



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Genertech Pakistan Limited

Number and date of notice:	CSD/ARN/120/2015-4107-13 dated April 21, 2016
Date of hearing:	May 25, 2016, July 18, 2016, August 17, 2016, September 5, 2016, September 28, 2016, November 28, 2016 & December 7, 2016
Present:	None

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 21, 2016 under Section 309 read with Clause (c) of Section 305 of the Companies Ordinance, 1984 (*"Ordinance"*) issued to Genertech Pakistan Limited (*"Company"*) and directors of the Company (*the "Respondents"*).

2. The facts leading to this case, briefly stated, are that the Company was incorporated in Pakistan on May 24, 1990, as a public limited company and its shares are quoted on Pakistan Stock Exchange (*previously Karachi, Lahore and Islamabad Stock Exchange*). The principle business of the Company is generation and supply of electricity. The Corporate Supervision Department while examining annual audited accounts of the Company for the year ended June 30, 2015 noted that operations of the Company are closed since 2008-09. The Corporate Supervision Department sought comments from the Company for initiation of winding up proceedings. The Company in its reply dated February 29, 2016 stated that:

"Operations of the Company are closed due to adverse business conditions. We are regularly mentioning in our reports that the furnace oil is the basic raw material and it is main component of the cost of electricity. In comparison with other similar units, owned by the Government, the Government provides massive supports in cost. This fact keeps the Governments units running



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without any fear of loss. While at the other hand, our Company and its similar other Small Power Producers (SPPs) do not enjoy any support/subsidy in ever increased fuel cost. It is very important to mention that, at present, after so many years, international oil prices are decreasing and reaching to the favorable levels. However, real impact of this decrease is not reached to our domestic market. Management of the Company strongly believes that, the operations of the Company are still viable. It is important to mention that, there is still demand of electricity and Company has ability to resume operations, if furnace oil costs further come down".

3. The Company through the above reply did not indicate that strenuous efforts in a systematic manner are being made to revive the operation of the Company. Neither the claim that the operations of the Company are still viable is supported by facts and figures nor a concrete revival plan in this regard was available.

4. It was also observed that M/s Yaqub & Company, Chartered Accountants, the statutory auditors of the Company (the "Auditors") have given adverse opinion in auditors' report on the accounts, amongst others, on the doubt on Company's ability to realize its assets and discharge its liabilities in the normal course of business. The Auditors have stated that in view of matters as mentioned in their report, the going concern assumption used in the preparation of the accounts is not appropriate. Further following issues as stated hereunder in brief have been observed by the auditors and stated in the auditors' report:

- a. Long term financing, liabilities against assets subject to finance lease, long term morabaha, short term bank borrowings and cash with banks in current accounts amounting to Rs.226.762 million, Rs.41.061 million, Rs. 63.134 million, Rs.154.429 million, and Rs.0.264 million respectively remained unconfirmed/unverified in the absence of bank statements and balance confirmations from related banks and financial institutions.
- b. Markup accrued on secured loans and lease liabilities amounting to Rs.187.092 million remained unconfirmed in the absence of relevant working and balance confirmations.
- c. Physical count could not be observed of property plant and equipment, stores, spares and loose tools and cash in hand as on balance sheet date.
- d. Creditors, accrued liabilities, other liabilities, trade debts and advances amounting to Rs.4.552 million, Rs.0.789 million, Rs.11.647 million, Rs.24.024 million, Rs.60.00 million



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respectively remained unconfirmed/unverified in the absence of direct balance confirmations.

- e. The trade debts comprising of the balances due from associate amounting to Rs.103.119 million are impaired and should be recognized as doubtful.
- f. In contradiction with the requirements of IAS 36 "Impairment of assets", the Company has not carried out any review at the balance sheet date in order to determine recoverable amount of its tangible fixed assets and recognize impairment loss, if any.
- g. The updated fixed assets register has not been provided.

5. The Directors in their report to the members appended to the accounts while responding to the auditors' qualification have stated that auditors have shown their reservation regarding non-confirmation of balances of lending banks, financial institutions, balances of debtors, advances and creditors. Since the litigation /negotiation is in process the financial institutions did not respond to balance confirmation requests likewise the debtors and creditors also not bothered to respond. Regarding physical verification of stores, spares and loose tools, at present due to closure of operations the Company does not have proper staff to facilitate physical verification by auditors. It is further stated that the stoppage in operation has very badly affected the financial position of the company and the company has not paid due installments of its loans and other obligations.

6. The Joint Registrar of Companies, Company Registration Office, Lahore has approached the Commission 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 ground that the Company has suspended its business since 2008-09.

7. A Show Cause Notice dated April 21, 2016 under section 309(b) read with section 305 of the Ordinance (the "SCN") was issued to all directors of the Company as the operations of the Company are closed since 2008-09.

8. While issuing SCN, the respondents were given an opportunity to appear on May 25, 2016 at SECP. A request was received from the Company vide letter dated May 9, 2016 for extension in time for submitting the reply to the SCN citing the reason that the regular

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operations of the company are closed for last several years and the staff has left their jobs. On another request from the company, the hearing was also rescheduled for July 18, 2016. The hearing was re-fixed for August 17, 2016 however, no one appeared and the hearing was postponed till September 5, 2016. Requests were received from the company vide letters dated August 16, 2016 and September 2, 2016 for further extension in time of hearing citing same reasons of closure of operations of company for several years and that all staff has left their jobs. Next hearing in the matter was fixed for September 28, 2016 however, no one appeared. The company was provided with a sixth hearing opportunity scheduled for November 28, 2016 in which once again no one appeared. Thereafter a final opportunity for hearing was scheduled for December 7, 2016 however the company again vide letter dated December 5, 2016 requested for a time of another two months while once again repeating that the operations are closed for several years and the staff has left the jobs and the company is contacting the relevant staff for the hearing.

9 It is necessary to advert to the 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).

10. Before proceeding further, I, would like emphasize that the auditors of the Company in their report have pointed out serious deficiencies in the financial statements that include non-verification of existing fixed assets of the Company and long term loans. The going concern assumption used by the management of the company has also been questioned by the auditor and



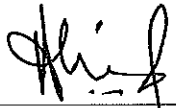
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the auditor has given an adverse report. The operations of the company are stalled for last so many years and the SCN issued to the respondents have not been responded to despite passage of more than 9 months. The respondents were given several hearing opportunities to appear personally or through an authorized representative and video conferencing facility was offered however the hearings were not attended. The Company, its management and Board of Directors have displayed an utter lack of interest in the affairs of the Company. The correspondence in response to each hearing notice reflects that due to closure of operation and lay-off of staff, no one is available to attend hearings and pursue the matter with SECP. The directors are not interested to pursue revival of the company.

11. Therefore, in view of the foregoing and keeping the fact in mind that the operations of the company are suspended since the year 2008-2009, as admitted in the letters received from the Company, I, in exercise of the powers conferred on me under Section 309 of the Ordinance, hereby authorize the Registrar, Company Registration Office, Lahore to present a petition for winding up of Genertech Pakistan Limited.



Abid Hussain
Executive Director

Announced:
January 31, 2017
Islamabad

