

Securities and Exchange Commission of Pakistan
Enforcement and Monitoring Division
7th Floor NIC Building, Blue Area, Islamabad.

IN THE MATTER OF
M/S AMAZAI TEXTILE MILLS LIMITED

No. and date of show cause notice	19 (753) CF/ISS/93 dated August 29, 2000
Date of final hearing	July 25, 2001
Present	Mr. Fahd Kundi, Chief Executive
Date of order	August 30, 2001

ORDER UNDER SECTION 265 OF THE COMPANIES
ORDINANCE, 1984

On examination of the annual accounts for the year ended September 30, 1999 of M/S Amazai Textile Mills Limited (the "Company"), it was revealed that its accumulated losses as on September 30, 1999 stood at Rs.92.13 million against total equity of Rs. 42.21 million and current liabilities of the Company exceeded current assets by almost 16 times. The manufacturing capacity was not being utilized fully and the Company was unable to meet even its direct costs. The financial position of the Company, therefore, was such as to endanger its solvency. The accounts were also qualified by the auditors of the Company expressing doubts about the Company's ability to continue as a going concern. The share of the face value of Rs 10 of the Company was being quoted on the stock market at below Rs 1. The Company has not paid any return to its members since its listing on the Karachi and Lahore Stock Exchanges in the year 1992. The aforesaid circumstance suggested that the affairs of the Company were not being managed in accordance with the sound business principles and prudent commercial practices. It was also apprehended that the affairs of the Company were being conducted and managed in a manner as to deprive its members of a reasonable return.

2. In view of the aforesaid dismal state of affairs of the Company, a show cause notice dated August 29, 2000 was served on the Company through its Chief Executive calling upon him to

show cause in writing as to why an inspector under Clause (b) of Section 265 of the Companies Ordinance, 1984 (the "Ordinance") should not be appointed to investigate into the affairs of the Company.

3. The Company did not respond to the show cause notice. A reminder dated September 21, 2000 was issued in response to which the Company vide its letter dated October 03, 2000 informed about non-receipt of show cause notice which was again sent to the Company vide this Commission's letter dated October 18, 2000. The Company again preferred not to respond and a final opportunity to reply in seven days was given vide this Commission's letter dated November 03, 2000.

4. As no response was received from the Company, a hearing in this case was fixed on December 14, 2000, which was adjourned at the request of the Company to January 29, 2001. Instead of appearing on the date of hearing, the Chief Executive of the Company intimated through a letter about his inability to attend the hearing due to serious illness and requesting to re-fix the case in the first week of March 2001. The case was, therefore, re-fixed on March 12, 2001 which was again adjourned at the request of the Company to April 02, 2001 on which date Mr. Kahlid Majid, FCA of M/S Khalid Majid Rahman, Chartered Accountants appeared on behalf of the Company and informed that he had been recently engaged in this matter. He sought an adjournment to study and prepare the case. The case was, therefore, adjourned and re-fixed on April 13, 2001.

5. On the date of hearing, Mr. Khalid Majid, FCA appeared and pleaded the case. He also filed a written reply to the show cause notice stating that the management had tried its best to run the Company profitably, however, the management was forced to close down operations of the Company due to withdrawal of the incentives available to the industries set up in Gadoon Amazai Industrial Estate. He attributed the poor performance of the Company merely to the withdrawal of incentives from the Gadoon Amazai Industrial Estate. He, however, could not substantiate his contention for such a poor performance of the Company. In order to afford another opportunity to the Company to enable its Chief Executive to appear and present the future plan of the Company, the case was fixed for hearing on April 24, 2001. On the said date, Mr. Fahad Kundi, Chief Executive of the Company appeared and advanced his arguments. He reiterated that due to withdrawal of incentives by the Government for the industries set up in Gadoon Amazai Estate, it was not possible to profitably run the Company, therefore, the management has closed down the operations of the Company. He also indicated that due to slump in the textile industry, the management has no intention to revive its operations. In the circumstances, there was no chance of shareholders getting any return from their investment in the Company. On a question on the

realizable value of the assets of the Company, the Chief Executive replied that huge loans were outstanding against the Company and the proceeds from the disposal of assets would not be sufficient to even settle the liabilities of the financial institutions. It was also indicated that the shareholders might not get anything on disposal of Company's assets. He attributed the staggering losses suffered by the Company due to the following reasons:

- Withdrawal of incentives from Gadoon Amazai Industrial Estate.
- Increase in raw material prices without any corresponding increase in the prices of fabrics.
- Rising conversion cost.

He, however, could not present any financial data to substantiate the aforesaid contention. The Company vide its letter dated May 09, 2001 also consented to the appointment of an inspector to investigate into the affairs of the company.

6. At the request of the Chief Executive, another opportunity of hearing was also provided to the Company. The case was finally fixed on July 25, 2001, on which date, Mr. Fahad Kundi appeared and repeated the same arguments as were advanced in written replies and verbal statements in previous hearings. He, however, again consented to the appointment of an inspector to investigate into the affairs of the Company to determine the reasons for the poor performance of the Company.

7. I have given due consideration to the explanations furnished by the Company. The Company has attributed the mounting losses to the withdrawal of incentives from the Gadoon Amazai Industrial Estate. The Company claimed to be directly affected by the imposition of custom duty on the yarn imported from Japan. It was also stated that the Company was hit by the double carrying cost, firstly to bring raw material to the site and secondly, to get the finished goods to the market. The Company, however, has not produced any statistical data substantiating their contention that the withdrawal of incentives was the only cause of staggering losses. No documentary evidence was produced to show that the affairs of the Company were being managed in accordance with sound business principles and prudent commercial practices. It has, however, been observed that several units in the Gadoon Amazai Industrial Estate are operational even after withdrawal of incentives and have improved their performances gradually through prudent commercial practices. Closing down of the project of the Company gives strength to the apprehension that the Company was not being managed in accordance with sound business principles and the sponsors of the Company might run away after selling the assets of the Company. As regards the huge financial liabilities of the Company, it has been stated that the

proceeds may not be even sufficient to discharge the financial obligations. The position has become worse during the year ended September, 30 2000, as the accumulated losses have reached to Rs. 105.719 million and current liabilities of the Company exceeded its current assets by almost 44 times. It is, therefore, evident that the financial position of the Company has further deteriorated in the past one year.

8. The management has no intention to revive the Company. The minority shareholders to whom the directors owe fiduciary obligations are without any return since inception of the Company. In the circumstances, it is the responsibility of the Commission to ascertain factual position through an independent expert. The appointment of inspectors would not be detrimental to the interest of the Company due to the reasons that the operations of the Company are closed. The inspector's report can bring to light as to whether the affairs of the Company were managed in conformity with the accepted principles and standards of good and efficient management. If the inspector holds that the sponsors / directors were not responsible for the current state of affairs of the Company, the report will be helpful to them rather than detrimental to their interests. The Commission can protect the interest of the investors only through initiating a fact-finding exercise.

9. In view of the above discussion and after careful consideration of the submissions made by the Chief Executive and the consultant of the Company and on examination of the documents placed on record, I am of the opinion that the circumstances discussed above suggest that the affairs of the Company have been so conducted and managed as to deprive the members thereof of a reasonable return. Moreover, the affairs of the company, *prime facie*, do not appear to have been managed in accordance with sound business principles and prudent commercial practices. Besides, the financial position of the Company is such as to endanger its solvency.

10. I, therefore, in the public interest and in exercise of the powers conferred on me under clause (b) of Section 265 of the Ordinance, hereby appoint Shaikh Muhammad Tanvir, FCA, of M/S Gardezi & Co. Chartered Accountants, Standard Insurance House, I. I. Chundrigar Road, Karachi, to act as inspectors to investigate into the affairs of M/S Amazai Textile Mills Limited on a remuneration of Rs 100,000/-(Rupees one hundred thousand only) to be paid by the Company.

11. Without in anyway limiting the scope of investigation, the inspector shall conduct investigation on all aspects of the operations of the Company and shall, after scrutiny of the entire record and books of accounts, furnish report, *inter alia*, on the following matters:

- a) Reasons of heavy losses. Whether these losses were totally due to the withdrawal of concessions by the Government in regard to Gadoon Amazi Industrial Estate, NWFP or due to mismanagement, imprudent policies or some other reasons.
- b) Whether funds raised through public issue were utilized in the manner undertaken in the prospectus.
- c) Whether or not the Company has kept proper records as required by Section 230 of the Ordinance.
- d) Misappropriation and misapplications of funds and assets of the Company.
- e) Diversion of funds to unauthorized objects.
- f) Whether or not adequate system of internal controls has existed as to prevent misappropriation and misapplication of Company's assets and resources.
- g) Determination of any false and incorrect statement in directors' report.
- h) Compliance with statutory requirements in the operation of the Company.
- i) To report any lapses or other delinquency detected during the course of investigation.
- j) To suggest future course of action in the interest of the shareholders of the Company.

The inspector shall submit his report alongwith supporting documents to the Commission within sixty days from the date of this order.

RASHID SADIQ
(Executive Director (Enforcement & Monitoring))

Announced
August 30, 2001
ISLAMABAD