



Securities and Exchange Commission of Pakistan

Adjudication Division
Adjudication Department

Before Shahzad Afzal Khan,
Director/HOD (Adjudication-I)
In the matter of Show Cause Notice issued to Crescent Cotton Mills Limited

Date of Hearing December 12, 2022; January 19, 2023;
February 02, 2023; and February 15, 2023

Order-Redacted Version

Order date February 20, 2023 was passed by Director/Head of Department (Adjudication-I) in the matter of Crescent Cotton Mills Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated August 24, 2022
2. Name of Company	Crescent Cotton Mills Limited
3. Name of Individual*	The proceedings were initiated against Directors of Crescent Cotton Mills Limited
4. Nature of Offence	Under Sections 205, 207, 176 and 183(1) of the Companies Act, 2017 read with Section 479 thereof
5. Action Taken	<p>Key findings were reported in following manner:</p> <p>I have gone through the facts of the case, and considered the written submissions made through various letters by the Respondents, their Representative and the arguments made during the hearings, in light of the aforesaid legal provisions and the record placed before me and state as under:</p> <p>(i) <u>Disclosure of interest of directors under Section 205 of the Act:</u> The Board of Director of the Company through Circular Resolution dated October 10, 2020 approved the aforementioned disposal of entire assets of Company's spinning unit # 3 located at Hyderabad, Kotri. Later the Board in its 185th meeting held on October 29, 2020 rectified the afore-said resolution by circulation. Later in accordance of said approval by the Board, the building of spinning unit # 3 was sold to Crescot. It is hereby pointed out that Section 205 of the Act provides for disclosure of nature of direct as well as indirect interest in any contract or arrangement entered or to be entered at the meeting of the board. Therefore, in context of the subject Company, the common directors and shareholders of Crescot namely; (i) Mr. *****, (ii) Mr. *****, (iii) Mr. *****, (iv) Mr. *****, and (v) Mr. *****, were required to disclose their interest at the time of Circular Resolution dated October 10, 2020 and also in the meeting of the board of directors held on October 29, 2020 w.r.t. the transactions with Crescot, in terms of the requirements of Section 205 of the Act. However copy of the</p>



Securities and Exchange Commission of Pakistan
Adjudication Division
Adjudication Department-I

Circular Resolution and minutes of the Board meetings provided by the Company did not state any such disclosure by the subject directors.

It is, therefore, noted that the Respondents namely; (i) Mr. *****, (ii) Mr. *****, (iii) Mr. *****, (iv) Mr. *****, and (v) Mr. ***** had interest in transactions of the Company with Crescot due to their directorship and shareholding therein, and by not disclosing the same; these five Respondents, being directors of the Company contravened the provisions of Section 205 of the Act and the said fact has also been admitted by the Representative during hearing and submission vide letter dated February 16, 2023.

(ii) Interested director not to participate or vote in terms of Section 207 of the Act:

With regard to the provision of Section 207 of the Act, the Respondents have not disputed the fact that the five interested directors passed the circular resolution dated October 10, 2020 and were also present in the meeting held on October 29, 2020. Moreover, minutes of the Board's stated meeting did not disclose that the interested directors recused from discussion and voting, when the matter of transactions with subsidiary company i.e. Crescot was being considered and approved. It may be noted that in view of requirements of sub-section (1) of Section 207 of the Act, interested directors of a company are prohibited to participate in discussion and vote on any contract/ arrangement entered or to be entered where such director is directly or indirectly concerned. For listed companies, the requirements are further stringent as to the presence of a director having material personal interest is prohibited to be present in such meeting of the board while considering the said matter.

Hence, it is noted that the Respondents namely; (i) Mr. *****, (ii) Mr. *****, (iii) Mr. *****, (iv) Mr. *****, and (v) Mr. ***** had interest in transactions of the Company with Crescot due to their directorship and shareholding therein, and by participating in the consideration and approval of the transaction with Crescot; these five Respondents, being directors of the Company contravened the provisions of Section 207 of the Act and the said fact has also been admitted by the Representative during hearing and submission vide letter dated February 16, 2023.

(iii) Insufficient Quorum and matter to be placed before general meeting:

Circular Resolution dated October 10, 2020 and minutes of meeting of the Board held on October 29, 2020 discloses that matter of transaction with



Securities and Exchange Commission of Pakistan
Adjudication Division
Adjudication Department-I

subsidiary company i.e. Crescot was placed before the Respondents for consideration and approval. Considering the fact that the aforesaid five out of eight directors; namely; (i) Mr. *****, (ii) Mr. *****, (iii) Mr. *****, (iv) Mr. *****, and (v) Mr. *****, were interested in transactions with Crescot; hence, they were required to refrain from participation and voting in the meeting of the Board and their presence could not be counted for the purpose of forming the quorum while considering the transactions with Crescot. Therefore, the quorum for circular resolution dated October 10, 2020 and of meeting dated October 29, 2020 in terms of Section 176 of the Act was not formed.

(iv) Compliance with Section 183 of the Act:

Obtaining approval for sale of building spinning unit # 3 through Circular Resolution and its rectification in the Board meeting, in the absence of quorum for the Board meeting, dated October 10, 2020 and October 29, 2020 respectively, all the Respondents, being directors of the Company, had contravened the provisions of Section 183 of the Act as in the absence of quorum of board meeting, they were required to place the transactions before the members for approval in an EOGM.

14. In view of the foregoing, I hereby conclude that with respect to the transaction executed by the Company with Crescot, a subsidiary company/ related party; by not:

- a. disclosing their interest in transactions of the Company with Crescot, the Respondents namely; (i) Mr. *****, (ii) Mr. *****, (iii) Mr. *****, (iv) Mr. *****, and (v) Mr. ***** have contravened the provisions of Section 205 of the Act, hence are liable to be penalized;
- b. abstaining from participating in the proceedings of the Board meeting relating to the consideration and approval of the transaction by the Company with Crescot; the five (5) directors of the Company namely; (i) Mr. *****, (ii) Mr. *****, (iii) Mr. *****, (iv) Mr. *****, and (v) Mr. ***** had contravened the provisions of Section 207 of the Act and, therefore, are liable to be penalized; and
- c. obtaining approval by way of Circular Resolution and its rectification in the Board meeting, in the absence of quorum for the Board meeting, dated October 10, 2020 and October 29, 2020, for the aforesaid transaction with Crescot, all the Respondents, being directors of the Company, had



Securities and Exchange Commission of Pakistan
Adjudication Division
Adjudication Department-I

	<p>contravened the provisions of Sections 176 and 183 of the Act and are liable to be penalized.</p> <p>15. Taking cognizance of the aforesaid established contraventions/ non-compliances, I in exercise of the powers conferred under Section 205 and 207 of the Act, hereby impose aggregate penalty of <u>Rs. 50,000/- (Rupees fifty thousand only)</u> on the Respondents and also warn all the Respondents on violation of section 176 and 183 of the Act to be careful in future and ensure compliance to the applicable regulatory framework in future in letter and spirit.</p> <p>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, violation of the Act.</p>
6. Penalty imposed	Rs. 50,000/-
7. Current Status of Order	No appeal has been filed by the respondents.