

No. 19(792)CF/ISS/94-
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
(Monitoring & Enforcement Division)
State Life Building, 7-Blue Area
Islamabad

Sub: **ORDER TO ISSUE NOTICE UNDER SECTION 472 OF THE COMPANIES
ORDINANCE, 1984 IN THE CASE OF M/s. GULISTAN SPINNING MILLS LIMITED**

A complaint was received from KSE that Gulistan Spinning Mills Limited has purchased office premises in a building for Rs. 60 million from an associated company i.e. Gulistan Textile Mills Limited and that the said property is not registered in the name of the company though the company holds power of attorney. Accordingly, the company was asked to provide minutes of the meeting of board of directors in which the decision to purchase the said property was taken, a copy of valuation report and the justification of huge investment in office property and benefit likely to be received by the company from the said investment. The company was further asked to explain as to why the property was not shown as part of fixed assets and why depreciation was not charged.

2. The company furnished explanations vide its letter dated 19.05.2000 and also provided a copy of the extracts of the minutes of the meeting of board of directors of the company held on 18.09.1999. The company explained that presently office of the company is situated in a premises where area is short to its requirements. Accordingly, management decided to find out some suitable building for setting up its own independent office. *M/s.* Gulistan Textile Mills Limited on the other hand wanted to dispose off its property which is located in the heart of the city in a prestigious building. As such company acquired the said property on market value under authority of Board's Resolution.

3. After having explained as above, the company took another turn and explained that though the basic idea was to make an independent office of the company yet while taking decision at the time of acquisition, an idea was in mind that if any portion of the property is found in excess of the requirement and if it fetches a good price, it can be disposed off.

4. The extracts of the minutes of the meeting of board of directors indicate that when the meeting of the board was in progress on 18.09.1999. Suddenly Chairman of the company informed the board that a prestigious building owned by an associated company namely Gulistan Textile Mills Limited is available for investment and its estimated cost is around Rs. 63 million as per a Survey Report. He counted many advantages for purchasing the said building and emphasised that due to improvement in company's business, the company should consider having its own office. He also indicated the benefit of capital gains if proposed investment was made. On this Mr. Tanveer Ahmed, the Chief Executive was authorised to negotiate the price and enter into agreement and take such other steps to take over the property and then carry out renovation etc., for self use/rental purpose and dispose off such portion on a premium not required for company's use. The manner in which the idea to purchase said building was placed in the board's meeting and the speed which has been shown to resolve this business raised many questions. The minutes indicate that this business had earlier never came before board. The minutes of the above said meeting of board of directors do not indicate the names of persons who participated in meeting and there appears to be no compliance of provision of sections 214 and 216 of the Companies Ordinance, 1984 which was necessary due to the facts that both companies have almost same directors. Seperate proceedings however, will be initiated in this regard.

5. The explanations offered by the company are self-contradictory and it appears that a transaction has been engineered to finance the associated undertaking under the cover of purchase of property. The said property appeared to have been purchased by associated company in 1995 and was continuingly being shown as "investment in immovable property" meaning by that the associated company always held it with the object to sale. From the reply of Gulistan Textile Mills Limited in the matter it has been observed that the said property consists of open building space and presently it is not in useable position and that company had not received any return as rent etc. on the said property. The said associated company had purchased the property for Rs. 33.463 million and accordingly made profit of Rs.26.537 million on this transaction. On further perusal of the matter it has been noticed that the cost of factory building, owned by the company as on 30.09.1999 was only Rs. 67.965 million. Further the paid up capital of

the company is only Rs. 100 million. The company having such low investment in productive building and low capital has spent such a huge amount of Rs. 60 million when the financial position of the company was not ideal. It may be mentioned that during the year ended 30.09.1999 the company earned a meager profit profits of Rs. 8.579 million only and its short term borrowing stood at Rs. 357.684 million as on 30.09.1999. During the last 7 years the company had earned a total net profits of Rs. 69.100 million only and paid dividend in 3 years out of the last 7 years which ranged between 7.5% to 10% only. In such a situation investing of Rs. 60 million in office building cannot be said to be prudent business decision in the interest of small shareholders. I am fully convinced that this all is a fabricated story and the purpose of transaction was only to transfer funds to associated company. This was not an arm's length transaction as is evident from the minutes of the meeting of board of directors of the company. In reply to the question that why the subject building was not shown as part of Fixed Assets, it has been stated by the company that while purchasing the property an idea was to dispose of a part of it. I fear that such a trade in property is contrary to the objects of the company.

6. In view of the foregoing let a notice under Section 472 go to the company directing to reverse the transaction and recover the amount paid to associated company towards this transaction alongwith markup at a rate not lower than company's own borrowing rate. The company may be given 30 days time. A final order in this regard will be passed on 29.06.2000 when the Chief Executive of the company in case of non-compliance may appear to explain his view point before a final order is passed.

(M. Zafar – ul – Haq Hijazi)
Commissioner (Enforcement)

Place: Islamabad
Dated: 31-05-2000