



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Adjudication Department-I

Adjudication Division

Before

Shahzad Afzal Khan - Director

Head of Department

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In the matter of

Gulshan Spinning Mills Limited

Show Cause Notice No. & Date: No. CSD/ARN/193/2015-23 dated January 10, 2024

Date of hearing February 14, 2024

Hearing attended by: Mr. Muhammad Hamza Khokhar and
Mr. Muhammad Ijaz, Company Secretary

ORDER

Under Section 510(2) of the Companies Act, 2017 and Sections 479 thereof

This order shall dispose of the proceedings initiated through the Show Cause Notice bearing No. CSD/ARN/193/2015-23 dated January 10, 2024 (the SCN) issued under Section 510(2) of the Companies Act, 2017 (the Act) and Sections 479 thereof against Board of Directors and Gulshan Spinning Mills Limited (the Company) through its Chief Executive, hereinafter referred to as the Respondents. The SCN, *inter alia*, stated that:

- In pursuance of the Circular No. 4 dated February 15, 2021 (Circular No. 4), the Securities Exchange Commission of Pakistan (the Commission) issued Circular No. 6 dated March 3, 2021 (Circular No. 6) and further Clarification dated December 15, 2021 emphasizing the use of video-link as a regular feature in general meetings. The review of notice dated October 7, 2023 of Annual General Meeting (the AGM) of the Company for the year ended June 30, 2023, it was, however, transpired that the Company did not provide the facility of video-link to the members, contrary to the requirements of Circular No. 4.
- Upon review of the records, it was also transpired that the Company did not submit the notice of AGM of 2023 to the Commission along with clipping of newspaper wherein notice of AGM of 2023 was published, as required under the Circular 10 of 2019 dated July 3, 2019 (the Circular No. 10).
- The matter of non-compliances of the above referred requirements was taken up with the Company through email dated November 20, 2023. The Company in its response dated November 28, 2023, *inter alia*, submitted that:

"Since, the Circular No. 4 dated February 15, 2021 and Circular No. 6 dated March 3, 2021 regarding video link faculty were issued for Covid-19 in which listed companies were allowed to hold AGM/EOGM through video link. These Circulars facilitates listed companies who are facing difficulty in holding general meetings physically."

"The Company announced the AGM on 7.10.2023 and posted the AGM notice on PUCAR as well as on the Company's website and circulated to all the members of the Company. The AGM



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notice was published in the newspaper on 7.10.2023 in 2 newspapers in Lahore and Karachi i.e. the Nation and Daily Dunya. We have complied with the requirements of Circular No. 11 by filling the annual audited accounts electronically."

- The notice of AGM was uploaded on PUCARS, Company's website and also sent to the members, however, failed to submit notice of AGM along with evidence of publishing in the newspaper with the Commission.

The response was not found satisfactory. Hence, the proceedings were initiated against the Respondents in terms of Circular No. 4, Circular No. 6 and Circular No. 10 read with Section 510(2) of the Act and they were called upon to show cause in writing within fourteen (14) days of the date of the SCN as to why penalties may not be imposed on them in terms of Section 510(2) of the Act for the said contraventions.

2. In response to SCN the Company Secretary through its letter dated January 17, 2024, *inter alia*, submitted that:

- The Company announced the AGM on October 7, 2023 and posted the notice of AGM on PUCARS as well as on the Company's website and circulated to all the members of the Company. The notice of the AGM was published in two newspapers on October 7, 2023 of Lahore and Karachi i.e. The Nation and Daily Dunya. Inadvertently the notice of AGM was not sent to the Commission.
- The video-link facility to the members of the Company was not provided in the recent general meeting of the Company held on October 28, 2023 on the understanding that provision of video-link facility was optional as the same was allowed by the Commission during Covid-19 period for facilitating the listed companies who were facing difficulties in holding general meetings physically. Therefore, the omission was made due to wrong interpretation of circulars issued by the Commission on the subject.
- In view of the forgoing it was requested not to take any action or impose any penalty on the Company because non-compliance was neither deliberate, nor intentional.

3. In order to provide an opportunity of hearing to the Respondents, the matter was fixed for hearing to be held on February 6, 2024. The Company through its letter dated February 3, 2024 requested to reschedule the hearing owing to non-availability of the staff. The matter was re-fixed for February 14, 2024. On the date of hearing, Mr. Muhammad Hamza Khokhar and Mr. Muhammad Ijaz appeared as Authorized Representatives on behalf of the Respondents. They reiterated the stance as provided through letter dated January 17, 2024. It was requested to take lenient view and not to impose any penalty.

4. The relevant provisions of law are provided here under;

Circular No. 4

"Now, keeping in view the fact that provision of facility for attending general meetings of listed companies virtually through video-link, webinar, or other electronic means helps maximization of members' participation in such meetings; SECP in continuation of its above-mentioned Circulars hereby further directs that all listed companies to ensure participation of members in general meeting through electronic means as a regular feature from the date of



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this Circular till further orders. Furthermore, the Board shall ensure that facilities so provided are seamless and without any interruption."

Circular No. 6:

"In continuation to this office Circular No. 4 dated February 15, 2021 and in light of the practical difficulties reported by the stakeholders, the Securities and Exchange Commission of Pakistan in exercise of powers conferred under section 510 of the Companies Act, 2017 (XIX of 2017) (the "Act"), hereby clarify that the listed companies which are facing practical difficulties in holding general meeting physically, may opt to hold such meeting through electronic mode; however, the company shall provide necessary reasoning in the notice of the general meeting issued under sub-section (3) of section 132 of the Act, for not holding general meeting physically."

Circular No. 10

A copy of newspaper in each language, in which notice of general meeting was published, along with statement under section 134 of the Act, where applicable, shall be filed with the SECP within three days of publication;

Section 510(2) of the Act:

(2) Any person, who obstructs or contravenes or does not comply with any directive, prudential requirements, codes, circulars or notifications, given under this section shall be liable to a penalty of level 3 on the standard scale.

5. I have reviewed the facts of the case, considered the written and verbal submissions made by the Respondents in the light of the applicable legal provisions and available record before me. In this regard, it is observed that:

• **Provision of facility for attending general meeting through electronic means:**

In terms of Circular No. 4, provision of facility of attending general meetings of listed companies virtually through video-link, webinar, or other electronic means helps maximization of members' participation in such meetings. Hence, it was made obligatory that all listed companies to ensure participation of members in general meetings through electronic means as a regular feature. The Company, however, through its notice dated October 7, 2023 did not provide to its shareholders the provision of attending the said meeting through the electronic means. The Respondents are of the view that non-provision of such a facility was due to misinterpretation of the Circulars 4 and 6 of the Commission. The Respondents were of the view that the Commission during Covid-19 pandemic, by facilitating the listed companies, which were facing difficulties in holding general meeting, allowed to hold such meetings virtually. I am of view that the Circular No. 4 was not specific for Covid-19 pandemic, as the Commission in pursuance issued Circular No. 6 and related clarification, emphasizing the use of video-link as a regular feature in general meetings. The explanation dated December 15, 2021, *inter alia*, highlighted that: "While making arrangement for the virtual meetings it is responsibility of the company to ensure that facilities for the electronic meetings are seamless and without any interruption whereby shareholders are provided proper opportunity to raise observation/ comments which should be properly responded and minuted."

In view of the given requirements of Circular No. 4, and Circular No. 6, the stance of the Respondents is not cogent. Therefore, the default is established.



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- **Non-submission of notice of AGM with the Commission:**

The Respondents have admitted that due to inadvertence, the notice of AGM of 2023 was not submitted with the Commission pursuant to the requirements of Circular No. 10. I am, therefore, of the view that violation of the Circular 10 of 2019 is attracted.

- **Assurance for the subsequent compliance:**

The Respondents' assurance for subsequent compliance does not exonerate them for the violations as stated above.

6. Keeping in view the aforesaid contraventions, the Respondents are liable under sub-section (2) of the Section 510 of the Act. In exercise of the powers conferred under the said provision, I hereby impose a penalty of Rs. 100,000/- (Rupees One Hundred Thousand only) on the Company only and warn the remaining Respondents to be careful in ensuring compliance of the applicable regulatory framework.

7. The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the Securities and Exchange Commission of Pakistan within thirty days of the date of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of the said penalty, proceedings under Section 485 of the Act will be initiated for recovery of the same as arrears of land revenue.

8. Nothing in this Order may be deemed to prejudice the operation of any provision of the Act providing for imposition of penalties in respect of any default, omission or violation of the Act.

Shahzad Afzal Khan
Head of Department
Adjudication Department-I

Announced:

Dated: February 22, 2024