

Before Ali Azeem Ikram, Executive Director/HOD (Adjudication-I)

In the matter of Show Cause Notice issued to Tri Star Polyester Limited

Dates of Hearing

December 02, 2020

Order-Redacted Version

Order dated December 31, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Tri Star Polyester Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated August 29, 2018
2. Name of Company	Tri Star Polyester Limited
3. Name of Individual*	The proceedings were initiated against the directors of the Company i.e. Tri Star Polyester Limited
4. Nature of Offence	Violations of Circular Number 30 of 2016 dated September 16, 2016 read with section 510 and section 479 of the Companies Act, 2017.
5. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have gone through the facts of the case, submissions made in writing and relevant arguments made by the Authorized Representative during the hearing proceedings. In this regard, I, am of the view that the requirements of circular 30 of 2016 are clear. In terms of the aforesaid circular, the board of director shall not decide or recommend to increase the capital by issue of further shares by the way of right, otherwise than right or bonus share beyond the authorized capital. The intent given in the aforesaid requirement is to prescribe that the directors are not authorized to recommend any bonus or right shares beyond the authorized capital limit. The Authorized Representative has informed that resolution to enhance the authorized capital was given in the notice of AGM of 2017. As per available information, the board of directors in meeting held on October 5, 2017, inter alia, recommended to issue 10% bonus shares and right shares at 1:1 at par. At the relevant time authorized capital of the Company was of Rs. 300 million and its paid-up capital was of Rs. 214.657 million, whereas, the proposed 10% bonus issue and right issue of 1:1 at par, would increase the paid-up capital to Rs. 450.780 million i.e. beyond the limit of authorized capital of Rs. 300 million. Though</p>

	<p>special business was placed in AGM of 2017, which was held on October 31, 2017 to increase the authorized capital of the Company from Rs. 300 million to Rs. 1,000 million, however, the directors at the relevant time of recommendation of 10% bonus and right shares at 1:1 at par were not authorized to recommend the same unless the same justified to do so. The Authorized Representative's stance that circular 30 was not in the knowledge of the Company and that bonus issue was made with in the limit of authorized capital and that when shareholders approved the increase of authorized capital to Rs. 1,000 million, thereafter right entitlements were determined and right shares were credited thereafter. However, I, am of the view that aforesaid does not exonerate the Respondents from violation of the requirements of circular 30 of 2016, in terms of which decision of the directors in board meeting held on October 5, 2017, was not as per the applicable requirements, and they did not justify their stance to recommend 10% bonus issue and right shares of 1:1 at par i.e. beyond the limit of authorized capital. It is also highlighted that in terms of section 509(1)(f) of the Act, savings have been given, which provides that: "Provided that repeal of the repealed Ordinance shall not- (f) affect any inspection, investigation, prosecution, legal proceeding or remedy in respect of any obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such inspection, investigation, prosecution, legal proceedings or remedy may be made, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act has not been passed."</p> <p>Keeping in view a penalty of Rs. 100,000/- (Rupees one hundred thousand only) was imposed on the Respondent chief executive only.</p> <p>Penalty order dated December 31, 2020 was passed by Executive Director (Adjudication-I).</p>
6. Penalty Imposed	A Penalty of Rs. 100,000/- (Rupees one hundred thousand only) was imposed on Chief Executive Officer.
7. Current Status of Order	Penalty was deposited. No Appeal has been filed by the respondents.