

Before Javed K. Siddiqui, Executive Director (CL)

In the matter of

M/S Suhail Jute Mills Limited

(Under Section 235 read with Section 476 of Companies Ordinance, 1984 and SRO 45(I)/2003)

Number and date of notice	No. EMD/233/328/2002-243-249 dated July 05, 2005
Date of hearing	August 03, 2005
Present	Mr. Suhail Farooq Shaikh, Chief Executive Mr. Javed Akhtar, Assistant Director
Date	August 24, 2005

ORDER

This order shall dispose of the proceedings initiated through Show Cause Notice No. EMD/233/328/2002-243-249 dated July 05, 2005 against the Chairman, Chief Executive and Directors of M/s. Suhail Jute Mills Limited (the "Company") for violations of the provisions of Section 235 of the Companies Ordinance, 1984 (the "Ordinance") and SRO 45(I)/2003.

2. The Company was incorporated as a public company limited by shares in the year 1981. The shares of the Company are listed on the all three Stock Exchanges of the Country. The paid up capital of the Company is Rs. 37.450 million divided into 3.745 million ordinary shares of Rs. 10 each. The Company is principally engaged in the manufacture and sale of jute products. Its production facilities are located in Nowshera and it has 480 shareholders comprising of individuals, joint stock companies, private limited companies, insurance companies, financial institutions etc. and as per its pattern of shareholding annexed with the Directors' report in the accounts for the year June 30, 2004, Directors,

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their spouses and minor children hold 73.42% of the total shareholding. This indicates that there is considerable public interest in the Company. Board of Directors of the company as per its annual report for the year ended June 30, 2004 comprises of the following persons:

1.	Mian Farooq Ahmed Shaikh, Chairman
2.	Sohail Farooq Shaikh, Chief Executive
3.	Mrs. Neelam Sohail, Director
4.	Mrs. Sadia Mohsin, Director
5.	Mrs. Sharmeen Azam Jamil, Director
6.	Mrs. Mehreen Haroon Rashid, Director
7.	Mrs. Ambreen Zahid Bashir, Director

3. Brief facts of the case are that examination of audited accounts of the Company for the year ended June 30, 2004 revealed that the depreciation charge amounting to Rs.3.828 million on revalued assets has not been taken to the Profit & Loss Account and has been directly adjusted in Surplus on Revaluation of Fixed Assets Account which has resulted in overstatement of the profit for the year by the above stated amount. Had this been charged, the profit for the year would have reduced by that number. Thus the company has not complied with the provisions of Section 235 of the Ordinance read with S.R.O. 45(I)/2003 dated January 13, 2003 by failing to charge full amount of depreciation on revalued assets, to Profit and Loss Account and also failing to transfer an amount equal to incremental depreciation from the surplus on revaluation of fixed assets account to un-appropriated profit / accumulated loss account through statement of changes in equity.

4. In the above circumstances, the Enforcement Department was of the opinion that the Company is in violation of the statutory provisions of Section 235 of the Ordinance and SRO 45(I)/2003. Consequently, a Show Cause Notice (“notice”) under Section 235 of the Ordinance read with SRO 45(I)/2003 was issued to all the Directors including the Chief Executive and Chairman of the Company calling upon them to show cause, in writing, as to why penalties for aforesaid contravention may not be imposed on them as laid down in the said provisions.

5. Mr. Sohail Farooq Shaikh, the Chief Executive of the company appeared before me on August 03, 2005 to argue the case and submitted a written reply. Written as well as verbal submissions made by Mr. Shaikh at the time of hearing are summarized below:

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- a) The SRO has changed the presentation and no new principal / rule has been included. Before the introduction of the said SRO the depreciation was charged on the cost of the assets and the incremental amount was transferred from revaluation surplus to retained earnings however after the introduction of the SRO the depreciation is transferred to retained earnings in the income statement below the line.
- b) Before the introduction of SRO 45 (I)/ 2003 dated January 13, 2003 depreciation was charged on cost of the assets and the incremental amount was charged to revaluation surplus through change in equity. In both methods there is no effect in the balance of the profit or loss for the year added to opening balance of retained earnings to arrive at the cumulative retained earning balance.
- c) However the financial statements for the immediately following six month period ending December 31, 2004, the depreciation charge was presented as required by SRO 45(I)/2003, and the annual Balance Sheet of 2005 will be strictly adhered to.

6. The arguments advanced by the Chief Executive have been analyzed and found to be invalid. Before the introduction of SRO 45 (I)/2003 the Surplus on Revaluation of Fixed Assets Account was not required to be amortized annually and adjustments, if any, were made only on the disposal of revalued asset. The accounting treatment, which the company claims to be following before the said SRO, is not reflected in its accounts for the periods. The examination of the annual accounts for the year 2003 and 2004 revealed that the company was adjusting / charging incremental depreciation directly to Surplus on Revaluation of Fixed Assets Account. This proves that the company has made a misstatement in its representation regarding the accounting treatment it adopted before introduction of the said SRO.

As per SRO 45 (I)/ 2003, incremental depreciation should be charged to Profit & Loss Account; this treatment gives a true picture of the net profit of the company for the year. If the incremental depreciation is directly charged to Surplus on Revaluation of Fixed Assets Account without routing it through Profit and Loss Account; the profit for the year will be overstated which can mislead the shareholders.

7. On the basis of the above conclusion, I am of the view that the default under Section 235 of the Ordinance and SRO 45 (I)/ 2003 is willful and deliberate. However, since the accounts for subsequent periods reflect that the company is complying with the requirements of SRO 45 (I)/ 2003, I, take a lenient view, and instead of imposing a maximum penalty of Rs.20,000/- on the directors, impose a fine of

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Rs.5,000/- on the Chief Executive of the company only, for the said default, as provided under Sub-section (5) of Section 235 of the Ordinance. The other directors are reprimanded to be careful in future.

8 The Chairman, Chief Executive and Directors are directed to follow the provisions of Section 235 of the Ordinance and SRO 45 (I) / 2003 in true letter and spirit.

9. The Chief Executive of the Company is hereby directed to deposit the aforesaid fine 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 bank vouchers to the Commission, failing which proceedings for recovery of the fines as an arrears of land revenue will be initiated. It may also be noted that the said penalties are 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 (C.L)