



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Hajra Textile Mills Limited

Number and date of notice: EMD/233/132/2002-432 dated September 9, 2013
Date of hearings: June 11, 2014, April 6, 2015, October 15, 2015, November 12, 2015,
November 30, 2015, December 14, 2015, May 25, 2016, October
19, 2016 and November 17, 2016

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 September 9, 2013 under Section 309 read with Section 305 of the Companies Ordinance, 1984 ("Ordinance") issued to Hajra Textile Mills Limited ("Company") and directors ("respondents") of the Company.

2. The facts leading to this case, briefly stated, are that the Company Registration Office Lahore, has approached this office for grant of sanction in terms of clause (b) of Section 309 read with clause (b) & (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:

- a. the Company business has been suspended since March 1, 2012;
- b. the Company has failed to hold annual general meeting ("AGM") since the year ended on June 30, 2012; and
- c. the company has failed to submit its quarterly and annual accounts.

3. Show cause notice dated September 9, 2013 was served on the Company under Section 309 read with Section 305 of the Ordinance indicating the aforesaid grounds to present a petition for winding up of the Company. The respondents failed to reply the SCN.

4. In order to provide opportunity of personal hearing; case was fixed on June 11, 2014, Mr. Mumtaz H. Chaudhry appeared on behalf of respondents before authorized officer at that time Mr. Ali Azeem Ikram and submitted that chief executive is visiting China for possible joint venture arrangements. In this regard, 60 days' time was provided to the respondents. Further hearings were fixed on April 6, 2015 and October 15, 2015 but no one appeared on hearings.



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The chief executive Mr. Ahmed Ellahi appeared on hearing dated November 12, 2015 before authorized officer at that time Mr. Ali Azeem Ikram and submitted that the company has settled liabilities with Silk Bank Limited and need further funds to revive the Company and discussed possibility of buyback of shares from minority shareholders. The authorized officer provided another 15 days' time to the respondents to initiate process of buyback of shares from the minority shareholders. On hearing dated November 30, 2015 the chief executive submitted that they have written to stock exchange regarding process of buy back of shares from minority shareholders and waiting for their reply. Again hearing was scheduled for December 14, 2015 but no one appeared on hearing.

5. On hearing dated May 25, 2016 the chief executive appeared before the undersigned and submitted that they are following procedure of stock exchange for buy back of shares and it is a lengthy process. The chief executive was advised to share correspondence with the stock exchange on monthly basis and it was decided to give 90 days' time for completing the process of buy back from minority shareholders. After completion of 90 days' time hearing was fixed on October 19, 2016 but the respondents failed to appear on hearing. On hearing dated November 17, 2016 the authorized representative Mr. Amjad Malik and director of the Company Mr. Muhammad Shafiq appeared and provided following written submissions:

- The management at the time of the closure of the mill in financial year 2102 has closed the operation of the Company just to avoid cash losses.
- More than 100 textile spinning units were closed in 2012 and more than 3.0 million spindles are closed till dated.
- The management has contributed funds in the shape of director's loan for Rs. 339.748 million to meet the working capital requirement and fulfillment of financial commitments.
- With the closure of the mill, the banks has filed recovery suites including the winding up petition which are pending adjudication. The management is pursuing those cases for amicable settlements. The Company has entered in to settlement with Silk Bank Limited and the Company has paid Rs. 2.85 million towards the settlement of the liability despite the closure of the mill.
- The Company has hold overdue AGM's for the financial year 2013 to 2015 and the audited financial statements has been approved.



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- The management currently holds 82% of the shares and the proportion of minority shares is very low but the management will consider the delisting option as and when the amicable settlement with the banks is achieved and feasible operation would be possible.

It was observed with concern from the financial statements for the year ended June 30, 2016 that auditor was unable to verify assets of the Company. In this regard 30 days' time was provided to the respondents to submit accounts along with auditor certificate confirming the existence of assets otherwise case will be decided on merits. The respondents failed to provide the auditor certificate till date.

6. 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).

7. Before proceeding further, it would be necessary to look at certain important facts regarding the Company. The Company was incorporated in Pakistan as a public limited company under the Companies Act, 1913 (now the companies ordinance, 1984) on March 11, 1979 and listed on Pakistan Stock Exchange. The principal activity of the Company is manufacturing, selling, buying and dealing in all types of textile yarn. As per note 2.1 to the financial statements for the year ended June 30, 2016, during the year loss after taxation was Rs. 13.436 million (2015; Rs. 204.662 million) and as of that date it has accumulated losses of Rs. 837.861 million (2015; Rs. 827.457 million) which has resulted in net capital deficiency of Rs. 688.998 million (2015; Rs.



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678.594 million) and its current liabilities exceeds its total assets by Rs. 489.461 million (2015; Rs. 476.021 million). The operations of the Company is closed since March 2012. Further, the Company has been unable to ensure timely repayments of debts owing to financial institutions due to liquidity problems and all the banks loans becomes overdue and default in status. Further, the banks/financial institutions had filed recovery suits against the company by attachment of hypothecated/mortgage properties. The management is unable to reach any settlement with the banks and therefore, these conditions indicates existence of material uncertainties which cast significant doubts about the company's ability to continue as going concern and it may be unable to realized its assets and discharge its liability in normal course of business.

8. The comments of the respondents and their representative are not cogent as despite elapse of approximately five years since suspension of business of the Company, the management of the Company has not been able to buy back shares from minority shareholders through delisting the Company from the stock exchange and further failed to formulate any viable revival plan. In the current circumstances the chances of revival of the Company are bleak. Furthermore, despite assurance that the company shall buy back shares from the minority shareholders to provide them relief, no concrete steps have been taken, hence, I am convinced that the Commission file a winding up petition in the court in the best interest of the capital markets.

9. A company incorporated under the Ordinance is a legal judicial person and board of directors is vested with the power to make decisions with respect to running of its business operation including purchase of assets and payment of liabilities through funds generated from the operations. Investors/ shareholders in a listed company had invested funds keeping in view of the stated business of the company and accordingly evaluate its income generation capacity and successful business operations. The investment of these shareholders gets stuck in a Company which shuts down its core business and does not have any formal plans to recommence business. In such circumstances the shareholders have the right to get their monies back so that these can be invested in some other fruitful venture. For this very reason the invoked provisions of the Ordinance provide closure of business for more than one year as a basis of going to court to seek winding up of the Company.



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10. From the above discussion and after careful consideration of all the facts and circumstances of the case, I am of the view that the Company is liable to be wound up as its business has been suspended since 2012. It is a settled principle of law that a company is liable to be wound up under clause (c) of section 305 of the Ordinance if it has suspended its business for a whole year furthermore there is no reasonable plan or grounds for its revival.

11. For the forgoing, 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 Hajra Textile Mills Limited.

Abid Hussain
Executive Director

Announced:
April 11, 2017
Islamabad

