

Filed on 14-5-18.

BEFORE THE HONORABLE LAHORE HIGH COURT, LAHORE
(Company Jurisdiction)

C.O. No. 912084/2018

ADDITIONAL REGISTRAR OF COMPANIES, Securities & Exchange Commission of Pakistan (SECP), a corporate body established under the Securities & Exchange Commission of Pakistan Act 1997 having its head office at Islamabad and a Company Registration Office at 3rd & 4th Floor, Associated House, 7-Egerton Road, Lahore.

...PETITIONER

VERSUS

1. **M/S Hajra Textile Mills Limited**, registered under the Companies Ordinance, 1984 having its registered office 45-50 Industrial Area Gulberg III Lahore.
2. Mr. Ahmed Elahi, Chief Executive (CEO)/Director, M/S Hajra Textile Mills Limited resident of 11/295 Tufail Road Lahore Cantt.

...RESPONDENTS

PETITION UNDER SECTION(S) 301 & 304 OF THE COMPANIES ACT, 2017 FOR WINDING UP OF M/S. HAJRA TEXTILE MILLS LIMITED READWITH ALL ENABLING PROVISIONS OF COMPANY LAW.

Respectfully Sheweth:

1. That the addresses of the parties have correctly been written in the heading of the petition, which is sufficient for the purposes of process that may be issued by this honourable court.
2. That the M/S Hajra Textile Millis Limited (the "Respondent Company" or the "Company") was incorporated under the Companies Ordinance, 1984 (the "Ordinance") as a Public Limited on 11-03-1979 (Certificate of Incorporation attached as Annex "A" and Memorandum and Articles of Association are

attached as **Annex A1**) with the Securities and Exchange Commission of Pakistan (SECP).

3. That in terms of the commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the power to adjudicate cases under Section 309 of the repealed Ordinance have been delegated to Executive Director (Corporation Supervision Department). Copy of SRO 1003 (I)/2015 dated October 15, 2015 is attached as **Annex B**.
4. The shares of the Respondent Company are quoted on Pakistan Stock Exchange. Complete list of Directors and Shareholders as per Form 29 dated 06-04-2012 and Form A dated 25-11-2011 is attached as **Annex C and D**.
5. 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. 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 are 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. **Audit Report of financial year 2016 is attached as Annex E.**
6. That Additional Registrar of Companies, Company Registration Office Lahore, approached the Commission office for grant of sanction in terms of clause (b) of Section 309 read with clause (b) & (c) of Section 305 of the repealed Ordinance of 1984 to present a petition before the Honourable 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.

7. That a Show Cause Notice dated September 9, 2013 was served on the Company under Section 309 read with Section 305 of the repealed Ordinance indicating the aforesaid grounds to present a petition for winding up of the Company. Copy of SCN dated September 9, 2013 is attached as **Annex F**.
8. That the Company failed to reply the SCN. In order to provide opportunity of personal hearing, the case was fixed on June 11, 2014, Mr. Mumtaz H. Chaudhry appeared on behalf of Company before authorized officer and submitted that chief executive officer 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.
9. That later on the Respondent No. 2, CEO, Mr. Ahmed Ellahi appeared on hearing dated November 12, 2015 before authorized officer of the Commission 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.
10. That on hearing dated May 25, 2016 the CEO of the Company appeared before the authorized office of the Commission and submitted that they are following procedure of stock exchange for buy back of shares and it is a lengthy process. The CEO was advised to share correspondence with stock exchange on monthly basis and it was decided to give 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 2012 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 have 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.
- 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.

11. That 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.
12. That the reply filed by Respondents Company and their representatives were considered and was not found cogent. Despite elapse of approximately five years since suspension of business of the Company, the management of the Company had 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 such circumstances it was observed that 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 by Respondents to secure the interest of minority shareholders.
13. In view of the above circumstances, the Petitioner was satisfied 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 (b) and (c) of Section 305 of the Ordinance if it has suspended its business for a whole year especially when there is no reasonable plan or grounds for its revival.
14. That the Petitioner as a result of the foregoing circumstances is duly authorized under the Sanction Order to file a winding up petition in this Honourable Court for the winding up of the Respondent Company (Copy of Sanction Order dated 11-04-2017 is attached as **Annex G**), inter alia, on the following grounds:-

GROUNDS

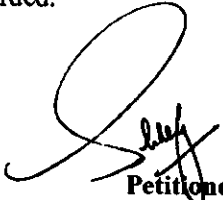
- a. That the operations of the Respondent Company have admittedly been suspended since the year 2012. Therefore, the Respondent Company may be wound up by this Honourable Court as per the provisions of Section 301 (m) of the Companies Act, 2017 (the "Act").
 - b. That the Respondent Company has failed to hold its Annual General Meetings since the financial year 2014. It is a settled principle of law that a Company is liable to be wound up under clause (c) of section 301 of the Act if it has failed to hold two consecutive Annual General Meetings or suspended its business for a whole year.
 - c. That the failure on the part of management of the Respondent Company to make fruitful efforts in interest of minority shareholders also merits winding up of the Respondent Company. These are also clear indications that the management has no intention of carrying on the business of the Respondent Company.
 - d. That due to lack of funds and considerably high liabilities compared to the assets has resulted in a position that the substratum of the Respondent Company has gone.
 - e. That it is just and equitable to wound up the Respondent Company.
15. That the Petitioner is duly authorized under the Sanction Order to file a winding up petition in this Honourable Court and well conversant with the facts of the case, therefore, the Petitioner has signed and verified this Petition for winding up of the Respondent Company.
 16. That this Honourable Court has jurisdiction in the matter as the Petitioner has its registered office within the jurisdiction of this Honourable Court.
 17. That the Petitioner has already paid the requisite Court fee as per required.

PRAYER:

It is, therefore, most respectfully prayed that this Honourable Court may be pleased:

- A. to order the Winding-Up of the Respondent Company under the provisions of the Companies Act, 2017;
- B. to appoint Official Liquidator/the provisional manager may please be appointed to conduct the winding-up proceedings and perform related duties directed to record the statement of affair of the company within the contemplation of Section 320 of the Companies Act, 2017;
- C. to order appropriate proceedings against the Chief executive and directors may also be initiated; and
- D. to pass such further order or orders and to issue all consequential and necessary directions as this Honourable Court may deem fit and proper in the circumstances.
- E. The Respondents may kindly be restrained from alienating any of Respondent Company's assets and from operating any of its Bank accounts.
- F. Necessary direction may also be given for advertisement and notice in accordance with law.
- G. Any other relief which this Honourable Court deems fit and proper in the peculiar circumstances of the instant petition may very kindly be awarded.

(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.



Petitioner

(SHAHBAZ SARWAR)

Additional Registrar of Companies
Securities & Exchange Commission of Pakistan
Company Registration Office
3rd Floor, Associated House, 7-Egerton Road,
Lahore

Through:

Muhammad Saqlain Arshad
Advocate High Court

BEFORE THE HONORABLE LAHORE HIGH COURT, LAHORE
(Company Jurisdiction)

C. O. No. ____ of 2018

Additional Registrar of Companies Vs M/s Hajra Textile Mills Limited

PETITION UNDER SECTION(S) 301 & 304 OF THE COMPANIES ACT, 2017
FOR WINDING UP OF M/S. HAJRA TEXTILE MILLS LIMITED READWITH
ALL ENABLING PROVISIONS OF COMPANY LAW.

Affidavit of: Mr. Shahbaz Sarwar, Additional Registrar of Companies Securities & Exchange Commission of Pakistan Company Registration Office 3rd Floor, Associated House, 7-Egerton Road, Lahore

I, the above deponent, do hereby solemnly affirm and declare as under:-

1. That the addresses of the parties have correctly been written in the heading of the petition, which is sufficient for the purposes of process that may be issued by this honourable court.
2. That the M/S Hajra Textile Mills Limited (the "Respondent Company" or the "Company") was incorporated under the Companies Ordinance, 1984 (the "Ordinance") as a Public Limited on 11-03-1979 (Certificate of Incorporation attached as **Annex "A"** and Memorandum and Articles of Association are attached as **Annex A1**) with the Securities and Exchange Commission of Pakistan (SECP).
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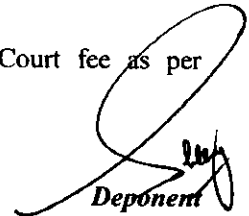
GROUNDS

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16. That this Honourable Court has jurisdiction in the matter as the Petitioner has its registered office within the jurisdiction of this Honourable Court.
17. That the Petitioner has already paid the requisite Court fee as per required.

(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.



Deponent

VERIFICATION:

Verified on oath at Lahore on this ____ day of May, 2018 that the contents of the above affidavit are true and correct to the best of my knowledge and belief.

(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.



Deponent

BEFORE THE HONORABLE LAHORE HIGH COURT, LAHORE
(Company Jurisdiction)

CM No. ~~919/2018~~ /2018
in

C. O. No. ____ /2018

Additional Registrar of Companies Vs M/s Hajra Textile Mills Limited

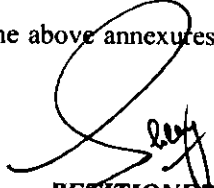
**APPLICATION UNDER SECTION 151 CPC TO DISPENSE WITH FILING OF
CERTIFIED COPIES OF ANNEXURES WITH THE PETITION**

Respectfully *Sheweth*:

1. That the applicant has filed the accompanying petition before this Honorable Court.
2. That in view of urgency of the matter certain uncertified copies but true photo state copies of the annexures have been filed along with the petition.
3. That these annexures are necessary to be filed for the determination of the petition.

It is, therefore, respectfully prayed that filing of certified copies of the above annexures may kindly be dispensed with in the interest of justice.

(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.


PETITIONER

Through

(Muhammad Saqlain Arshad)

Advocate High Court

CC No.23173

BEFORE THE HONORABLE LAHORE HIGH COURT, LAHORE
(Company Jurisdiction)

C. O. No. ____ of 2018

Additional Registrar of Companies Vs M/s Hajra Textile Mills Limited

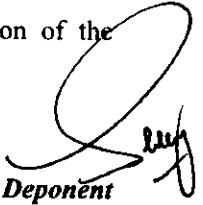
APPLICATION UNDER SECTION 151 CPC TO DISPENSE WITH FILING OF
CERTIFIED COPIES OF ANNEXURES WITH THE PETITION

Affidavit of: Mr. Shahbaz Sarwar, Additional Registrar of Companies, Securities & Exchange Commission of Pakistan Company Registration Office 3rd Floor, Associated House, 7-Egerton Road, Lahore

I, the above deponent, do hereby solemnly affirm and declare as under:-

1. That the applicant has filed the accompanying application before this Honorable Court.
2. That in view of urgency of the matter certain uncertified copies but true photo state copies of the annexures have been filed along with the application.
3. That these annexures are necessary to be filed for the determination of the application.

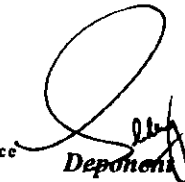
(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.


Deponent

VERIFICATION:

Verified on oath at Lahore on this ____ day of May, 2018 that the contents of the above affidavit are true and correct to the best of my knowledge and belief.

(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.


Deponent

POWER OF ATTORNEY

IN THE HONORABLE LAHORE HIGH COURT, LAHORE

C.O. NO. _____ /2018

For : Petitioner

Additional Registrar of Companies

Plaintiff/Petitioner/Complainant

Versus

M/s. Hajra Textile Mills Limited and Others

Defendant/Respondent/Accused

Fixed For

I / We the undersigned do hereby nominate and appoint **Mr. Muhammad Saqlain Arshad, Advocate** to be the Counsel in the above matter for me/us and on my/our behalf to appear, plead, act and answer in the above Court or any appellate Court or any other Court to which the business is transferred in the above matter and to sign and file petitions, statement, accounts, exhibits, compromises or other documents whatsoever, in connection with the said mater or any matter arising therefrom and also to apply for and issue summons and other writs or sub-poena and to apply for and get issued any arrest, attachment or other execution, warrant or order and to conduct any proceeding that may arise there out and to apply for and receive payment of any or all sums or submit for the above matter to arbitration and to employ any other Legal Practitioner authorizing him to exercise the Power and authorities hereby conferred on the Advocate whenever he may think fit to do so.

He is further authorized to negotiate / settle, compromise and withdraw any proceedings from Civil Court, Tribunal, High Court and Supreme Court. He is further authorized to represent us, sign documents on our behalf, give statement in the Court and submit arguments oral or in writing.

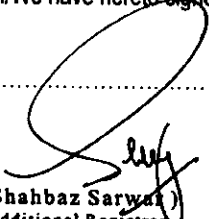
AND to do all acts legally necessary to manage and conduct the said case in all respects, whether herein specified or not as may be proper and expedient.

AND I / WE, hereby agree to ratify and confirm all lawful act done on my/our behalf under or by virtue of these presents or of the usual practice in such matter subject to the terms regarding fee.

PROVIDED always, that if the case may be dismissed in default, if it be proceeded ex-parte the said counsels shall not be held responsible for the same and hereby agree that in the event of the whole fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid.

IN WITNESS Whereof I/We have hereto signed at Lahore on this ____ day of May, 2018.

Executant(s).....


(Shahbaz Sarwar)
Additional Registrar
Securities and Exchange
Commission of Pakistan
Company Registration Office
LAHORE.

Muhammad Saqlain Arshad
Advocate High Court