

Securities and Exchange Commission of Pakistan  
*Enforcement and Monitoring Division*  
7<sup>th</sup> Floor, NIC Building, Jinnah Avenue, Islamabad

*Before Rashid Sadiq, Executive Director*

*IN THE MATTER OF*  
**M/S PUNJAB COTTON MILLS LIMITED**

Number and date of notice	EMD/233/170/2002 dated June 20, 2002
Date of hearing	July 10, 2002
Present	Mr. Fayaz Rahim Chief Executive

ORDER UNDER SUB-SECTION (7) OF SECTION 254  
OF THE COMPANIES ORDINANCE, 1984

This is a case where an unqualified person was appointed as auditor of M/S Punjab Cotton Mills Limited (the “Company”). In order to appreciate the issues raised in the show cause notice and the Company’s arguments, it is necessary to go into the background facts of this case.

2. M/s. Azim & Co., Chartered Accountant was appointed as auditor of the Company in the Annual General Meeting held on March 31, 2001 to hold office from the conclusion of the said meeting until the conclusion of next Annual General Meeting. During the course of examination of the accounts and reports submitted to the Commission by the Company under Sub-section (5) of Section 233 of the

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Companies Ordinance, 1984 (the “Ordinance”), it transpired that M/s Azim & Co. Chartered Accountants had audited the accounts of the Company for the year ended September 30, 2001. In response to a query of the Commission, the Institute of Chartered Accountants of Pakistan (the “ICAP”) informed that Mr. Salman Azim, the sole proprietor of M/s. Azim & Co., Chartered Accountant was removed from the Register of Members of ICAP with effect from July 01, 1999. The matter was then taken up with Mr. Salman Azim and after providing him an opportunity to clarify his position, the Commission imposed a fine on him under Sub-section (6) of Section 254 of the Ordinance for acting as auditor of the Company in contravention of Sub-section (1) of Section 254 of the Ordinance.

3. As the Company has, *prima facie*, violated the provisions of Sub-section (1) of Section 254 of the Ordinance by appointing a person, not qualified to be an auditor of a company, therefore, in order to adjudicate this matter and to appoint a qualified person as auditor of the Company, a notice was served on the directors and Chief Executive of the Company to show cause as to why penalty as provided in Section 259 of the Ordinance may not be imposed on them and why the Commission may not appoint a qualified person in place of Mr. Salman Azim under Section (7) of Section 254 of the Ordinance.

4. In response to the aforesaid show cause notice, the Company’s reply was received through its letter June 26, 2002. In order to provide an opportunity of personal hearing, the case was fixed for hearing on June 27, 2002, which at the request of the Company was adjourned to July 10, 2002. On the date of hearing, Mr. Fayaz Rahim, Chief Executive of the Company appeared to represent himself as well as other directors and advanced his arguments.

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5. In the written submissions as well as at the time of hearing, it was contended that M/S Azim & Co., Chartered Accountant was first appointed as auditors of the Company for the year ended September 30, 1999 in the Board of Directors meeting held on February 10, 2000 and was re-appointed in the subsequent years. It was averred that during the aforesaid years, the Company or any of its officers were never aware of the fact that Mr. Salman Azim was removed from the Register of Members of ICAP. He also contended that it was the responsibility of the ICAP to have informed such companies, who have appointed Mr. Salman Azim as auditor of the Company, that his name had been removed from the Register of Members and that he was not eligible for appointment as auditor of a company. Accordingly, it was argued that the non-compliance with the provisions of the Ordinance was not committed knowingly and willfully. Mr. Fayyaz Rahim, however, agreed to the appointment of “auditors” by the Commission in terms of Sub-section (7) of Section 254 of the Ordinance.

6. Before addressing the arguments presented by the Chief Executive, I consider it necessary to advert to the provisions of the Ordinance, which are relevant in the context of this case. Sub-section (1) of Section 254 of the Ordinance requires that a person shall not be appointed as an auditor in the case of a public company unless he is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961. Sub-section (5) of the said Section provides that if, after his appointment, an auditor becomes subject to any of the disqualifications specified in the said Section, he shall be deemed to have vacated his office as auditor with effect from the date on which he becomes so disqualified. Sub-section (7) of Section 254 of the Ordinance further provides that the appointment as auditor of a company of an unqualified person, or of a person who is subject to any disqualification to act as such, shall be void, and where such an appointment is

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made by a company, the Commission may appoint a qualified person in place of the auditor appointed by the company. These provisions of law are clear and unambiguous. The purpose of these provisions is to ensure that only qualified persons having requisite knowledge and expertise shall act as auditors of a company. The appointment of an unqualified person, therefore, is void in terms of the aforesaid provisions of law.

7. Reverting to the arguments of the Company, it has been noted that it is usual practice of the companies to get consents from the qualified persons to act as their auditors before their appointments as auditors in the Annual General Meetings. In this case neither Mr. Salman Azim has informed the Company that he was not qualified for appointment as auditor of a Company nor the Company received any information that his name has been removed from the Register of Members. In these circumstances, there was no reason to suspect that Mr. Salman Azim was not eligible for appointment as an auditor of the Company. I am, therefore, of the view that the default committed by the Company was not deliberate. Accordingly, no fine is imposed for violation of Sub-section (1) of Section 254 of the Ordinance. The appointment of Mr. Salman Azim who was directed by the ICAP not to use designation of "Chartered Accountant" is, however, void and the Commission has to appoint qualified auditor in place of the auditor appointed by the Company in terms of the provisions of Sub-section (7) of Section 254 of the Ordinance.

8. For the foregoing, I hereby appoint M/S Hassan, Farooq, Rizwan & Co., Chartered Accountants 3rd Floor, 10-A, Wahdat Road, Lahore as auditors of the Company to hold office until the conclusion of next Annual General Meeting of the Company at a fee of Rs. 15,000 and to review the original audits for the years ended September 30, 1999, 2000 and 2001 at a consolidated fee of Rs. 15,000 and report

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with reasons, whether a second audit is needed or not. They are required to submit to the Commission their review report within 30 days of the date of this Order. On receipt of the review report, the Commission will take further necessary action in this matter. The audit report for the year ended September 30, 2002 shall be submitted to this Commission as per requirements of the provisions of the Companies Ordinance, 1984.

***RASHID SADIQ***  
Executive Director (Enforcement & Monitoring)

***Announced***  
***July 15, 2002***  
***ISLAMABAD***