SECP

Corporate Supervision Department
Company Law Division

Before

Abid Hussain – Executive Director

In the matter of

Gulshan Spinning Mills Limited

Number and date of notice:	CSD/ARN/392/2015-1007-1013 dated September 26, 2016
Date of hearing:	December 14, 2016, February 6, 2017, March 22, 2017
Present:	None

ORDER

UNDER SECTION 492 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 Gulshan Spinning Mills Limited *(the "Company")* through show cause notice *(the "SCN")* dated September 26, 2016 issued under the provisions of Section 492 read with Section 476 of the Companies Ordinance 1984 *(the "Ordinance")*.

2. Brief facts of the case are that examination of annual audited financial statements *(the "Accounts")* for the year ended June 30, 2014 of Company revealed the following observations:

a. The Company on cessation of its associate relationship with Gulistan Textile Mills (GTM), reclassified the value of its investment in GTM from equity method to investment at fair value through profit and loss instead of charging it directly to retained earnings as required by para 41 of International Accounting Standard (IAS)-16, "Property, plant and equipment" read with para 19A of IAS 28- "Investments in Associates".

b. As a result thereof loss of the Company in the accounts for the year ended June 30, 2014 is understated by Rs. 179.672 million.

3. A query was raised with the Company in this regard and the Company vide letter dated June 14, 2016 replied on the above observations that:

> *"GTM was associated company based on the equity investment by GTM of more than 20% in paid up capital of the Company, however, GTM during current year has disposed of major portion of its investment in the Company's paid up capital due to which GTM is no more our associate. The Company has reclassified its investment in GTM as "investment in fair value through profit or loss." This has resulted in gain of Rs. 179.67 million which has been recognized in P&L as per provisions of IAS-28."*

4. The reply submitted by the Company was not found satisfactory and the SCN was issued for *prima facie* misstatements in the accounts as the loss for the year seemed to be understated by the Company. A letter dated October 10, 2016 was received in reply from the Company in which an extension of 4 weeks was requested for submission of reply. In response, the Commission, vide letter dated October 18, 2016 allowed time till November 11, 2016 to furnish the reply. Subsequently, the respondents did not submit any reply to the SCN. A hearing in the matter was fixed for December 14, 2016 however, no one attended the hearing on behalf of the respondents. Afterwards two more hearing opportunities were provided to the respondents on February 6, 2017 and March 22, 2017. In the hearing notice for March 22, 2017, it was clearly stated that the Commission will proceed with an *ex parte* order in case the hearing is not attended by the respondents personally or through their authorized representatives. The hearing opportunities however remained unattended and without any communication from the side of the respondents.

5. Before proceeding further, it is necessary to advert to the following relevant provisions of Section 492 of the Ordinance, which states as under:

> *" Whoever in any return, report, certificate, balance sheet, profit and loss account, income and expenditure account, prospectus, offer of shares, books of accounts, application, information or explanation required by or for the purposes of any of the provisions of this Ordinance or pursuant to an order or direction given under this Ordinance makes a statement which is false or incorrect in any material particular, or omits any material fact knowing it to be material, shall be punishable with a fine not exceeding five hundred thousand rupees."*

6. The aforesaid provisions of the law are clear and explicit. It is my considered view that the directors of the Company are responsible for any omission and misstatement in the financial statements. One of the main objectives and intent of Section 492 of the Ordinance is to protect the users, which may include investors, shareholders, creditors, bankers, customers etc., of financial statements against misstatements so that reliable financial information is available to them for making an informed decision. As regards the matter at hand, I have analyzed the facts of the case, relevant provisions of the Ordinance. Despite the opportunities given, the respondents have not submitted any reply and failed to appear in the hearing opportunities personally or through a authorized representative. The transfer/recognition of Company's investment in GTM to retained earnings instead of "Investment at fair value through profit and loss" is required by para 41 of IAS 16 - "Property, plant and equipment" read with para 19A of IAS 28 - Investments in Associates". Para 19 A was referred here as it provides guidance on correct treatment of afore referred Company's share of surplus on revaluation of fixed assets of GTM. The Company has wrongly charged the share of losses of GTM in its Profit and Loss Account to the extent of share of surplus in revaluation of fixed assets, consequently reducing the carrying value of investment to negative figure. The disclosure made by the Company has distorted the entire picture where the already accumulating losses were understated by an amount of Rs. 179.672 million. For the foregoing reasons, I am of the firm opinion that the directors have made themselves liable under the provision of Section 492 of the Ordinance for the fine as prescribed by this Section however taking a lenient view, while exercising the powers conferred by the aforesaid provision of the Ordinance, I hereby impose a token fine of Rs.50,000 (Rupees fifty thousand only) on the respondents under the provision of Section 492 of the Ordinance as given below:

	Name	Designation	Amounts (Rs.)
1.	Mr. Sohail Maqsood	Chairman	50,000
2.	Mr. Tanveer Ahmed	Chief Executive	50,000
3.	Mr. Riaz Ahmed	Director	50,000
4.	Mr. Muhammad Shafiq	Director	50,000
5.	Mr. Iftikhar Ali	Director	50,000
6.	Mr. Muhammad Yousaf	Director	50,000
7.	Mr. Hussain Athar	Director	50,000
	Total		350,000

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The aforesaid fine 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 fine, 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 the Chief Executive in his personal capacity; therefore, He is required to pay the said amount from personal resources.

Abid Hussain
Executive Director
Corporate Supervision Department

Announced:
May 25, 2017
Islamabad