



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Apollo Textile Mills Limited

Number and date of notice:	CSD/ARN/16/2015-3383-84 dated April 18, 2017
Date of hearing:	May 3, 2017 & May 24, 2017
Present:	Mr. Abdul Rehman Zahur, CEO Mr. Hussain, Manager Corporate, Moochhala Gangat & Company, Chartered Accountants.

ORDER

UNDER SECTION 309 READ WITH SECTION 305 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of proceedings in the matter of show cause notice dated April 18, 2017 (*the "SCN"*) under Section 309 read with Section 305 of the Companies Ordinance, 1984 (*the "Ordinance"*) issued to Apollo Textile Mills Limited (*the "Company"*) and directors of the Company (*the "Respondents"*). The facts leading to this case, briefly stated are that the Company was incorporated in Pakistan on August 9, 1973 and its shares are listed on Pakistan Stock Exchange (previously Karachi, Lahore and Islamabad Stock Exchanges). Principal business of the Company is manufacture and sale of yarn. The Company's business has been suspended for more than a year i.e. since closing of financial year 2014 as disclosed in the directors' report on the accounts for the year ended June 30, 2016 (*"Accounts"*) and as highlighted in the auditors' report on the accounts.

2. The review of the auditors' report on the accounts by Moochaala Gangat & Company, Chartered Accountants (*the "Auditors"*) depicted that the auditors have given a disclaimer of opinion on the accounts and *inter alia* stated that because of the significance of the matters discussed in paragraphs (i) – (viii) below, the auditors are unable to form an opinion as to whether the proper books of accounts have been kept by the Company or the accounts give a true and fair view of the state of the Company's affair as at June 30, 2016:

- i) *The company has stopped its operations since the closing of financial year 2014 and during the year ended June 30, 2016 the company sustained after tax loss of Rs. 91.810 million and its accumulated losses stood at Rs. 72.239 million.*



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These events indicate a material uncertainty that may cast significant doubt on the Company's ability to continue as a going concern and therefore the Company may be unable to realize its assets and discharge its liabilities in the normal course of business. The financial statements have been prepared on going concern basis but, in our opinion, management's use of going concern assumption in the financial statements is inappropriate.

- ii) As disclosed in note 15.1 and 15.2 of the financial statements where it has been mentioned that the stocks of raw cotton and cotton yarn was misappropriated by the banks and their muqqadams amounting to Rs. 128,360,0559 and Rs 128,360,0559 respectively which were pledged with various financial institutions. The company has filed suits against them in the Honorable High courts for the recovery of value of misappropriated stocks as disclosed in the aforesaid note. We would also like to draw your attention towards note 12.1.1 to 12.1.8 which describes the matters relating to the stocks and the pending suits filed by and against the company.*
- iii) As disclosed in note 12.1.1 to 12.1.8 of the financial statements where it has been mentioned that there are suits filed against the company.*
- iv) We have sent various confirmations to banks/financial institutions and legal advisors for the confirmation of long term finances, margin on bank guarantees, liabilities against assets subject to finance lease, short term finances, bank balances and contingencies and commitments reported in the financial statements. However we did not receive any replies from them.*
- v) The company has not charged finance cost on long term finances, short term finances and finance lease obtained from banks / financial institution and also the current maturity of long term finances has not been made in the financial statements by the company.*
- vi) The company is following revaluation model to value land & buildings and plant and machinery as per the requirements of IAS 16. However, the company has not carried out any revaluation since May 31, 2005. Further, the recoverable amount of surplus on revaluation of fixed assets is dependent upon continued operation of the Company.*
- vii) The company is operating an unfunded gratuity scheme and is following*



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actuarial valuation to calculate provision as per requirement of IAS- 19. However, the company has not carried out actuarial valuation since June 30, 2009.

viii) We were unable to obtain appropriate evidence as to the some of the assets and liabilities.

3. Previously, Nazir Chaudhuri & Company, Chartered Accountants, the auditors of the Company in the auditors' report for the year ended June 30, 2015 had also given a disclaimer of opinion on the accounts for the year ended June 30, 2015 on same audit observations and stated that the operation of the company has been discontinued from the close of financial year 2014.

4. The Directors' Reports to the shareholders for the years ended June 30, 2015 and for the year ended June 30, 2016 also state that the company remained closed due to the prevailing crisis in the textile sector.

5. The Additional Registrar of Companies, Company Registration Office, Karachi has approached for grant of sanction in terms of clause (b) of section 309 read with clause (c) of section 305 of the Ordinance to present a petition before the Honorable High Court for winding up of the Company on the grounds that the Company has suspended its business for more than a year i.e. since closing of financial year 2014.

6. The SCN was issued to the directors and the Company and a hearing was fixed for May 3, 2017 in this regard. A reply was received from Moochhala Gangat & Company, Chartered Accountants on behalf of the company requesting for an extension in time and rescheduling the hearing. The hearing was accordingly rescheduled for May 24, 2017. The hearing was attended by Mr. Abdul Rehman Zahur, Chief Executive Officer of the Company and Mr. Hussain, Corporate Manager, Moochhala Ganagat & Company, Chartered Accountants. During the course of the hearing Mr. Zahur informed that the operations could not be restarted as the mill is in Punjab province and there is a lot of electric load shedding due to which cost of production is high. He emphasized that the import from neighboring countries is open in the spinning sector and such countries are giving lot of incentives to their industry. On the other hand, spinning sector in Pakistan is suffering. He was of the view that the mill operations can be revived. He was asked to give his comments on major audit observations appearing in the auditors' report and the reason as to why the directors are drawing heavy pays despite the fact that mill is closed. Mr. Zahur



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informed that the management will clear all the observation in the future. He was asked as to why the revaluation of assets has not been carried out since 2005. Mr. Zahur instead of giving any positive reply stated that "okay you can wind-up the company". He was asked the name the party holding 79% of the company's shareholding to which he only informed that it is a foreign shareholder and that he is not aware of the name of foreign shareholder.

7. A written reply to the SCN was also received from Moochaala Gangat & Company, Chartered Accountants on May 24, 2017 through mail containing the same arugements as were discussed during the hearing.

8. It is necessary to advert to the following relevant provisions of the Ordinance;

Clause (c) of section 305 of the Ordinance states that a company may be wound up by the Court if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

Section 309 of the Ordinance states that an application to the Court for the winding up of a company shall be by petition presented, subject to the provisions of this section, either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), or by any contributory or contributories, or by all or any of the aforesaid parties, together or separately, or by the registrar, or by the Commission or by a person authorised by the Commission in that behalf.

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 309 of the Ordinance have been delegated to Executive Director (Corporate Supervision Department).

9. Before proceeding further, if we look at the past history of the Company it is observed that previously the Company has violated section 492 and section 196 of the Ordinance as the Company did not disclose and denied its relationship with an export customer namely Textile Global Marketing, USA, a related party in which Mr. Zahur Ahmed, an ex-director of the Company and father of two directors of the Company namely Mr. Ikram Zahur and Mr. Abdul Rehman Zahur, was the registered agent of the Textile Global Marketing. The Company also made a provision for doubtful debts amounting to Rs.25,973 million which were receivable from Textile Global Marketing against the export sales. The directors of the Company approved the provision



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for doubtful debts in a board meeting against the requirements of Section 196 (3)(b) of the Ordinance, which requires approval of Company's shareholders in case of related parties. The Company was penalized on both accounts of violations under Section 196 and Section 492 of the Ordinance. A Revision appeal under Section 477 of the Ordinance was also filed by the Company which was dismissed by the Commissioner (CLD) vide Order dated March 14, 2016. In the past the Company has also violated provisions of Section 245 of the Ordinance for which an Order was issued and penalty was imposed on the Company for not filing the quarterly accounts for the quarters ended September 30, 2014, December 31, 2014, March 31, 2015 and September 30, 2015 in a timely manner. An Appeal was filed by the Company in the Appellate Bench against this Order however the Appellate Bench in an Order dated October 31, 2016 upheld the impugned Order. Further, the Company was also issued a strict warning vide Order dated May 26, 2017 for delayed filing of quarterly accounts for the quarters ended December 31, 2015 and September 30, 2016.

10. Keeping in view the foregoing, I would like to highlight that the business activity of the Company remains suspended. Two different auditing firms in their audit reports for the financial years 2015 and 2016 have given disclaimer of opinion while stating major audit observations in their reports on the accounts. In their audit reports for the referred years the auditors respectively have also highlighted that the business operation of the company were suspended since the end of financial year 2014. The respondents have also not submitted any revival plan, which could support the case for an early resumption of business activities. It is established that the business operations of the Company have been suspended attracting the provision 305(c) of the Ordinance. I, therefore, in exercise of the powers conferred on me under section 309 of the Ordinance, hereby authorize the Additional Registrar, Company Registration Office, Karachi to present a petition for winding up of the Company.

Abid Hussain
Executive Director

Announced:
July 11, 2017
Islamabad

