



Securities and Exchange Commission of Pakistan
Enforcement and Monitoring Division
7th Floor, NIC Building, Jinnah Avenue, Islamabad

Before Rashid Sadiq, Executive Director

IN THE MATTER OF
M/S F.P. TEXTILE MILLS LIMITED

Number and date of notice	EMD/233/121/2002 dated June 20, 2002
Date of hearing	August 02, 2002
Present	Mian Naseer Ahmad Chief Executive Mr. Haroon Nisar Director

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 F.P. Textile 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 auditors of the Company in the Annual General Meeting held on March 30, 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



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the Commission by the Company under Sub-section (5) of Section 233 of the Companies Ordinance, 1984 (the “Ordinance”), it transpired that M/s Azim & Co. Chartered Accountants had audited the accounts of the Company. In response to the query by the Commission Institute of Chartered Accountants of Pakistan (the “ICAP”) informed that the name of 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 an 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 auditor under Sub-section (7) of Section 254 of the Orders.

4. In response to the aforesaid show cause notice, the Company vide its letter dated June 25, 2002 requested for more time for replying the show cause notice. The request of the Company was acceded to and subsequently a hearing in this matter was fixed for August 02, 2002. On the date of hearing, Mian Nisar Ahmed, Chief Executive and Mr. Haroon Nisar, Director of the Company appeared to represent themselves as well as other directors and advanced their arguments.



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5. In the submissions at the time of hearing, it was contended that M/S Azim & Co., Chartered Accountant were first appointed as auditors of the Company to audit the accounts of the Company for the year ended September 30, 2001 in place of the retiring auditors M/s Namdar & Co., Chartered Accountants in annual general meeting of the Company held on March 30, 2001. Subsequently he was reappointed as auditors in annual general meeting of the Company held on March 30, 2002. It was averred that during the aforesaid period, 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. The Chief Executive also contended that it was the responsibility of the auditor to have informed the Company that his name had been removed from the Register of Members and that he was not eligible for appointment as auditors of a company. Accordingly, it was contended that the non-compliance with the provisions of the Companies Ordinance, 1984 was not committed knowingly and willfully. They, 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 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



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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 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 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, however, is 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, in exercise of the powers conferred on me under Sub-section (7) of Section 254 of the Ordinance, hereby appoint Mr. Ale Imran, FCA 155 Cavalry Ground, Street # 4, Lahore Cantt, to hold office until the conclusion of next Annual General Meeting at a fee of Rs. 15,000 to audit the accounts of M/S F.P. Textile Mills Limited for the year ended September 30, 2002 and to review the



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accounts for the year ended September 30, 2001 at a fee of Rs. 7,500/- and report thereon. They are required to submit their report on the accounts for the year ended September 30, 2001 within 30 days of the date of this Order. For the year ended September 30, 2002, the audit report shall be submitted to this Commission as per requirements of the provisions of the Companies Ordinance, 1984.

Announced
November 04, 2002
ISLAMABAD

RASHID SADIQ
Executive Director (Enforcement & Monitoring)