SECP

Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Crescent Jute Products Limited

ORDER

Number and date of notice:	CSD/ARN/282/2015-2036 dated December 28, 2016
Date of hearing:	February 2, 2017
Present:	Mr. Saif Ullah Mr. Tariq Aleem ("authorized representative")

UNDER SECTION 492 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceeding initiated against directors and chief executive ("respondent") of Crescent Jute Products Limited (the "Company") through show cause notice (the "SCN") dated December 28, 2016 under the provisions of Section 492 read with Section 476 of the Companies Ordinance 1984 (the "Ordinance").

2. The facts leading to this case, briefly stated, are that, review of annual audited financial statements ("Accounts") of the Company filed with the Securities and Exchange Commission of Pakistan (the "Commission") pursuant to the provision of Section 233 of the Ordinance, reveals that the Company has obtained approval from shareholder to dispose of its assets including land, building and plant & machinery in its annual general meeting held on October 31, 2011.

3. Contrary to the requirements of International Financial Reporting Standard (the "IFRS") 5, Non-current Assets Held for Sale and Discontinued Operations' (IFRS-5), following contravention has been observed in company's subsequent accounts including annual accounts for the years ended Jun 30, 2012 through to June 30, 2016:

a) assets have not been classified as held for sale,

b) the Company has not ceased charging depreciation on such assets,

c) the Company has not recognized such assets at lower of carrying amount and fair value less costs to sell, and

d) amounts of incremental depreciation have been transferred from surplus account to retained earnings.

4. Relevant paras of IFRS 5 provides that :

i) Para 6

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An entity shall classify a non-current asset (or disposal group) as held for sale if its carrying amount will be recovered principally through a sale transaction rather than through continuing use.

ii) Para 15

An entity shall measure a non-current asset (or disposal group) classified as held for sale at the lower of its carrying amount and fair value less costs to sell

iii) Para 25

An entity shall not depreciate (or amortise) a non-current asset while it is classified as held for sale or while it is part of a disposal group classified as held for sale. Interest and other expenses attributable to the liabilities of a disposal group classified as held for sale shall continue to be recognised.

5. Contravention with the above mentioned requirements of IFRS-5 has resulted in following misstatements in the Accounts 2012 through to Accounts 2016:

Rs in 000

Particulars	Ref.	2012	2013	2014	2015	2016
Contravention of IFRS-5:						
➢Classified as held for sale [Para -6]	A	No	No	No	No	No
➢Depreciation charged on building and P&M [Para-25]	B	16,155	9,800	5,152	-	-
➢Subsequent surplus should not have been recorded [Para 15]	C	-	-	-	-	26,130
➢Amount transferred from surplus to retained earnings [Para 15]	D	9,702	5,737	3,087	-	-
	E=B+C+D	25,857	15,537	8,239	-	26,130

6. In view of the above, it *prima facie* appears that Accounts for the years ended June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015 and June 30, 2016 are misstated. Therefore, SCN was issued to the respondent under the provisions of Section 492 of the Ordinance.

7. In response to the SCN, the authorized representative submitted reply dated January 10, 2017. A brief of the reply relevant to the contents of the SCN is given below;

- The Company have rightly prepared financial statements on non-going concern basis after approval of shareholders regarding disposal of property, plant and equipment in their meeting held on October 31, 2011 in accordance with the requirement of IFRS and the Ordinance, hence the question of applicability of IFRS 5 – Non Current Assets held for Sale and Discontinued Operations does not arise.

- The management of the Company has prepared these financial statements on the basis of estimated realizable/settlement values of the assets and liabilities respectively in addition to historic cost convention. All assets and liabilities in these financial statements have been prepared in order of liquidity (Refer para 4.55c) of the Conceptual Framework for Financial Reporting.

- Keeping in view the resolution of the shareholders of the Company in their meeting held on 31 October 2011, the Company changed its accounting policy, which is stated in 2.1(b) basis of preparation not a going concern.

- Para 4.55(C.) of the Conceptual Framework for Financial Reporting is reproduce below;
  Realizable (settlement) value. Assets are carried at the amount of cash or cash equivalents that could currently be obtained by selling the asset in an orderly disposal. Liabilities are carried at their settlement values; that is, the undiscounted amounts of cash or cash equivalents expected to be paid to satisfy the liabilities in the normal course of business.
  (Please note that the standard setter have not referred to IFRS 5 where financial statements are not prepared on going concern basis.)

- From the bare reading of the balance sheets of the Company for all accounting periods under reference it will be evident that there are no non-current assets or liabilities as the company is not a going concern.

- We draw your attention towards following definitions given in IFRS 5 that clearly indicates that IFRS 5 applies to a non-current assets or a group of assets and does not apply in the case where whole of the Company assets are for sale/being disposed of; . The classification and presentation requirements of IFRS 5 apply to all recognized non current assets as stated in paragraph 2 of IFRS 5.

- IFRS 5 is not applicable in case of companies that are not a going concern as in case of such companies whole of the companies assets are carried at amount of cash and cash equivalent that could currently be obtained by selling the assets in an orderly disposal. Had the standard setter desired to apply IFRS 5 in case of companies that are not going concern, the standard setter would have expressly included the case of such companies in the scope of IFRS 5. The reason IFRS 5 was issued is to separately classify and present a non-current asset (or disposal group) out of the whole assets/operations for users of the financial statements and not meant to apply in cases where whole of the company is not a going concern.

8. Hearing in the matter was held on February 2, 2017 and the authorized representatives appeared on behalf of respondents and reiterated the earlier submissions made in the written reply.

9. Opinion of the Institute of Chartered Accountants ("ICAP") of Pakistan was sought regarding extent of applicability of IFRS 5 on companies that are not considered going concern. The ICAP provided opinion vide letter dated May 5, 2017 which is reproduce below;

The Accounting Standards Board (the Board) understands that the statutory financial statements of all companies, including the companies that are not considered as a going concern, are prepared in accordance with the approved accounting standards as applicable in Pakistan. Accordingly, there is no general dispensation for the measurement, recognition and disclosure requirements of the approved accounting standards as applicable in Pakistan, for a company which is not a going concern.

The Board would like to refer to paragraph 2.2 of the "Guideline on the Basis of Preparation of Financial Statements for Companies that are not Considered Going Concern" (the Accounting Guideline) which states that the:

"The measurement of assets and liabilities may be affected by changes in judgements that can arise when the going concern assumption ceases to be valid. ....
Further, the criteria of classification of assets and liabilities between current and non-current, as contained in the paragraphs 2.8 and 2.9 of the Accounting Guideline are based on the requirements of approved accounting standards as applicable in Pakistan.

In the enquired scenario, IFRS 5 Non-current Assets Held for Sale and Discontinued Operations *requires a non-current asset to be classified as held for sale if its carrying amount will be recovered principally through a sale transaction rather than through continuing use. Further, determination of whether an asset stops being recovered principally through use and becomes recoverable through sale is the critical distinction, and following criteria must be met:*

a) *It must be available for immediate sale in its present condition, subject only to terms that terms that are usual and customary for sales of such assets:*
b) *Its sale must be highly probable: and*
c) *It must genuinely be sold, not abandoned.*

If the above conditions are met then IFRS 5 shall be applicable to a company that is not a going concern, whether disposing of group of non-current assets or whole of the company's non-current assets.

In relation to the presentation of financial statements on the liquidity basis, the Board would like to refer to paragraph 60 of IAS 1, Presentation of Financial Statements, which allows the presentation of items of statement of financial position on the liquidity basis, provided this basis presents information that is reliable and more relevant.

Based on the above discussion, the Board is of the view that:

a) *the disposal of a group of non-current assets or all the non-current assets by a company that is not a going concern would require classification, measurement and presentation in accordance with IFRS 5, subject to fulfillment of the criteria and requirements outlined in IFRS 5.*

b) *the assets and liabilities can be presented on the liquidity basis by a company that is not a going concern, if it provides information that is reliable and more relevant.*

10. Before proceeding further, it is necessary to advert to the following relevant provisions of Section 492 of the Ordinance, which states as under:

> *" Whoever in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, shall be punishable with a fine not exceeding five hundred thousand rupees."*

11. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 492 of the Ordinance have been delegated to the Executive Director (Corporate Supervision Department).

12. I have analyzed the facts of the case, opinion of the ICAP, relevant provisions of the Ordinance, arguments put forth by the respondents in writing and during the hearing and observed the following;

- As per opinion of ICAP the statutory financial statements of all companies, including the companies that are not considered as a going concern, are prepared in accordance with the approved accounting standards as applicable in Pakistan. Accordingly, there is no general dispensation for the measurement, recognition and disclosure requirements of the approved accounting standards as applicable in Pakistan, for a company which is not a going concern. The disposal of a group of non-current assets or all the non-current assets by a company that is not a going concern would require classification, measurement and presentation in accordance with IFRS 5, subject to fulfillment of the criteria and requirements outlined in IFRS 5.

- The Company has obtained approval from shareholder to dispose of its assets including land, building and plant & machinery in its annual general meeting held on October 31, 2011 and selling its assets, therefore, the Company fulfill the criteria and requirements outlined in IFRS 5.

- The Company has prepared accounts contrary to the requirements of IFRS 5 which resulted in following misstatements in the Accounts 2012 through to Accounts 2016.
    i. assets have not been classified as held for sale,
    ii. the Company has not ceased charging depreciation on such assets,
    iii. the Company has not recognized such assets at lower of carrying amount and fair value less costs to sell, and
    iv. amounts of incremental depreciation have been transferred from surplus account to retained earnings.

13. I am cognizant of the fact that guidance is scarcely available to the company with regards to drawing up of accounts on non-going concern basis both locally and internationally. Instances of divergent opinion regarding the aforesaid have also been noticed. However, as has been opined by ICAP too I am convinced that drawing up of accounts on net realizable value neither prohibits nor contradicts application of the IFRS 5. The respondents should have ensured that the Accounts for the years ended June 30, 2012, June 30, 2013, June 30, 2014, June 30, 2015 and

June 30, 2016 should have made in accordance with IFRS. Keeping in view the ambiguity prevailing with respect to the applicability of IFRS on non-going concern Accounts, I hereby conclude the case with a warning to the respondents to ensure future compliance of applicable legal provisions.

Abid Hussain
Executive Director

Announced:
May 24, 2017
Islamabad