6 years and age above 6 years. Within each category the data was arranged in the descending order and the Form 2 for issue of equity shares at highest premium was taken up for further study in each category. There were some cases where the rate of premium was same and in such cases the data was further arranged in descending order on the basis of total premium mobilised within that category and the top most Form 2 was taken for further study. Thus, the total number of samples drawn was  $5 \times 8 \times 3 = 120$  and against this 121 samples were

drawn. As discussed earlier also, the record of 108 companies was then inspected on the website of the Ministry of Corporate Affairs (MCA) <http://www.mca.gov.in/mca21> on payment of requisite fees and the identified Form 2 and the corresponding balance sheets were downloaded for further study. During inspection, this sample base of 121 Form 2 was expanded to 231 Form 2 by including the multiple forms issued by the identified companies.

### LIMITATIONS OF STUDY

The study has few limitations. The conclusions are based on analysis of data of Form 2 filed by the Private Limited companies in a period of five years. There may be factors beyond the balance sheet to justify the pricing of the shares and this study considered only such information as is available in the balance sheet of the companies. A larger sample could not be taken due to financial constraints of the researcher as the data is available from the ministry on payment of Rs.100/- per company. Estimation of revenue loss is based on study of data of sampled companies only and consequently the estimation is based on averaging of loss of revenue on the basis of sampled data and there may be some marginal error in estimation.

### ANALYSIS AND DISCUSSIONS

#### Companies Having Age of More Than 6 Years

67 of 231 sampled Form 2 have been filed with the Ministry of Corporate Affairs for allotment of equity shares by companies having age of more than 6 years as on the date of issue. In these 67 cases, the premium ranges from Rs. 1/- to Rs. 7,99,99,900/- per share. The corresponding balance sheets of these forms were studied to determine the book value of the pre-issue equity share capital of the issuer companies. As per data shown in the Table 1, out of 67 Form 2 the pricing of only 12 Form 2 appears to be justified by the book value. This comes to 17.91% of the number of samples in this category. The remaining 55 samples representing 82.08% of the number of samples are not supported by the book value. Rs.199.02 crores is mobilized from 12 Form 2 which is just 4.31% of the total premium mobilized. Thus, the data shows that 95.69% of the premium amount is mobilized by companies by issuing equity shares at exorbitant rate of premium unsupported by the financials of the company.

It is further observed that out of 67 Form 2, 55 are for issue of equity shares at premium which mobilised premium of Rs.4614.50 crores in different ranges of premium (Table 1). It is observed that 9 Form 2 are in the premium range of



**Table 1**  
**Number of Forms Filed by Private Limited Companies During Period 01.04.2007 to 31.03.2012 (Age on Date of Issue More Than 6 Years)**

1	2	3	4	5	6	7	8	9	10
S. No.	Range of Premium	Total No. of Form 2 Filed	Total Prem (Crores)	No. of Form 2 with bv more than ip	Total Prem in respect of forms in col 5 (crores)	%age of col 6 to col 4	No. of form 2 with bv less than ip	Total Prem in respect of forms in col 8 (crores)	%age of 9 to 4
1.	0-50	10	575.39	5	89.91	15.63	5	485.48	84.37
2.	51-100	9	143.63	1	0.90	0.63	8	142.73	99.37
3.	101-250	9	369.37	1	37.50	10.15	8	331.87	89.85
4.	251-500	7	64.21	2	7.10	11.06	5	57.11	88.94
5.	501-1000	8	130.05	1	0.09	0.07	7	129.96	99.93
6.	1001-5000	7	13.11	1	1.25	9.53	6	11.86	90.47
7.	5001-50000	8	399.21	1	62.27	15.60	7	336.94	84.40
8.	More than 50000	9	2919.53	0	0.00	0.00	9	2919.53	100.00
	Total	67	4614.50	12	199.02	4.31	55	4415.48	95.69

**Source :** Compiled from Data Collected from Ministry of Corporate Affairs, Government of India, India

Rs.50,000 and above and these 9 cases alone mobilised Rs. 2919.53 which comes to 66.12% of the total premium amount. As against this, in the range of Rs. 0 to 50, there are 5 form 2 which mobilised 485.48 crores i.e. 11% of the total premium mobilised by these 67 Form 2. Thus, the data reveals that the major target area in the case of companies with age of more than 6 years is the range of Rs.50,000 and above in which the pricing of shares is likely to impact the revenue of the Central Government the most. Further, it is observed that book value of the pre-issue equity share capital filed by the companies of 12 Form 2 was more than the issue price which comes to 17.91% in terms of the number of forms. These 12 cases mobilised a total premium of Rs.199.02 crores. Out of these 12 samples, 5 samples are in the range of premium of Rs. 0 to 50 and raised premium of Rs. 89.91 crores which comes to 45.18%. In all other ranges of premium there is only one sample each. In the range

of premium of Rs. 5001 to 50000, 1 sample mobilised Rs. 62.27 crores i.e. 31.28%. There is no sample in the range of over Rs.50000. Though these are the cases in which the pricing is justified by the book value of the pre-issue equity share capital of the company, but it appears that the cases in the higher ranges need attention of the authorities. Further, from column 10 of Table 1, it is also observed that maximum premium raised by the sampled Form 2 is not justified by the book value of the pre-issue share capital of the issuer company and it ranges from 84.37% to 100% in different ranges of premium.

#### Companies Having Age of 3 to 6 Years

Out of 231 Form 2, 70 forms are filed by companies in the age group of 3 to 6 years at a premium ranging from Re. 1/- to Rs. 106,95,46,854/- per share. The balance sheets of the companies were studied to determine the book value of their

Table 2

Number of Forms Filed by Private Limited Companies During Period 01.04.2007 to 31.03.2012 (Age on Date of Issue 3 to 6 Years)

1	2	3	4	5	6	7	8	9	10
S. No.	Range of Premium	Total No. of Form 2 Filed	Total Prem (Crores)	No. of Form 2 with by more than ip	Total Prem in respect of forms in col 5 (crores)	%age of col 6 to col 4	No. of form 2 with by less than ip	Total Prem in respect of forms in col 8 (crores)	%age of 9 to 4
1.	0-50	14	441.14	3	46.00	10.43	11	395.14	89.57
2.	51-100	12	249.21	2	0.21	0.08	10	249.00	99.92
3.	101-250	9	150.91	1	0.24	0.16	8	150.67	99.84
4.	251-500	10	46.07	0	0.00	0.00	10	46.07	100.00
5.	501-1000	6	59.94	1	1.31	2.19	5	58.63	97.81
6.	1001-5000	8	108.25	0	0.00	0.00	8	108.25	100.00
7.	5001-50000	4	301.35	2	21.40	7.10	2	279.95	92.90
8.	More than 50000	7	290.37	0	0.00	0.00	7	290.37	100.00
	Total	70	1647.24	9	69.16	4.20	61	1578.08	95.80

Source : Compiled from Data Collected from Ministry of Corporate Affairs, Government of India, India

pre-issue equity share capital. Out of 70 Form 2, the pricing of only 9 Form 2 (12.86%) appears to be justified by their book value and they mobilised Rs.69.16 crores (4.20%) as premium. Out of these 9 Form 2, 3 samples are in the range of premium of Rs. 0 to 50 that raised premium of Rs. 46.00 crores (66.51%) and 2 samples, in the range of premium of Rs. 5001 to 50000, mobilised Rs. 21.40 crores (30.94%). The remaining 61 samples (87.14%) are not supported by the book value and these forms mobilised Rs.1578.08 crores (95.80%) as premium. Out of this 11 samples are in the range or Rs.0 to 50 and these samples mobilised premium amount of Rs.395.14 crores (25.03%), 10 samples are in the range of 51-100 mobilised Rs.249.00 (15.78%), 2 forms are in the range of 5001 to 50000 that mobilised Rs.279.95 crores (17.74%) and 7 forms, in the range of Rs.50000 & above, mobilised premium of Rs.290.37 crores (18.40%). From column 10 of Table 2, it is observed that premium raised by the sampled Form 2 ranges from 89.57% to 100% in various ranges of premium. This data reveals that companies in this age group are issuing equity shares at premium in all the ranges without justification and that pricing of shares by these companies is likely to impact the revenue of the Central Government almost uniformly.

#### Companies Having Age of Less Than 3 Years

During the period of study, companies having age of less than 3 years filed 94 Form 2 for issue of equity shares at premium ranging from Re.1/- to Rs.104,63,59,785/- per share. The balance sheets of these companies were studied to determine the book value of their pre-issue equity share capital. As per data shown in the Table 3, out of 94 samples the pricing of only 10 samples (10.64%) appears to be justified by their book value and they mobilized premium of Rs.180.13 crores (5.51%). All of these 10 samples are in the range of premium of Rs. 0 to 50 and there are no cases of issue of shares at premium in any other range in this age group those may be justified by their book value. The remaining 84 samples (89.36%) are not supported by their book value and mobilised premium of Rs.3090.28 crores (94.49%). Out of this 14 samples, in the range of Rs.0 to 50 mobilised Rs.871.13 crores (28.19%), 14 samples, in the range of Rs.51 to 100, mobilised Rs.576.96 crores (18.67%), 8 samples in the range of Rs.1001 to 5000, mobilised Rs.706.17 crores (22.85%), 10 samples, in the range of Rs.5000 to 50000, mobilised Rs.268.38 crores (8.68%) and 5 samples in the range of more than 50000 mobilised 238.30 crores (7.71%). From column 10 of Table 3, it is observed that premium raised by the sampled Form 2, where the book value is less than the issue price, varies from 82.87% to 100% in all premium ranges. From the enumerated data it appears that pricing of shares in all the ranges is likely to impact the revenue of the Central Government equally in case of companies in this age group.

**Table 3**  
**Number of Forms Filed by Private Limited Companies During Period 01.04.2007 to 31.03.2012 (Age on Date of Issue Less Than 3 Years)**

1	2	3	4	5	6	7	8	9	10
S. No.	Range of Premium	Total No. of Form 2 Filed	Total Prem (Crores)	No. of Form 2 with by more than ip	Total Prem in respect of forms in col 5 (crores)	%age of col 6 to col 4	No. of form 2 with by less than ip	Total Prem in respect of forms in col 8 (crores)	%age of 9 to 4
1.	0-50	24	1051.26	10	180.13	17.13	14	871.13	82.87
2.	51-100	14	576.96	0	0.00	0.00	14	576.96	100.00
3.	101-250	8	87.40	0	0.00	0.00	8	87.40	100.00
4.	251-500	16	203.45	0	0.00	0.00	16	203.45	100.00
5.	501-1000	9	138.49	0	0.00	0.00	9	138.49	100.00
6.	1001-5000	8	706.17	0	0.00	0.00	8	706.17	100.00
7.	5001-50000	10	268.38	0	0.00	0.00	10	268.38	100.00
8.	More than 50000	5	238.30	0	0.00	0.00	5	238.30	100.00
	Total	94	3270.41	10	180.13	5.51	84	3090.28	94.49
	G. Total	231	9532.15	31	448.31	4.70	200	9083.84	95.30

**Source :** Compiled from Data Collected from Ministry of Corporate Affairs, Government of India, India

In respect of 231 sampled Form 2 filed with the Registrar of Companies, an amount of Rs.9532.15 crores has been mobilized as premium, out of which in 31 samples (13.42% cases) the issue price is less than or equal to the book value of the pre-issue equity shares of the issuer companies. These 31 cases mobilised an amount of Rs. 448.31 crores (4.70% of the total) as premium and in these cases the book value of the pre-issue equity share capital appears to be justified. In case of remaining 200 Form 2, an amount of Rs.9083.84 crores (95.30%) has been mobilised as premium.

### AGE WISE COMPARISON

From the data it is found that out of 231 Form 2 filed by all the companies taken together, 200 form 2 (86.58%) have been filed where the book value of the pre-issue equity shares of the issuer company does not support the issue price and in some cases the issue price is extremely very high. For the purpose of comparison of the book value with the issue price of companies the data is divided into three categories on the basis of the age (Table 4). From the Table it is found that 200 Forms mobilised a total premium of Rs.9083.84 crores. Out of these 200 samples, 55 samples (27.5%) mobilised Rs. 4415.48 crores (48.61%) in the age group of more than 6 years and their book value does not support the same and this means that 27.5% of the forms fall in the age group of more than 6 years that mobilised 48.61% of the total premium. 61 samples (30.5%) fall in the category of companies between the age group of 3 to 6 years and they mobilised Rs. 1578.08 crores (17.37%) where the book value does not support the issue price. Similarly, 84 forms (42%) in age group less than 3 years mobilised Rs. 3090.28 crores (34.01%) where the book value

Table 4

Age Wise Comparison of Form 2 Filed by Companies

S. No.	Range of Prem	Companies more than 6 Years Age			Companies 3 Years to 6 Years Age			Companies less than 6 Years Age		
		No. of form 2 filed	Total Prem	% Prem to Total Prem	No. of form 2 filed	Total Prem	% Prem to Total Prem	No. of form 2 filed	Total Prem	% Prem to Total Prem
1.	0-50	5	485.48	10.99	11	395.14	25.04	14	871.13	28.19
2.	51-100	8	142.73	3.23	10	249.00	15.78	14	576.96	18.67
3.	101-250	8	331.87	7.52	8	150.67	9.55	8	87.40	2.83
4.	251-500	5	57.11	1.29	10	46.07	2.92	16	203.45	6.58
5.	501-1000	7	129.96	2.94	5	58.63	3.72	9	138.49	4.48
6.	1001-5000	6	11.86	0.27	8	108.25	6.86	8	706.17	22.85
7.	5001-50000	7	336.94	7.63	2	279.95	17.74	10	268.38	8.68
8.	More than 50000	9	2919.53	66.12	7	290.37	18.40	5	238.30	7.71
	Total	55	4415.48	100.00	61	1578.08	100.00	84	3090.28	100.00

Source : Compiled from Data Collected from Ministry of Corporate Affairs, Government of India, India

does not support the issue price (Table 4). The comparison of forms filed by the companies age-wise as per Table 4 reveals that the cases of arbitrary pricing of new issue of equity shares are significant in the all ranges of premium. The comparison of the book value of the pre-issue equity shares of the issuer company with the issue price of the equity shares at premium clearly shows that in 86.58% cases there is no relationship between the book value and the issue price.

#### **IMPACT ON GOVERNMENT REVENUE**

The sampled 231 Form 2 mobilised a total premium of Rs.9532.15 crores out of which 200 Form 2 mobilised premium amount of Rs. 9083.84 crores which is not justified by the book value of pre-issue equity shares of the companies. This comes to a whopping 95.30% of the total premium amount. If this amount of premium were a part of the Authorised Capital, then these companies were required to increase the Authorised Capital on payment of applicable Authorised Capital linked fees. As per schedule X of the Companies Act, 1956, the minimum applicable rate of fees is Rs.50/- per Rs.10,000/- and at this rate the impact on government revenue would come to Rs.45.42 crores. Apart from this, if the amendment of section 56 of the Income Tax Act, 1961 had come earlier than 01.04.2013 and made applicable to the study period, this would have generated revenue to the extent of 30%, being the rate of taxation.

If 95.30 % of the premium mobilised by the sampled companies is considered as representative of the entire population and if this ratio is applied to total premium of Rs. 5,49,339.17 crores mobilised by 130226 Form 2 during the period of study then the increase in Authorised Capital of 95.30% of Rs. 5,49,339.17 crores i.e. Rs. 5,23,520.23 crores would have generated a revenue of Rs. 2617.60 crores and tax @ 30% as discussed above.

#### **FINDINGS OF THE STUDY**

From the study, it is found that out of 231 samples of Form 2, in 200 cases, there is no relationship between the book value of pre-issue equity shares of the issuer company and the issue and it comes to a whopping 86.58% of the total number of samples studied. On comparison of the book value with the equity shares, it is found that 27.50% forms in the age group of more than 6 years have mobilised 48.61% of the total premium, 30.50% of the total number of forms in the category of companies between the age group of 3 to 6 years mobilised 17.37% of the total premium and 42% of the total numbers of forms in the category of companies less than 3 years mobilised 34.01% of the total premium where the book

value does not support the issue price. On the basis of the sampled Form 2, the impact on government revenue works out to be Rs. Rs.45.42 crores on gross basis and if the ratio is applied to the gross premium mobilised by 130226 Form 2, the impact would be Rs. 2617.60 crores. This is apart from the taxation incidence @ 30% if the amendment of section 56 were introduced during the study period.

#### SUGGESTIONS OF THE STUDY

The Government of India should consider the amendment of the Companies Act, 2013 to include the provisions for pricing of the equity shares to be issued by the private limited companies. The face value and premium amount should be made part of the Authorised Capital. Form 2, as prescribed under the Companies Act, 1956 (now Form PAS 3 under the new Act of 2013), should be amended to incorporate the details of valuation and pricing of shares. The norms for valuation of equity shares may be fixed by the government and valuation may be done only by registered valuers before the issue of equity shares by such companies. Appropriate provision may be made in the computerized system of the Ministry to identify the defaulters. Proper coordination should be developed between the Ministry of Corporate Affairs and various state governments for sharing of information so that the revenue can be protected at all the stages. A committee of SEBI or the Ministry of Corporate Affairs should be appointed to look into the aspects of pricing of equity shares by the companies to investigate and check the legality of the transactions and take appropriate action, if found necessary.

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