



Corporate Supervision Department
Company Law Division

Before Ms. Amina Aziz – Director (CSD)

In the matter of

Gulshan Spinning Mills Limited

Number and date of SCN: No. CSD/ARN/193/2015-2717-23 dated February 20, 2017

Date of hearing: March 6, 2017, March 28, 2017, May 10, 2017 & May 25, 2017

Present: Mr. Shadman Shoaib and Mr. Abid Amin
(Authorized Representatives)

ORDER

**UNDER SECTIONS 158 AND 245 READ WITH SECTION 476 OF THE COMPANIES
ORDINANCE, 1984**

This order shall dispose of the proceedings initiated against the following directors including the chief executive officer (together referred to as “respondents”) of Gulshan Spinning Mills Limited (the “Company”):

- | | | | |
|---|--------------------|---|---------------------|
| 1 | Mr. Sohail Maqsood | 6 | Mr. Muhammad Yousaf |
| 2 | Mr. Tanveer Ahmed | 7 | Mr. Hussain Athar |
| 3 | Mr. Riaz Ahmed | | |
| 4 | Mr. Maqsood-ul-Haq | | |
| 5 | Mr. Iftikhar Ali | | |

The proceedings against the respondents were initiated through show cause notice (the “SCN”) dated February 20, 2017 (the “SCN”) under the provisions of sections 158 and 245 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).



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2. The brief facts of the case are that the Company did not hold its annual general meeting ("AGM") for the year ended June 30, 2016 on or before October 31, 2016, in terms of sub-section (1) of section 158 of the Ordinance. Further, it also did not file the interim financial statements for the period 30 September 2016 ("Quarterly Accounts") in physical form with the Commission, as per requirements of section 245 of the Ordinance. Consequently, the SCN was issued to the Company for non-holding of AGM for the year 2016 and non-filing of quarterly accounts. The SCN was issued to the respondents wherein they were called upon to show cause in writing within fourteen days as to why penal action may not be taken against them under section 158 and 245 of the Ordinance.

3. Hearing opportunities were given to the respondents on March 6, 2017, March 28, 2017, May 10, 2017 however no one appeared. Hearing in the matter was held on May 25, 2017, Mr. Shadman Shoaib and Mr. Abid Amin (the "Authorized Representatives") appeared on behalf of the respondents before the undersigned and submitted that the Company had sought directions to hold the AGM for the year 2015 and will hold the AGM for the year 2016 later. The Commission however directed it to hold the AGMs for the year 2015 and 2016 together however after passage of reasonable time the Company has not complied with the Commission's directions nor has it provided any update in this regard. The Company has also defaulted in submission of quarterly accounts, hence this Order.

4. Before proceeding further, it is necessary to advert to the following relevant provisions of the Ordinance. Sub-section (1) of section 158 of the Ordinance, inter alia, provides as under:

Every company shall hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of its incorporation and thereafter once at least in every calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting:

Sub-section (4) of section 158, inter alia, provides as under:

If default is made in complying with any provision of this section, the company and every officer of the company who is knowingly and willfully a party to the default shall be liable,--

(a) if the default relates to a listed company, to a fine not less than fifty thousand rupees and not exceeding five hundred thousand rupees and to a further fine not exceeding two thousand rupees for every day after the first during which the default continues;



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5. In terms of sub-section (1) of section 245 of the Ordinance read with Commission's circular no. 9 dated March 19, 2003, all listed companies are, inter alia, required to file their quarterly accounts with the Commission within stipulated time i.e. one month from the close of first and third quarters and two months from the close of second quarter.

Sub-section (3) of section 245, inter alia, provides as under:

(3) If a company fails to comply with any of the requirements of this section, every director, including chief executive and chief accountant of the company who has knowingly by his act or omission been the cause of such default shall be liable to a fine of not exceeding one hundred thousand rupees and to a further fine of one thousand rupees for every day during which the default continues.

In terms of the Commission's notification SRO 1003 (I)/2015 dated October 15, 2015, the powers to adjudicate cases under sections 158 and 245 have been delegated to the Director (Corporate Supervision Department).

6. I have analyzed the facts of the case, relevant provisions of the Ordinance, and facts available on record. The previously mentioned provisions of the law are clear and explicit. A company is required to hold its AGM within four month from the close of its financial year if the Commission may extend the time for thirty days based on application by the company. Holding of AGM is a very important statutory event and provides an opportunity to the shareholders, including those in minority, to participate in discussion and voting on agenda items of the AGM. This includes consideration and approval of a company's financial statements, which not only show the financial position and performance of the company but also show the results of management's stewardship of resources entrusted to it. Further the fact that timing of interim financial statements is of essence the disclosure and audit requirements of these accounts have been kept to a bare minimum. Interim financial statements prepared properly and in a timely manner not only provide to its users a reliable source of information regarding a company's financial position and performance but these also show the results of management's stewardship of resources entrusted to it. In order to ensure transparency, all the companies must meticulously follow the legal requirement for preparing and circulation of interim accounts. In addition to their responsibilities of overseeing and managing affairs of the Company, directors also have fiduciary duties towards the Company and its shareholders. They are, therefore, liable to a higher level of accountability, which requires them to be vigilant and perform their duties with care and prudence. It is directors' responsibility to oversee the functioning of the company, to keep it appropriately



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staffed and organized to ensure due compliance of law. In this context, the respondents cannot absolve themselves of their statutory duties regarding holding of AGMs, preparing, and filing of annual and quarterly accounts in a timely manner as required by the law.

7. In view of the above stated facts, I have concluded that the provisions of the law have been violated. The default is clear and the respondents have not yet held the overdue AGMs and submitted the quarterly accounts, hence, the respondents are liable to fine in terms of section 158 of the Ordinance, as they have failed to hold the AGM of the Company for the year ended June 30, 2016 despite lapse of considerable time after the due date. Therefore, in exercise of powers conferred by sub-section (4) of section 158 of the Ordinance, I hereby impose a fine of Rs.50,000 (Rupees fifty thousand only) on each of the respondents, as per following detail:

S. No.	Names of Directors	2016	Amount in Rs.
1	Mr. Sohail Maqsood	50,000	50,000
2	Mr. Tanveer Ahmed	50,000	50,000
3	Mr. Riaz Ahmed	50,000	50,000
4	Mr. Maqsood-ul-Haq	50,000	50,000
5	Mr. Iftikhar Ali	50,000	50,000
6	Mr. Muhammad Yousuf	50,000	50,000
7	Mr. Hussain Athar	50,000	50,000
	TOTAL		350,000

8. Further to above, I, hereby impose a fine of Rs.70,000 on the respondents in aggregate for contravening the provisions of section 245 of the Ordinance. The respondents are directed to deposit the fine in the following manner:

S.#	Names of Directors	Amount in Rs.
1	Mr. Sohail Maqsood	10,000
2	Mr. Tanveer Ahmed	10,000
3	Mr. Riaz Ahmed	10,000
4	Mr. Maqsood-ul-Haq	10,000
5	Mr. Iftikhar Ali	10,000
6	Mr. Muhammad Yousaf	10,000
7	Mr. Hussain Athar	10,000
	TOTAL	70,000



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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 receipted bank vouchers must be furnished to the Commission. In case of non-deposit of the fine, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the aforesaid fines are imposed on the respondents in their personal capacity; therefore, they are required to pay the said amount from personal resources.

Amjina Aziz

Director (CSD)

Announced:

December 27, 2017

Islamabad

