
BEFORE THE SECURITIES AND EXCHANGE BOARD OF INDIA

ORDER

Under Sections 11 and 11B of the Securities and Exchange Board of India Act, 1992

in the matter of Cranes Software International Limited.

In respect of –

Sr. No.	Noticee	PAN
1.	Cranes Software International Limited	AACCC4259J
2.	Asif Khader	ABYPK7883N
3.	Mukkaram Jan (Proceedings in respect of the said Noticee has been stayed by the Hon'ble Supreme Court)	-
4.	Mueed Khader	ACUPK6121G
5.	Rudra Pratap	AEGPP8249C
6.	Richard Gall	-
7.	Ronald Brown	-
8.	Manju Bansal	AAPPM1402M
9.	Peter Ryser	-

10	Mirza Yawar Baig	-

1. Background –

1.1. The present matter emanates from certain complaints received by SEBI with respect to the non-payment of dividend declared by Cranes Software International Limited ("**Cranes**"/the "**Company**") for the financial year 2008-09.

1.2. Pursuant to the above, SEBI issued letter dated February 22, 2013 to the Company asking it to furnish information regarding declaration and payment of dividends under the Companies Act, 1956 and reasons if any, for default.

1.3. Cranes by way of letter dated March 12, 2013 informed SEBI that they had not been able to pay dividend to the shareholders due to DRT litigations.

2. Issuance of Show Cause Notice ("SCN")

2.1. In view of the above, SCN bearing number EFD/DRA2/SPV/RK/29058/ 2016 dated October 20, 2016 was issued to the Noticees by SEBI.

2.2. The said SCN states that—

a. the Company has not paid the dividend declared to be paid to the shareholders for the financial year 2008-09;

b. as per Section 205(1A) of the Companies Act, 1956, the Noticees were required to deposit the amount of dividend in a separate account within 5 days of such declaration, and as per Section 207 of the Companies Act, 1956, the Noticees were under obligation to disburse the dividend declared to the shareholders within a period of 30 days from the date of declaration of dividend;

c. the Noticees had failed to pay the dividend declared by the company to the Shareholders within the prescribed time, thereby violating the provisions of Sections 205(1A) and 207; and

d. considering the above, the Noticees were asked to show-cause as to why proceedings under Sections 11 and 11B of the SEBI Act, 1992 should not be initiated against them.

3. Relevant Provisions –

3.1. The relevant provisions in this regard are as under :

Section 205 (1A), Companies Act, 1956

205. DIVIDEND TO BE PAID ONLY OUT OF PROFITS

"1 …

(1A) The Board of directors may declare interim dividend and the amount of dividend including interim dividend shall be deposited in a separate bank account within five days from the date of declaration of such dividend."

Section 207, Companies Act, 1956

207. PENALTY FOR FAILURE TO DISTRIBUTE DIVIDENDS WITHIN THIRTY DAYS

"Where a dividend has been declared by a company but has not been paid, or the warrant in respect thereof has not been posted, within thirty days from the date of the declaration, to any shareholder entitled to the payment of the dividend, every director of the company shall, if he is knowingly a party to the default, be punishable with simple imprisonment for a term which may extend to three years and shall also be liable to a fine of one thousand rupees for every day during which such default continues and the company shall be liable to pay simple interest at the rate of eighteen per cent per annum during the period for which such default continues:

Provided that no offence shall be deemed to have been committed within the meaning of the foregoing provisions in the following cases, namely: -

(a) where the dividend could not be paid by reason of the operation of any law ;

(b) where a shareholder has given directions to the company regarding the payment of the dividend and those directions cannot be complied with ;

(c) where there is a dispute regarding the right to receive the dividend ;

(d) where the dividend has been lawfully adjusted by the company against any sum due to it from the shareholder ; or

(e) where, for any other reason, the failure to pay the dividend or to post the warrant within the period aforesaid was not due to any default on the part of the company."

4. Personal Hearing and Replies and Written Submissions from the Noticees –

4.2. Consequent to the issuance of the SCN, opportunities of personal hearing were provided to the Noticees. The details of the personal hearings in the matter are tabulated below:

Table- 1

Noticee No.	**Name of the Noticee**	**Date of Hearing**	**Represented by**
1,2, 4, 5, 6,7,8,9, and 10	Cranes Software International Limited, Asif Khader, Mueed Khader, Rudra Pratap, Richard Gall, Ronald Brown, Manju Bnasal, Peter Ryser, and Mirza Yawar Baig	July 13, 2021	Mr. P. Ramesh, Advocate
3	Mukkaram Jan	May 18, 2021; July 13, 2021; and July 26, 2021	Mr Chintan Chinnappa, Advocate

4.3. Noticee Nos. 1,2, 4, 5, 6,7,8,9, and 10 post the hearing have also filed a reply dated July 20, 2021. A summary of the reply filed by the above-named Noticees is as under:

a. SEBI has filed a complaint before the Hon. Special Economic Offences Court, Bangalore in relation to the subject matter of the impugned SCN (cc no. 114 of 2016) against the company and its Directors and the complaint has been filed for offences punishable under Sections 205(8) and 207 read with Sections 55A, 205(IA), 205A (8) and 621 of the Companies Act, 1956;

b. the only allegation in the impugned SCN is that dividend declared in the AGM held on 29th September 2009 was not paid as per the provisions of the Companies Act, 1956;

c. the proceedings are going on even after the dividends have been paid long time back in September 2013 and for the alleged violations, the enforcement action (prosecution) specified in the Companies Act, 1956 has also been initiated against the Noticees;

d. the delay in conducting the proceedings is prejudicial as the alleged violation relates to 2009 which has been rectified in 2013; show cause notice itself was issued after 3 years in 2016 and the proceedings are going on in 2021;

e. the SCN nowhere states what provisions of the SEBI Act or the Rules thereunder have been violated or the directions under Sections 11 and 11B that are contemplated for alleged violations of the provisions of the Companies Act, 1956, thereby violating the principles of natural justice;

f. no action under Section 11 and 11B of the SEBI Act, ought to taken for the alleged violations of the Companies Act, 1956, more so, after SEBI has already

initiated actions by way of filing criminal prosecution under the Sections 205(1A)(8) and 207 of the Companies Act, 1956; and

g. only four directors attended the board meeting held on 30th June 2009, i.e. Dr. Rudra Pratap, Mr. Asif Khader, Mr. Mueed Khader and Mr. Mukkaram Jan, so the other Noticee directors who are non- executive/independent directors cannot be held responsible for the decisions taken on 30th June 2009.

4.4. The said Noticees have relied on the following case laws:

a. Gorkha Security Services v. Govt. of NCT of Delhi & Ors., 2014 (9) SCC 105; and

b. UMC Technologies Ltd. v Food Corporation of India (2020 SCC Online SC 934)

4.5. In support of their assertion that the dividend declared for the financial year 2008-09 has already been paid, the Noticees have provided a certificate from a Chartered Accountant certifying to the same. Further, a letter dated July 16, 2021 addressed by Integrated Registry Management Services Private Limited, the Registrar and Share Transfer Agent, to the Company enumerating the activities undertaken by the RTA with respect to the disbursal of dividend has been provided.

4.6. It is relevant to mention here that the SCN has been challenged before various judicial forums. Mukkaram Jan, Noticee No. 3 challenged the SCN in the present matter before the Hon'ble High Court of Karnataka by way of WP No. 41229 of 2019. A Single Judge Bench of the Hon'ble High Court of Karnataka accepting the

prayer of the Petitioner quashed the SCN through its Order dated January 16, 2021. The Respondent, SEBI went in appeal before a Division Bench of the same court by way of WA No. 270/2021. The Division Bench through its Order dated April 09, 2021 set aside the Order dated January 16, 2021 of the Single Bench quashing the SCN. The Respondent, Mukkaram Jan was directed to place all grounds, including the point of delay, before the Quasi-judicial Authority, SEBI. SEBI was also directed to dispose of the matter within a period of 6 months from the receipt of the said Order. Noticee No.3, Mukkaram Jan challenged the said order of the Division Bench of the Hon'ble High Court of Karnataka before the Hon'ble Supreme Court of India by way of Special Leave to Appeal No. 11621/2021. The matter came up for admission and the Hon'ble Supreme Court of India by way of its Order dated August 06, 2021 issued notice to SEBI and stayed further proceedings pursuant to the said SCN.

5. Consideration and Findings –

5.1. As already stated, the present proceedings have arisen pursuant to the complaints received from the shareholders for non-payment of dividend. In this regard, it is stated that the consideration of the allegations made in the SCN shall be confined to Noticee Nos. 1, 2 and 4 to 10. As regards Mukkaram Jan, Noticee No.3, I shall not consider the allegations made in the SCN made against him in this Order owing to the stay granted by the Hon'ble Supreme Court, vide Order dated August 06, 2021.

5.2. The Company has asserted by way of its reply dated July 20, 2021 that the dividend declared for the Financial Year 2008-09 has been paid. As already stated, the Company has provided a CA certificate certifying to the payment of dividend to the shareholders for the FY 2008-09. The said certificate states, "*We have examined the bank statements of the Dividend Account No. 0183010100002193 at Jammu and Kashmir Bank standing in the name of M/s. Cranes Software International Limited (the company), (CIN : L05190KA1984PLC031621) for the period August to September 2013 and the other documents furnished by the company and based on the same we hereby certify that the company had proposed and declared the dividend at 10% per equity share of* Rs *2/- each (*Rs *0.20 per share) amounting to* Rs *2,35,53,370/- for the Financial year 2008-09. The dividend declared was paid during September 2013 through the aforesaid dividend account."*

5.3. Also, a letter dated July 16, 2021 from the RTA to the Company specifying the work undertaken by them with respect to the disbursal of dividend has also been provided. The said letter states, "*SUBJECT: DIVIDEND 2008-09 RELATED ACTIVITIES DONE BY REGISTRARS & SHARE TRANSFER AGENTS.*

With reference to the above subject given below the activities done by us of Dividend 2008-09.

1. Processing the record date data 23-09-2009.

2. Processing NECS Data, Wire Transfer Data, DD Data and sent to The Jammu & Kashmir Bank Ltd for payment to the Shareholders on 02-09-2013.

3. Dispatch of DD's to the Shareholders on 05-09-2013.

We request you to kindly take note of the above in your records."

5.4. In this regard, the Company has also stated that all the complaints, pursuant to which the present proceedings were initiated, have been resolved and disbursement of dividend has been made. A list providing details of the complaints received and the dates of resolution, as submitted by the Company by way of its email dated September 02, 2021, is provided hereunder:

Table – 2

Complaint Details			
Complaint Number	**Complaint Name**	**Date of which Complaint Raised**	**Date of which Complaint Closed**
SEBIE/KN11/0000127/1	MARTIN GERHARD SCHLAGBAUER	07-12-2011	03-10-2013
SEBIE/KN11/0000128/1	CHRISTIAN STOLLINGER	07-12-2011	03-10-2013
SEBIE/KN11/0000129/1	FRANZ HERMANN HEBBEN	07-12-2011	03-10-2013
SEBIE/KN11/0000130/1	DEUTSCHE SECURITIES MAURITIUS LIMITED	07-12-2011	03-10-2013
SEBIE/KN11/0000131/1	CITY OF NEW YORK GROUP TRUST	07-12-2011	03-10-2013
SEBIE/KN12/0000027/1	EMERGING MKT TARGETED VAL FD OF DIMENSIONL FD II PBLIC LTD C	N-A	03-10-2013
SEBIE/KN12/0000029/1	EMERGING MARKETS VALUE FD OF DIMENSIONAL FD PLC THE FUND	08-02-2012	03-10-2013
SEBIP/MH10/9100592/1	AKSHAY TIWARY	13-10-2010	24-04-2014
SEBIP/MH10/9100713/1	HDFC BANK LTD	15-10-2010	02-12-2012
SEBIP/MH10/9103780/1	NO NAME	25-11-2010	06-05-2014
SEBIP/MH10/9115792/1	HDFC BANK LTD	17-09-2010	03-10-2013

5.5. The status in respect of the above mentioned complaints filed on SEBI's SCORES system was ascertained separately. It was observed that the said complaints have been duly closed. In this regard, the documents/information provided by the Company on SEBI's SCORES system while closing the complaints were perused with respect to the above-mentioned complaints. The relevant details as gathered from such perusal are provided hereunder:

Table– 3

Sl. No.	Complainant	Details
1	Martin Gerhard Schlagbauer	The Company has informed that Dividend for the year 2008-09 had been credited to the Shareholder's bank account on 05.09.2013.
2	Christian Stollinger	The Company has informed that Dividend for the year 2008-09 had been credited to the Shareholder's bank account on 05.09.2013.
3	Franz Hermann Hebben	The Company has informed Dividend for the year 2008-09 has been credited to the Shareholder through NECS on 05.09.2013.
4	Deutsche Securities Mauritius Limited	The Company has informed that Dividend for the year 2008-09 had been credited to the Shareholder's bank account on 05.09.2013.
5	City Of New York Group Trust	The Company has informed that Dividend for the year 2008-09 had been

		credited to the Shareholder's bank account on 05.09.2013.
6	Emerging Mkt Targeted Val FD of Dimensionl FD II Pblic Ltd C	The Company has informed that Dividend for the year 2008-09 had been credited to the Shareholder's bank account on 05.09.2013.
7	Emerging Markets Value FD of Dimensional FD Plc The Fund	The Company has informed that Dividend for the year 2008-09 had been credited to the Shareholder's bank account on 05.09.2013.
8	Akshay Tiwary	The Company has informed that Demand Drafts bearing Nos. 493405, 493406 & 49 3407 for Rs. 1268/-, Rs.27/- and Rs.60/- respectively for the year 2008-09 have been mailed through Registered Post on 23.11.2010.
9	HDFC Bank Ltd	The Company has informed that the same was a duplicate complaint.
10	No Name (SEBIP/MH10/9103780/1)	The Company has informed that after sending reminder they had received a reply from Complainant stating that they have received the Dividend amount on 05.09.2013. Scanned copy of the Letter was attached
11	HDFC Bank Ltd	The Company has informed that Dividend for the year 2008-09 had been credited to the Shareholder's bank account on 05.09.2013.

5.6. From the aforesaid facts and documents submitted by the Noticees, it appears that the dividends declared to be paid to the shareholders have been disbursed. I note that the invocation of the provisions of Sections 11 and 11B by way of the present SCN is with respect to a) the failure of the Company to disburse the dividend declared for the financial year 2008-09; and b) the receipt of complaints from the shareholders consequent to the failure of the Company to disburse the dividend declared.

5.7. I find that the complaints of the shareholders on SEBI's SCORES system have been closed upon payment of dividend by the Company, declared for financial year 2008-09, to the shareholders. I also find that prosecution has been initiated by SEBI, in respect of delay in payment of dividend, by way of a criminal complaint bearing no. CC 114/2016 for violation of Sections 205(1A), 205A(1) and 207 read with Sections 55A and 621 of Companies Act,1956 of the Companies Act, 1956 before the Court of Special Economic Offences in Bangalore.

6. Order –

6.1. Considering the above information, submissions made, documents submitted and the facts as ascertained from the records, I am not inclined to pass any further directions in the matter. The SCN is accordingly disposed of in respect of Noticee Nos. 1, 2, 4, 5, 6, 7, 8, 9 and 10. The SCN shall however subsist with respect to

Mukkaram Jan, Noticee No. 3 in view of the stay by the Hon'ble Supreme Court of India in Special Leave to Appeal No. 11621/2021.

Place: Mumbai **G. MAHALINGAM**

Date: September 06, 2021 **WHOLE TIME MEMBER**

SECURITIES AND EXCHANGE BOARD OF INDIA