



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN
Enforcement Department

[Islamabad]

Before Ashfaq Ahmed Khan, Director (Enf)

Order

In the matter of

M/S. Zahur Textile Mills Limited

(Under Sub-section (4) of Section 158 of the Companies Ordinance, 1984.)

Number and date of notice	EMD/Enf-II /291/2004 dated April 06, 2004
Date of hearing	May 04, 2004
Present	Mr. Ejaz-ul-Haque Director & Company Secretary
Date of Order	May 10, 2004

This order shall dispose of the proceedings initiated against M/S Zahur Textile Mills Limited (the “Company”) and its directors for default made in complying with the provisions of Sub-section (1) of Section 158 of the Companies Ordinance, 1984 (“the Ordinance”).

2. The underlying facts of this case briefly stated are that in terms of the provisions of Sub-section (1) of Section 158 of the Ordinance, the Company was required to hold its Annual General Meeting (AGM) for the year ended September 30, 2003 on or before January 31, 2004. The Company failed to comply with the aforesaid mandatory requirement, which necessitated action against the Company and its directors in terms of Sub-section (4) of Section 158 of the Ordinance.

3. Accordingly, a show cause notice dated April 06, 2004 was served on the Company and its directors including the Chief Executive calling upon them to show cause as to why penalties as provided under Sub-section (4) of Section 158 read with Section 476 of the Ordinance may not be imposed upon them for the aforesaid contravention. The Company and its directors failed to respond the aforesaid notice.

4. In order to give an opportunity of personal hearing, the case was fixed on May 04, 2004. On the date of hearing, Mr. Ejaz-ul-Haque, Company Secretary appeared before me to plead the case on behalf of all the respondents. During the course of hearing, Mr. Ejaz-ul-Haque, while admitting the default contended that the head of computer department of the Company, on account of a dispute with the



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Company, corrupted the computer data. Due to unavailability of accounting data the management of the Company was unable to prepare the accounts for the year ended September 30, 2002 and to hold the AGM for the year 2003, for which penalty was imposed by the Commission. Consequently, interim and annual accounts for the subsequent periods could not be prepared. It was because of this reason that the Company could not hold the AGM for the subsequent year ended September 30, 2003 within the stipulated time. He further submitted that now this issue has successfully been resolved and he has taken up the matters relating to preparation of accounts. He also submitted a schedule for holding of overdue AGM for the year ended September 30, 2002. According to the schedule, the annual accounts for the year ended September 30, 2002 will be finalized till June 25, 2004 and the AGM for the year will be held on July 29, 2004. He assured that soon after the holding of aforesaid AGM the efforts shall be expedited for finalization of accounts and holding of AGM for the year ended September 30, 2003. Mr. Ejaz promised for future compliance and requested for a lenient view.

5. Considering the circumstances of the case and the submissions of the respondents, I am of the opinion that the contentions of the directors do not justify default under Section 158 of the Ordinance because the holding of AGM once in a calendar year is a mandatory requirement of law and the meeting must be convened whether or not the annual accounts, the consideration of which is one of the several agenda items, are ready for presentation before the shareholders. Moreover, the track record of the Company with regard to holding of AGM and filing of accounts is also not satisfactory. The Company and its directors have been penalized a number of times in the past for default in holding of Annual General Meeting within the time period prescribed in the Ordinance. In the circumstances, repetition of the default by the company cannot be termed as unintentional. Hence, the default under Section 158 is considered willful and deliberate, which attracts the provisions of Sub-section (4) of Section 158 of the Ordinance.

6. Though the default is considered willful, yet, keeping in view the assurance given by the company to comply with the mandatory requirements of law in future, I am inclined to take a lenient view of default in holding of AGM and instead of imposing the maximum fine of Rs. 50,000 on every director and a further fine of Rs. 2,000 per day for continuous default, I impose a fine of Rs. 20,000 (Rupees twenty thousand only) on each director including the Chief Executive of the Company under Sub-section (4) of Section 158 read with Section 476 of the Ordinance. The detail of the penalties imposed is as follows:



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S.#	Name	Penalty (Rupees)
		For the period ended 30-09-2003
1	Mr. Mohsin Zahur, Chief Executive	20,000
2	Mr. Arif Zahur, Director	20,000
3	Mr. Ijaz-ul- Haq, Director	20,000
4	Mr. S.M. Akhtar, Director	20,000
5	Mr. Raza Arif, Director	20,000
6	Mr. Saeed Ullah Chaudhary, Director	20,000
7	Lt. Col (R) Afzal Muzaffar, Director	20,000
8.	Mr. Saleem Ansar, Director	20,000
	Total	160,000

7. The Chief Executive and directors of the Company are hereby directed to deposit the aforesaid fines in the designated bank account maintained in the name of Securities and Exchange Commission of Pakistan with Habib Bank Limited within thirty days from the receipt of this order and furnish receipted challans to the Commission.

Ashfaq Ahmed Khan
Director (Enforcement)

Announced:
May 10, 2004
ISLAMABAD