

Before
Ali Azeem Ikram, Executive Director/Head of Department (Adjudication-I)

In the matter of Show Cause Notice issued to Ali Asghar Textile Mills Limited

Dates of Hearing

December 08, 2020

Order-Redacted Version

Order dated December 31, 2020 was passed by Executive Director/Head of Department (Adjudication-I) in the matter of Ali Asghar Textile Mills Limited. Relevant details are given as hereunder:

Nature	Details
1. Date of Action	Show cause notice dated September 04, 2020
2. Name of Company	Ali Asghar Textile Mills Limited (the Company)
3. Name of Individual*	The proceedings were initiated against board of directors of the Company.
4. Nature of Offence	Violations of under Section 183 read with Section 479 of the Companies Act, 2017.
5. Action Taken	<p>Key findings were reported in the following manner:</p> <p>I have gone through the facts of case, relevant provisions of the law and the record placed before me. Based on the aforesaid, it is evident that the Respondents acknowledged that loan was obtained from directors, sponsors and associated companies without due authorization of board of directors. Therefore the express and self-explanatory requirements of clause (c) to sub-section (2) of Section 183 of the Act were contravened by Respondents. As regards to establishing the intent of Respondents, it is imperative to note that it has been held by superior courts that breach of fiduciary duty is considered willful. In case of City Equitable Fire Insurance Co. Ltd, Re, 1925 Ch 407, it was held that a default, in case of breach of duty, will be considered 'willful' even if it arises out of being recklessly careless, even though there may not be knowledge or intent. The Respondents have been negligent in ensuring compliance of applicable law.</p> <p>From the above discussion and after careful consideration of all the facts of this case, I am of the view that the provisions of clause (c)</p>

	<p>to Sub-Section (2) of Section 183 of the Act have been contravened and the Respondents are liable under the Sub-section (6) of the Section 183 of the Act. Taking cognizance of the submissions of the Respondents and in exercise of the powers conferred under aforesaid provisions of the Act.</p> <p>Penalty order dated December 31, 2020 was passed by Executive Director/HoD (Adjudication-I).</p>
6. Penalty Imposed	A Penalty of Rs.70,000/- was imposed on all the respondents.
7. Current Status of Order	No Appeal has been filed by the respondents.