



Corporate Supervision Department
Company Law Division

Before Abid Hussain – Executive Director

In the matter of

Dar es Salaam Textile Mills Limited

Number and date of notice: CSD/ARN/234/2015-2935 dated February 24, 2017
Date of hearing: May 8, 2017
Representation: Ms. Abida Mukhtar, Director (Authorized Representative)

ORDER

Under Section 196 read with Section 476 of the Companies Ordinance, 1984

This order shall dispose of the proceedings initiated against the Directors including the Chief Executive (*the "respondents"*) of Dar Es Salaam Textile Mills Limited (*the "Company"*) through show cause notice dated February 24, 2017 ("*SCN*") issued under the provisions of Section 196 read with Section 476 of the Companies Ordinance, 1984 (*the "Ordinance"*).

2. Brief facts of the case are that the examination of annual audited accounts of the Company revealed that Directors of the Company have leased out mill operations of the Company to Sally Textile Mills Limited. The Company vide letter dated May 14, 2016 informed that the Company has leased out the mill operations for Rs.1,000,000 (Rupees one million only) per month. The Commission vide letter dated September 29, 2016 raised a query for providing copy of approval of the general meeting for leasing out the mill operations in light of subsection 3 of section 196 of the Ordinance. The Company vide letter dated December 28, 2016 stated that:

"although all shareholders were informed and were aware of the terms and conditions of the leasing transaction, we regret that the procedural non-disclosure in the notice for the Annual General Meeting held on 30th October, 2016 was missed out".

3. Subsequently, the SCN was issued to the directors of the Company including the chief executive wherein the respondents were called upon to show cause in writing as to why penal action



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may not be taken against them. Ms. Abida Mukhtar (*the "Authorized Representative"*) submitted a written reply to the SCN on behalf of all respondents. It was submitted by the Authorized Representative that the Company tendered an apology for the occurrence of such irregularity and have taken corrective measures to avoid any future irregularity. It was further submitted that the Company has faced many financial difficulties and during this time, the management faced serious problems with certain employees that resulted in mishandling of important compliance issues. The written reply also stated that the discrepancy was purely the result of malice and mishandling by certain employees who were later dismissed or reassigned and a request was made for a lenient view.

4. In order to provide opportunity of personal hearing, the case was fixed on May 8, 2017. The Authorized Representative appeared on the date of the hearing and reiterated the stance as earlier taken in the submissions made in the written reply. The Authorized Representative further submitted that the mill was closed in 2014 and efforts were being made to sell the mill, as a result of which some employees were laid off. The aforesaid circumstances resulted in the overlooking of certain legal formalities, however, efforts are being made to correct such defaults and ensure the compliance of law in future.

5. Before proceeding further, it is necessary to advert to the relevant provisions of Clause (a) of sub-section (3) of section 196 of the Ordinance provides as under:

"The directors of a public company or of a subsidiary of a public company shall not except with the consent of the general meeting either specifically or by way of an authorization, do any of the following things, namely

(a) sell, lease or otherwise dispose of the undertakings or a sizeable part thereof unless the main business of the company comprises of such selling or leasing;

6. In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under section 196 of the Ordinance have been delegated to the Executive Director (Corporate Supervision Department).

7. Sub-section (4) of Section 196 of the Ordinance states that:

"Whosoever contravenes any provision of this section shall be punishable with a fine which may extend to one hundred thousand rupees and shall be individually and severally liable for losses or damages arising out of such action."

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8. I have analyzed the facts of the case, relevant provisions of the Ordinance, arguments put forth by the Authorized Representative in the written response as well as during the hearing and observed that the provisions of Section 196 of the Ordinance have been violated. The mill operations have been leased out to a third party whereas the shareholders have not been taken in to confidence through due procedure laid down in the law for seeking their approval in the general meeting. The default is admitted therefore needs no deliberation. Directors are liable for the penalties as defined in the aforesaid provisions of the Ordinance. I hereby impose a penalty aggregating to Rs140,000 (Rupees one hundred and forty thousand only) on the Chief Executive and directors of the Company. The detailed breakdown of the penalty imposed is as follows:

S.No.	Name of Respondent	Penalty
1	Mrs. Nilofar Mukhtar, Chairperson & Director	Rs.20,000
2	Mr. Faisal Mukhtar, Chief Executive Officer	Rs.20,000
3	Mrs. Mahwesh Faisal Mukhtar, Director	Rs.20,000
4	Miss Abida Mukhtar, Director	Rs.20,000
5	Mr. Muhammad Rafique Khan, Director	Rs.20,000
6	Mr. Muhammad Yousaf, Director	Rs.20,000
7	Mr. Ejaz Akbar Khan, Director	Rs.20,000
	Total	Rs. 140,000

The aforesaid fines must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and furnish receipted bank vouchers to the Commission. In case of non-deposit of the penalties, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the said fines are imposed on respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

Abid Hussain
Executive Director
Corporate Supervision Department

Announced:
February 22, 2017
Islamabad