

IN THE HIGH COURT OF SINDH AT KARACHI

JCM No. 02 of 2018

Additional Registrar of Companies

----- Petitioner

Versus


Apollo Textile Mills Limited

----- Respondent

INDEX

S.No.	Description	Annexure	Page No.
1.	Memo of Petition		1-19
2.	Supporting Affidavit		21
3.	Certificate of Incorporation	A/1	23
4.	Memorandum of Association	A/2	25-31
5.	Articles of Association	A/3	33-55
6.	Form 21 dated 23.5.2011	A/4	57
7.	Form-A made up to 29.10.2011	A/5	59-63
8.	Financial Statements for the year ended June 2015	A/6	65-135
9.	Financial Statements for the year ended June 2016	A/7	137-209
10.	Show Cause Notice dated 18.4.2017	A/8	211-215
11.	Order dated 14.3.2016	A/9	217-229
12.	Sanction Order dated 11.7.2017	A/10	231-239
13.	Memo of Appearance		241

Karachi
Dated:


Advocate for Petitioner

/

IN HIGH COURT OF SINDH AT KARACHI
(Company Jurisdiction)

J.C. Misc. No. 02 of 2018

In the Matter of Companies Act 2017
And of
Apollo Textile Mills Limited

Additional Registrar of Companies,
Securities & Exchange Commission of Pakistan,
Company Registration Office Karachi, 4th Floor,
State life Building No.2, Wallace Road,
Off. I.I. Chundrigar Road, Karachi. ----- Petitioner

Versus

Apollo Textile Mills Limited,
Incorporated under the then Companies Act 1913,
Having Registered Office at: 1-C, 16th Commercial Street,
Phase II Ext., DHA, Karachi. ----- Respondent

PETITION UNDER SECTIONS 301 & 304 OF THE
COMPANIES ACT, 2017 AND RULE 75 OF THE
COMPANIES (COURT) RULES, 1997

The Petitioner above named most respectfully submits as under:

1. That the address of the Petitioner for the service of all notices, processes, etc. is Additional Registrar of Companies, Securities & Exchange Commission of Pakistan, Company Registration Office Karachi, 4th Floor, State life Building No.2, Wallace Road, Off. I.I. Chundrigar Road, Karachi.
2. That the Respondent is a company incorporated on 9.8.1973 under the then Companies Act 1913 under the name and style of 'M/s. APOLLO TEXTILE MILLS LIMITED.'

*A copy of Certificate of Incorporation is filed
herewith as Annexure A/I*

3. That the main objects *inter alia* of the Respondent as per its Memorandum of Association are “to carry on the business of spinners, weavers, manufacturers, ginnerers, pressers, packers, and balers of cotton, jute, silk, artificial silk, wool and any other fibrous material and the cultivation thereof and the business of weaving, knitting or otherwise manufacturing, bleaching, printing and selling yarn, cloth, linen, hosiery, waste and water products and other goods and fabrics whether textile frebled, netted, or looped and of buying selling and dealing in cotton and other goods or merchandise made thereof, and generally to transact all manufacturing or curing and preparing process and mercantile business that may be necessary or expedient and to purchase and vend raw materials and manufactured articles”.

Copies of the Memorandum & Articles of Association are filed herewith as Annexures A/2 and A/3 respectively.

4. That the Registered Office of the Respondent as per record maintained by the Petitioner is situated at 1-C, 16th Commercial Street, Phase II Ext., DHA, Karachi.

A copy of Latest Form-21 dated 23.5.2017 is filed herewith as Annexure A/4.

5. That as per Form A made up to 29.10.2011, the Authorized Capital of the Respondent is Rs.200,000,000/- divided into 20,000,000/- shares of Rs.10/- each. Whereas, paid up capital as per said Form A is Rs.82,847,000/- divided into 8,284,700/- shares of Rs.10/- each.

A copy of Form-A made up to 29.10.2011 is filed herewith as Annexure A/5.

6. That the Auditors of the Respondent Company M/s Moochhala Gangat & Company, Chartered Accountants, have given a disclaimer of opinion on the Account for the year ended June 30, 2016. For ease of reference relevant paragraphs (I to VIII) of the Auditors Reports are reproduced hereunder:-

- i) *The company has stopped its operations since the closing of financial year 2014 and during the year ended June 30, 2016 the Company sustained after tax loss of Rs.91.810 million and its accumulated losses stood at Rs.7.765 million. These events indicate a material uncertainty that may cast significant doubt on the Company's ability to continue as a going concern and therefore the company may be unable to realize its assets and discharge its liabilities in the normal course of business. The financial statements have been prepared on the going concern basis but in our opinion, management use of going concern assumption in the financial statements is inappropriate.*
- ii) *As disclosed in note 15.1 and 15.2 of the financial statements where it has been mentioned that the Stocks of raw cotton and cotton yarn was misappropriated by the banks and their muqaddams amounting to Rs.128,360,0559 and Rs.128,360,0559 respectively which were pledged with various financial institutions. The Company has filed Suits against them in the Honorable High Court for the recovery of value of misappropriated stocks as disclosed in the aforesaid note. We would also like to draw your attention towards Note 12.1.1. to 12.1.8 which describes the matters relating to the stocks and pending suits filed by and against the company.*
- iii) *As disclosed in Note 12.1.1. to 12.1.8 of the financial statements where it has been mentioned that are there are suits filed against the company.*
- iv) *We have sent various confirmations to banks/financial institutions and legal advisors for the confirmation of long-term finances, marginal bank guarantees, liabilities against assets subject to finance lease, short-term finances, bank balances and contingencies and commitments reported in the financial statements. However, we did not receive any replies from them.*
- v) *The company has not charged finance cost on long-term finances, short-term finances and finances lease obtained*

from banks/financial institutions and also the current maturity of long-term finances has not been made in the financial statements by the company.

- vi) The company is following a revaluation model to value land and buildings and plants and machinery as per the requirements of IAS-16. However, the company has not carried out any revaluation since May 31, 2005. Further, the recoverable amount of surplus on revaluation of fixed assets is dependent upon continued operation of the company.*
- vii) The company is operating an unfunded gratuity scheme and is following actuarial valuation to calculate provision as per requirement of IAS-19. However, the company has not carried out actuarial valuation since June 30, 2009.*
- viii) We were unable to obtain appropriate evidence as to the some of the assets and liabilities.*

7. That previously auditors of the Company namely, Nazir Chaudhuri & Company, Chartered Accountants, in their report for the year ended in 30.06.2015 had also given similar disclaimer of opinion along with same audit observations while also observing that the business of the Company had remained ceased since the close of financial year 2014.
8. That the Director's report to the shareholders for the financial years ended in June 30, 2015 and June 30, 2016 have also concurred to the auditor's observations on stoppage of business operations and stated that the company's functions remained closed due to prevalent rises in the textile sector. This further fortifies the disclaimer of opinion.

Copies of Financial Statements for the year ended June 30, 2015 and Financial Statements for the year ended June 30, 2016 are filed herewith as Annexures A/6 and A/7 respectively.

9. That before filing of this Petition, the Petitioner had approached the Commission, for grant of sanction, in terms of clause (b) of Section 309

read with clause (c) of Section 305 of the then Companies Ordinance 1984 to present a Petition before this Honorable Court for winding up of the Respondent on the grounds that the Company had suspended its business for more than a year i.e. since closing of financial year 2014.

10. That subsequently a Show Cause Notice dated 18.04.2017 under Section 309 read with Section 305 of the then Companies Ordinance, 1984 was served on the Company, its Directors (including the CEO and the Chief Accountant of the Company), as to why a petition for winding up of the Company should not be presented by the Registrar of the Companies in the competent Court of Law.

A copy of Show Cause Notice dated 18.04.2017 is filed herewith as Annexure A/8

11. That, in order to provide opportunity to the Respondent; a hearing the was scheduled in the matter which was fixed for the 03.05.2017, a reply was received from Moochhala Gangat & Company, Chartered Accountants representatives of the Company for extension of time and for rescheduling the hearing. Consequently, the hearing was rescheduled for 24.05.2017 on which date the CEO of the Respondent Company Mr. Abdul Rehman Zahur and Mr. Hussain, Corporate Manager of Moochhala Gangat & Company, Chartered Accountants were present. Mr. Zahur apprised that the resumption operations of the textile mill could not take effect due to excessive load shedding which has amplified the production cost. The CEO opined that the mill had the potential for revival. Upon being queried on the major audit observations appearing on the audit report and reason as to why the directors of the company were drawing high salary despite the mill being at standstill, Mr. Zahur informed that all the observations of the commission would be cleared in the future. When asked as to why the revaluation of the assets have not been carried out since 2005, Mr. Zahoor responded that the company may be wound up. The CEO was also asked about the foreign

shareholder holding 79% of the Company's shares to which the CEO was oblivious and responded that he was not aware of the name of the foreign shareholder.

12. That the past track record of the Respondent Company may please also be taken on account. Previously the Company had violated sections 429 and 196 of the then Companies Ordinance 1984 as the Company did not disclose and denied its relationship with an export customer namely 'Textile Global Marketing USA' (TGM) a related party in which Mr. Zahur Ahmed an Ex Director of the Company and father of two directors of the Company namely Ikram Zahur and Abdul Rehman Zahur was the registered agent of TGM.
13. That the company also made provisions for doubtful debts amounting to Rs.25.973 million which were receivable from "Textile Global Marketing, USA" against the export sales. The directors of the company approved the provision for doubtful debts in a board meeting against the requirements of Section 196(3)(b) of then Companies Ordinance 1984, which requires approval of company's shareholders in case of related parties. A penalty was imposed on the Company on both accounts of violation under Section 196 and 492 of the Ordinance. A revision appeal under Section 477 of the Ordinance was preferred by the Respondent Company which was dismissed by the competent Authority vide Order dated: 14.03.2016.

A copy of Order dated 14.03.2016 is filed herewith as Annexure A/9

14. That in past the Company has also violated provisions of Sections 245 of the then Ordinance for which and Order was issued and penalty was imposed on the company for not filing the quarterly accounts for the quarters ended 30.09.2014, 31.12.2014, 31.03.2015 and 30.09.2015 in a timely manner. The Company preferred an appeal before the Appellate Bench of the Securities and Exchange Commission of Pakistan against the

Impugned Order, the learned Appellate Bench vide its Order dated 31.10.2016, upheld the Impugned Order. Furthermore, the Company was also issued a strict warning vide Order dated 26.05.2017 for delayed filing of quarterly accounts for the quarters ended 30.12.2015 and 30.09.2016.

15. That the business activities of the Respondent Company have remained suspended since 2014. Two different auditing firms have concurred the same in their Reports for the years 2015 and 2016 and they have given 'disclaimer of opinions' on the Accounts for the years ended 30.6.2015 and 30.06.2016. Furthermore, the Management of the Respondent Company has not submitted any revival plan, which could support the case for an early resumption of business activities.
16. That before filing of this petition the petitioner had approached the Commission for grant of Sanction in terms of Section 304 read with Section 301 of Companies Act 2017.

*A copy of Sanction Order dated 11.7.2017 is filed
herewith as Annexure A/10*


17. That in view of the facts so elucidated and explicated elaborately herein above, the Respondent Company is thus justifiably liable to be wound up in terms of clause (m) of section 301 of the Act.
18. That this Honorable Court has jurisdiction to entertain this Petition as the Registered Office of the Respondent is situated at Karachi.
19. That the instant Petition has been drafted in accordance with the Companies (Honorable Court) Rules, 1997 and the necessary documents are annexed with the Petition.
20. That in view of the forging circumstances and facts, the Respondent is liable to be wound up by this Honorable Court under the provisions of the Companies Act 2017 on the following grounds:

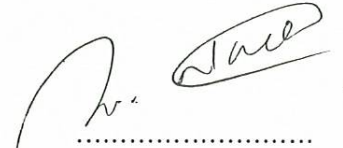
GROUND S

- A. That the Respondent Company has violated the mandatory provisions of clause (m) of section 301 of the Companies Act 2017 and has failed to discharge its legal obligations regarding the Statutory Provisions so enshrined therein.
- B. That the Company has suspended its business activities since 2014, more than three years have elapsed since then.
- C. That since the closure of business in 2014, there is no change in the status of the Company. The chances of revival of the Company are bleak which is substantiated by the fact that total assets of the Company have reduced from Rs.2617 million in 2014 to Rs.2370 million in 2016, whereas, the net equity has eroded, dipping down from Rs.310 million in 2014 to Rs.217 million in 2016.
- D. That lack of interest, seriousness and efforts for revival of Company is clearly visible as no revival plan has been submitted by the Company which can envisage a road map for restarting the business operation of the Company.
- E. That the Petitioner has obtained sanction from the competent Authority in terms of Section 304 of the Companies Act 2017.
- F. That the Petitioner craves the leave of this Honorable Court to urge further/additional grounds at the time of hearing.

VERIFICATION

I, Muhammad Naeem Khan son of Muhamad Ayoub Khan, Muslim, adult, the Additional Registrar of Companies / In charge Company Registration Office, Karachi of Securities and Exchange Commission of Pakistan having office at 4th floor, state life Building No.2, Wallace Road, Off: I. I. Chundrigar Road, Karachi, do hereby state on oath that whatever is stated herein above true and correct to the best of my knowledge, information and is based on the record available with me.


 ASSISTANT REGISTRAR-V
 AFFIDAVIT & IDENTITY BRANCH
 HIGH COURT OF SINDH


 DEPONENT.
 MUHAMMAD NAEEM KHAN
 Additional Registrar Of Companies
 Company Registration Office
 Securities & Exchange
 Commission Of Pakistan
 Karachi.
 Cell No.0321-3780223
 CNIC 42301-4668408-9

The Deponent above named is known to me and is identified by me to the Commissioner for taking Affidavits.

ADVOCATE

Stated on oath before me at Karachi on ____ day of November 2017 by the Deponent above named who is identified to me by Mr. Syed Imran Ali Shamsi, Special Public Prosecutor/Legal Officer for the Petitioner, who is known to me personally.

PRAYER

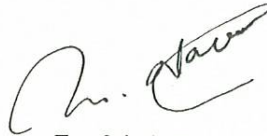
It is therefore, prayed that this Honorable Court in the circumstances and in the interest of the justice may be pleased to:

- i. Order that the above named Respondent Company be wound up under the provisions of the Companies Act, 2017.
- ii. That any person other than the Official Assignee may kindly be appointed as an Official Liquidator since he is already the official Liquidator in numerous companies and in terms of section 315 (2) of the Companies Act 2017, no person can be appointed as an Official Liquidator in more than three (03) companies at one point of time.
- iii. Such other Order as this Honorable High Court deems just and proper in the circumstances of the case.
- iv. Grant costs of the Petition.



Advocate for Petitioner

Karachi
Dated:



For & behalf of Petitioner

MUHAMMAD NAEEM KHAN
Additional Registrar Of Companies
Company Registration Office
Securities & Exchange
Commission Of Pakistan
Karachi.

IN THE HIGH COURT OF SINDH, KARACHI

Judicial Companies Misc. No: 02 of 2017

Additional Registrar of Companies ----- PETITIONER

VERSUS

Apollo Textile Mills Limited ----- RESPONDENT

AFFIDAVIT IN SUPPORT OF VERIFICATION OF J.C.MISC.

Mr. Muhammad Naeem Khan Son of Muhammad Ayub Khan, resident of House No.33 Street No.5 Jinnah Abad No.II Siddique Wahab Road Karachi Having Office at 4th Floor State Life Building No.II Wallace Road Off I.I Chundrigar Road Karachi, affirmed on oath before me at Karachi on this 28-DEC-2017 in the 'Identity Section' of this court.

Photograph of Deponent



Signature of Deponent

CNIC: 42301-4668408-9

Cell No: 0321-3780223

Email: NIL

- Original CNIC verified by Bar Code Reader
- Photo taken at I.S.
- Biometric Attendance done at I.S.
- Video recording done at I.S.
- CNIC verified through NADRA
- Finger Prints verified through NADRA

COMMISSIONER FOR TAKING AFFIDAVITS
DEPUTY REGISTRAR-V
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

Tag ID: 281217341528

No. of Affidavit : 1/2

Cost received : Rs. 50

Printed on: 28-DEC-2017 at 12:52 pm



Electronic Finger
Print
taken at I.S.

For Immediate Use

IN HIGH COURT OF SINDH AT KARACHI

J.C. Misc. No. 02 of 2018

Additional Registrar of CompaniesPetitioner

VERSUS

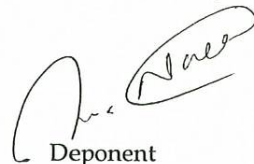
Apollo Textile Mills LimitedRespondent

AFFIDAVIT IN SUPPORT OF PETITION

I, Muhammad Naeem Khan Son of Muhammad Ayub Khan, Muslim, adult having office at 4th Floor, State Life Building No. 2, Wallace Road, Off: I.I Chundrigar Road Karachi, do hereby state on oath as under:

1. That I am Additional Registrar of Companies, Company Registration Office, Karachi, Securities And Exchange Commission of Pakistan, duly authorized to file the accompanying petition for Winding Up against Respondent Company and I am fully conversant with the facts of the matter.
2. That the accompanying Petition has been drafted and filed under my instructions, contents whereof are true and correct which may be read as part and parcel of this Affidavit for brevity sake.
3. I say that it is in the public interest that the Respondent Company be ordered to be wound up by this Hon; able Court.

Whatsoever stated above is true and correct to the best of my knowledge and belief.



Deponent
CNIC No. 42301-4668408-9
Cell No. 0321-3780223



ASSISTANT REGISTRAR-V
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

MUHAMMAD NAEEM KHAN
Additional Registrar Of Companies
Company Registration Office
Securities & Exchange
Commission Of Pakistan
Karachi.

IN THE HIGH COURT OF SINDH, KARACHI

Judicial Companies Misc. No: 02 of 2018

Additional Registrar of Companies ----- PETITIONER
VERSUS
Apollo Textile Mills Limited ----- RESPONDENT

AFFIDAVIT IN SUPPORT OF MAIN PETITION

Mr. Muhammad Naeem Khan Son of Muhammad Ayub Khan, resident of House No.33 Street No.5 Jinnah Abad No.II Siddique Wahab Road Karachi Having Office at 4th Floor State Life Building No.II Wallace Road Off I.I Chundrigar Road Karachi, affirmed on oath before me at Karachi on this 28-DEC-2017 in the 'Identity Section' of this court.

Photograph of Deponent



Signature of Deponent

CNIC: 42301-4668408-9

Cell No. 0321-3780223

Email: NIL

- Original CNIC verified by Bar Code Reader
- Photo taken at I.S.
- Biometric Attendance done at I.S.
- Video recording done at I.S.
- CNIC verified through NADRA
- Finger Prints verified through NADRA

ASSISTANT REGISTRAR-V
COMMISSIONER FOR TAKING AFFIDAVIT
AFFIDAVIT & IDENTITY BRANCH
HIGH COURT OF SINDH

Tag ID: 281217341528

No. of Affidavit : 2/2

Cost received : Rs. 50

Printed on: 28-DEC-2017 at 12:52 pm



Electronic Finger
Print
taken at I.S.