



Corporate Supervision Department
Company Law Division

Before Amina Aziz – Director (CSD)

In the matter of

Azmat Textile Mills Limited

Number of SCN: No. CSD/ARN/164/2015-1961 dated June 25, 2015
Hearing held on: November 2, 2015
Present: Mr. Asghar Imam Khalid and Mr. Riaz Haider, representatives

ORDER

UNDER SECTION 158 READ WITH SECTION 476 OF THE COMPANIES ORDINANCE, 1984

This order shall dispose of the proceedings initiated against the following directors including chief executive (together referred to as “respondents”) of **Azmat Textile Mills Limited** (the “Company”):

- | | | | |
|---|-------------------------|---|--------------------|
| 1 | Mr. Hafeez Azmat Shaikh | 5 | Mrs. Yasmeen Ishaq |
| 2 | Mr. Khalid Azmat Shaikh | 6 | Mrs. Arifa Awan |
| 3 | Mr. Tariq Azmat Shaikh | 7 | Mrs. Rehana Hafeez |
| 4 | Mr. Hamid Azmat Shaikh | | |

These proceedings against the respondents were initiated through show cause notice (the “SCN”) dated June 25, 2015 under the provisions of section 158 read with section 476 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The brief facts of the case are that the Company was required to hold its annual general meeting (“AGM”) for the year ended September 30, 2014 on or before January 31, 2014, in terms of sub-section (1) of section 158 of the Ordinance. However, review of record revealed that the Company failed to convene its AGM within the prescribed time. Consequently, the SCN was issued to the respondents whereof they were called upon to show cause in writing as to why penal action may not be taken against them under section 158 of the Ordinance for not holding the AGM within the prescribed time. In response to the SCN, Mr. Ashgar Imam Khalid, submitted reply through his letter dated July 7, 2015, on behalf of the respondents. He stated that the Company has been dormant and no commercial business activity was being undertaken by it. He further requested to fix the case for hearing. Subsequently, through letter dated September 17, 2015, the case was fixed for hearing on October 2, 2015, however, the representative of the respondents



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requested for extension of fifteen days for submission of reply. The case was fixed for hearing on October 19, 2015, however, the representative could not produce power of attorney from all the respondents, therefore, hearing was adjourned. Finally, the hearing was held on November 2, 2015 and Mr. Asghar Imam Khalid and Mr. Riaz Haider, appeared before the undersigned on behalf of the respondents. With reference to the contents of the SCN, following submissions were made in writing and verbally:

- The Company shall comply with the requirements regarding holding of AGM;
- Despite being a dormant company, requirements of filing of Form A and Form 29 have been complied with;
- Annual return for the year 2015 will be filed in due time;
- There is no commercial production or activity in the Company since April 1993 and the main reason for keeping the Company is one pending case in High Court of Sindh for recovery. Once the case is decided, the Company will be wound up;
- The Company has started process of delisting from Karachi Stock Exchange;
- Last quoted price of Company's share was Rs.9.7 per share;
- There is no professional staff currently employed by the Company.

Subsequently, in line with the instructions of the undersigned, Mr. Asghar Imam Khalid through letter dated November 4, 2015 communicated that the AGM for the year ended September 30, 2014 and September 30, 2015 was proposed to be held on December 11, 2015.

3. As confirmed from the record of the CRO, Karachi, the Company has filed Form A which reflects that the AGM of the Company for the year ended September 30, 2014 in respect of which the SCN has been issued, was held on September 21, 2015. However, there is no information available regarding holding of AGM for the year ended September 30, 2015.

4. Before proceeding further, it is necessary to advert to the following relevant provisions of the Ordinance.

Sub-section (1) of section 158 of the Ordinance, inter alia, provides as under:



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"Every company shall hold, in addition to any other meeting, a general meeting, as its annual general meeting, within eighteen months from the date of its incorporation and thereafter once at least in every calendar year within a period of four months following the close of its financial year and not more than fifteen months after the holding of its last preceding annual general meeting:"

Sub-section (4) of section 158, inter alia, provides as under:

"If default is made in complying with any provision of this section, the company and every officer of the company who is knowingly and willfully a party to the default shall be liable,--

(a) if the default relates to a listed company, to a fine not less than fifty thousand rupees and not exceeding five hundred thousand rupees and to a further fine not exceeding two thousand rupees for every day after the first during which the default continues;"

5. I have analyzed the facts of the case, relevant provisions of the Ordinance, and submissions made by the respondents. The aforesaid provisions of the law are clear and explicit. A company is required to hold its AGM within four month from the close of its financial year provided that the Commission may extend the time for thirty days based on application by the company. Holding of AGM is a very important statutory event and provides an opportunity to the shareholders, including those in minority, to participate in discussion and voting on agenda items of the AGM. This includes consideration and approval of a company's financial statements, which not only show the financial position and performance of the company but also show the results of management's stewardship of resources entrusted to it. The timeline of the provision of financial statements to the shareholders is of utmost importance. The investment decisions of the shareholders are based on the information presented to them in financial statements. Delay in presentation of the said information could lead to either uninformed decision or have an adverse effect with respect to its timing. In order to ensure transparency, the company must meticulously follow the procedure prescribed by the Ordinance for holding the AGMs. In addition to their responsibilities of overseeing and managing affairs of the Company, directors also have fiduciary duties towards the Company and its shareholders. They are, therefore, liable to a higher level of accountability which requires them to be vigilant and perform their duties with care and prudence. It is directors' responsibility to oversee the functioning of the company, to keep it appropriately staffed and organized to ensure due compliance of law. In this context the



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respondents cannot absolve themselves of their statutory duties regarding holding of AGMs and preparing and filing of annual and quarterly accounts. The respondents have cited unavailability of professional staff and dormant status of the Company as reasons for delay in holding the AGM. It is reiterated that preparation and approval of accounts and holding of AGM within the prescribed time is also the responsibility of the directors and being directors of a listed company there is no justification for not discharging the statutory obligations by the directors in this regard. I have also noted that the respondents till date have not submitted the notice of AGM and annual audited financial statements of the Company with the Commission at its Head Office address in Islamabad against the requirements of the law.

6. In view of the foregoing, I have concluded that the provisions of the law have been violated and the respondents are liable to fine in terms of section 158 of the Ordinance. However, taking cognizance of the fact that though with a delay, the AGM for the year ended September 30, 2014 has been finally held by the Company, instead of imposing maximum fine on all the respondents, in exercise of powers under sub-section (4) of section 158 of the Ordinance, I hereby impose a fine of Rs50,000/- (Rupees fifty thousand only) on the chief executive of the Company.

The aforesaid fine must be deposited in the designated bank account maintained with MCB Bank Limited in the name of the "Securities and Exchange Commission of Pakistan" within thirty days from the receipt of this order and receipted bank vouchers must be furnished to the Commission. In case of failure to deposit of the fine, proceedings for recovery of the fines as arrears of land revenue will be initiated. It may also be noted that the aforesaid fine is imposed on the respondent in his personal capacity; therefore, he is required to pay the said amount from personal resources.

Amina Aziz
Director (CSD)

Announced:
March 10, 2016
Islamabad