



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Enforcement Department

Before Javed K. Siddiqui, Executive Director (Company Law)

In the matter of

M/s. (Colony) Sarhad Textile Mills Limited

(Under Sub-section (3) of Section 245 of the Companies Ordinance, 1984)

Number and date of show cause notice	EMD/Enf-II/243/2004
	Dated September 23, 2004
Date of hearing	March 15, 2005
Present	Mr. Mumtaz Niazi, Law Officer

ORDER

This Order shall dispose off the proceedings initiated against the directors of M/s. (Colony) Sarhad Textile Mills Limited (hereinafter referred to the "Company") for default made in complying with the provisions of Sub-section (1) of Section 245 of the Companies Ordinance, 1984 (the "Ordinance").

2. The facts underlying to this case, briefly stated, are that in terms of the provisions of Section 245 of the Ordinance, the Company was required to prepare and transmit to the members and simultaneously file with the Commission, its quarterly accounts for the 3rd quarter ended on June 30, 2004 within a period of one month of the close of the said quarter i.e. by July 31, 2004. The Company, however, failed to file the requisite accounts with the Commission within the prescribed time. Failure of the Company to comply with the aforesaid mandatory requirement necessitated action against the responsible directors of the Company in terms of Sub-section (3) of Section 245 of the Ordinance. Consequently, a show cause notice dated September 23, 2004 was served on all the directors including the Chief Executive of the Company calling upon them to show cause as to why penalties as provided under Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed on them for the aforesaid contravention.



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Enforcement Department

3. In response to the show cause notice, the Company Secretary submitted, on behalf of all the directors, vide his letter dated October 09, 2004 that the quarterly accounts for the 3rd quarter ended June 30, 2004 were transmitted to the shareholders and the Karachi and Lahore stock exchanges within prescribed time while due to oversight, the submission of these accounts to the Commission escaped the attention of the Company. He also filed copies of the letters dated July 31, 2004 under which the said accounts were dispatched to the stock exchanges. He also enclosed a copy of the covering letter dated October 04, 2004 showing that the said accounts have been filed with the Commission. The reply of the Company was, however, not found satisfactory as the quarterly accounts were filed with the Commission late by more than two months and that also after issuance of show cause notice dated September 23, 2004.

4. In order to provide an opportunity of personal hearing, the matter was fixed for March 12, 2005 which was adjourned and re-fixed for March 15, 2005. On the date of hearing, Mr. Mumtaz Niazi, Law Officer (the authorized representative) of the Company appeared before me to argue the case on behalf of all the directors. However, he had the power of attorney from the Chief executive of the Company only. During the course of hearing, Mr. Niazi reiterated almost the same arguments as were advanced by the Company Secretary in his letter dated October 09, 2004. He further contended that the quarterly accounts were filed with the Commission on August 02, 2004. He also showed the dispatch Register in support of his contention that the accounts were dispatched to the Commission on August 02, 2004.

5. I have given due consideration to the written submissions of the Company secretary as well as the arguments advanced by the representative of the directors at the time of hearing but none of them justify the default in filing of quarterly accounts. The statement of the representative of the directors that the accounts were filed with the Commission on August 02, 2004 was contradictory to that of the Company secretary who had admitted in his letter dated October 09, 2004 that the accounts could not be filed with the Commission due to oversight. He was, therefore, advised to furnish proper proof regarding timely submission of accounts to the Commission along with power of attorney from all the directors. The Company filed the required power of attorney, whereas, no



SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

Enforcement Department

proof regarding timely submission of accounts with the Commission could be furnished. Later on the Company, through its letter dated March 18, 2005 regretted that they are unable to trace out any proof of timely receipt of accounts by the Commission and requested to condone the omission of delay in filing of accounts in the light of past track record

6. For the foregoing reasons, the default under Sub-section (1) of Section 245 of the Ordinance stands established and an action is necessitated against the directors of the Company. Keeping in view the track record of the Company in filing of quarterly accounts, instead of imposing the maximum fine of Rs.100,000 on every director and a further fine of Rs.1,000 per day for the continuous default, I impose a fine of Rs. 10,000/- (Rupees ten thousand only) on the Chief Executive of the Company for the aforesaid default under Sub-section (3) of Section 245 of the Ordinance.

7. The Chief Executive is 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 or pay through a demand draft in the name of Securities and Exchange Commission of Pakistan within thirty days from the receipt of this order and furnish receipted vouchers to the Commission failing which proceedings for recovery of the fines as an arrear of land revenue will be initiated. It should also be noted that the said penalty is imposed on the Chief Executive in his personal capacity, therefore, he is required to pay the said amounts from his personal resources.

Javed K. Siddiqui

Executive Director (Company Law)

Announced:

April 05 2005

ISLAMABAD