



**SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN**  
*Enforcement Department*

[Islamabad]

**Before Ejaz Ishaq Khan, Executive Director**

**Order**

*In the matter of*

**M/s. Farooq Habib Textile Mills Limited**

(Under Section 245(3) and Section 246(2) of the Companies Ordinance, 1984.)

Number and date of notices	EMD/Enf-II /116/2003-6563-6570 EMD/Enf-II /116/2003-6571-6579 both dated April 09, 2004
Date of hearing	July 21, 2004
Present	Mr. Muhammad Aslam Awan, ACA Authorized Representative
Date of Order	August 4, 2004

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This is a case of violation of the provisions of Section 245 and Section 246 of the Companies Ordinance, 1984 (the “Ordinance”) by M/s. Farooq Habib Textile Mills Limited (the “Company”).

2. The facts leading to this case, briefly stated, are that in terms of the provisions of Section 246 of the Ordinance read with SRO No.764 (I) 2001 dated November 05, 2001, the Company was required to prepare and transmit to the members and simultaneously file with the Commission its quarterly accounts for the quarter ended on June 30, 2002 by July 31, 2002. The Company was also required, under the provisions of Section 245 of the Ordinance, to prepare and transmit to the members and simultaneously file with the Commission its half-yearly accounts for the period ended on March 31, 2002 by May 31, 2002 and quarterly accounts for the quarters ended on December 31, 2002, March 31, 2003, June 30, 2003 and December 31, 2003 by January 31, 2003, May 31, 2003, July 31, 2003 and January 31, 2004 respectively. The Company failed to file the aforesaid



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accounts with the Commission within the prescribed time. Consequently, two show cause notices dated April 09, 2004 were served on the Company and all the directors including its Chief Executive calling upon them to show cause as to why penalties as provided under Sub-section (2) of Section 246 and Sub-section (3) of Section 245 read with Section 476 of the Ordinance may not be imposed on them.

3. The Chief Executive and directors of the Company failed to respond the show cause notice under Section 245. However, notice under Section 246 was replied by Mr. Habib Ullah Khan, the Chief Executive of the Company vide his letter dated April 19, 2004. He averred that the status of the Company is public limited on which the provisions of listed companies are not applicable; therefore, there is no default on the part of the Chief Executive and directors of the Company. He requested to withdraw the aforesaid notice.

4. In order to give an opportunity of hearing the matter was fixed on July 21, 2004. On the date of hearing, Mr. Muhammad Aslam Awan, of M/s. Sarwar Awan & Co., Chartered Accountants, appeared before me to argue the case on behalf of the Chief Executive and directors of the Company. Mr. Aslam reiterated almost the same arguments as were earlier offered by the Chief Executive in his written reply dated April 19, 2004. He submitted that the Company applied for delisting from Karachi and Lahore Stock Exchanges in September 2001, which was duly approved by the Board of Directors in October 2001. Further the Company held an Extra Ordinary General Meeting on November 24, 2001 and a Special Resolution was passed for voluntary delisting. It was further stated that as the buy back process of shares in stock exchange has been completed, hence the status of the Company is public limited on which provisions of listed companies does not apply. He further submitted that despite completion of formalities the KSE did not delist the Company as the SECP has stopped them from doing so on the basis of a complaint filed with the SECP by M/s. Yawar Farooqui, Advocates, on behalf of their clients M/s. BNP (Switzerland) which had a dispute with M/s. Golden Gulf Textile Mills, their sister concern, having common directors. He



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further submitted that the sponsors have purchased all the shares from the minority shareholders except the sponsors shares and hence there is no public interest. He contended that had the SECP not imposed restrictions on its delisting, the Company would have been delisted from the Stock Exchanges since long and consequently there would have been no default with regard to submission and circulation of half-yearly and quarterly accounts. He insisted that neither the Company nor its directors have violated the provisions of Section 245 and Section 246 of the Ordinance, hence, the proceedings initiated against them may be dropped.

5. I have given due consideration to the written as well as verbal submissions and found that the contentions of the respondents do not justify the defaults in preparation and filing of quarterly/half-yearly accounts. The Company is still listed on the Karachi & Lahore Stock Exchanges, hence the plea of the respondents that the status of the Company is public limited is not correct. As long as a Company is listed on the Stock Exchange it has to comply with all the requirements of the Companies Ordinance, 1984 and all other laws as applicable to the listed companies. The directors of a Company are responsible to take necessary steps to ensure the compliance of the relevant provisions of law. The preparation and circulation of quarterly accounts is one of the statutory obligations of the directors under the Ordinance. The directors have thus violated the mandatory provisions of Section 245 and Section 246 by not preparing and transmitting the half-yearly/quarterly accounts.

6. As regards Company's dispute with BNP, it is viewed that legal recourse is available to BNP to settle its claims with the Company. The Company was therefore advised to make a representation to this office for removing restriction placed on delisting of the Company, on receipt of which appropriate order shall be passed separately.

7. Although the default is established, yet, in view of the fact that the Company has bought back all its shares from the public and is still listed on the Stock Exchanges on



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technical reasons, I am inclined to take a lenient view of the default and instead of imposing the maximum fines as provided under Sections 245 and 246 of the Ordinance, impose a token fine of Rs. 500/- for each default on the following directors of the Company.

S.#	Name	Penalty (in Rupees)						Total
		Section 246	Section 245					
		30.06.02	31.03.02	31.12.02	31.03.03	30.06.03	31.12.03	
1.	Mr. Habib Ullah Khan, CEO	500	500	500	500	500	500	<b>3,000</b>
2.	Mr. Zafar Ullah Khan, Director	500	500	500	500	500	500	<b>3,000</b>
3.	Mr. Farooq Habib, Director	500	500	500	500	500	500	<b>3,000</b>
4.	Mrs. Yasmeen Zafar, Director	500	500	500	500	500	500	<b>3,000</b>
5.	Mr. Iftikhar Habib, Director	500	500	500	500	500	500	<b>3,000</b>
6.	Mrs. Sabina Farooq, Director	500	500	500	500	500	500	<b>3,000</b>
7.	Mr. A. Hafeez Sahwany, Director	500	500	500	500	500	500	<b>3,000</b>
	<b>Total</b>	<b>3,500</b>	<b>3,500</b>	<b>3,500</b>	<b>3,500</b>	<b>3,500</b>	<b>3,500</b>	<b>21, 000</b>

8. The Chief Executive and directors of the Company are 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 within thirty days from the receipt of this order and furnish receipted challans to the Commission failing which proceedings for recovery of the fines as arrears of land revenue will be initiated.

**Ejaz Ishaq Khan**  
Executive Director

***Announced:***  
*August 04, 2004*  
**ISLAMABAD**